

21 August 2020

The Hon. Justice David Thomas  
President  
Administrative Appeals Tribunal  
GPO Box 9955  
SYDNEY NSW 2001

By email: [REDACTED]

Dear Justice Thomas

### **COVID-19 Measures in the Administrative Appeals Tribunal**

QLS acknowledges the considerable work undertaken by the Federal Courts and Tribunals to quickly adapt processes during the COVID-19 pandemic. The Courts and Tribunals have been pro-active, responsive and consultative in implementing measures and there is significant utility in many of those measures enduring.

To that end, we have sought feedback from our members, including members of our legal policy committees about outstanding issues or problems they face in using the Courts and Tribunals at this time, as well as measures they would like to see remain once the effects of the pandemic ease.

Administrative Appeals Tribunal (**AAT**) hearings are now held remotely. While we accept this has been a necessary response to the COVID-19 pandemic, some members have expressed concern about the additional challenges remote hearings present for parties who require the assistance of interpreters. Reliance on interpreters can be challenging in any circumstances. Generally, however, clients face less difficulty when assisted by interpreters in person. Matters may be appealed on the basis of interpreter mistake and there is some concern that an increased reliance on technology may lead to an increase in mistake. Findings on credibility are also impacted by the use of technology in hearings.

The AAT has adopted a practice of allocating cases to a specific staff member, who will liaise with representatives in determining whether a party is able to proceed with their hearing using technology. This 'continuity of care', with one contact person per case, is a welcome change and QLS strongly supports the retention of this practice.

The technological requirements for participating in a hearing with the AAT are significant. If a party is unable to participate in a hearing electronically, their case will be significantly delayed.


## COVID-19 Measures in the Administrative Appeals Tribunal

Unfortunately, the consequences of increased delays is having the undesirable effect of encouraging parties into participating in technology-facilitated hearings, when it is not in their best interests to do so. Members have reported that parties without legal representation who participate in these hearings can be significantly disadvantaged as a result of being underprepared for the additional challenges of appearing virtually.

For asylum seekers, this operates as a significant barrier to accessing justice. The “digital divide” undoubtedly impacts disproportionately on this cohort. We encourage the AAT to consider the ways in which this may be addressed moving forward.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [policy@qls.com.au](mailto:policy@qls.com.au) or by phone on (07) 3842 5930.

Yours faithfully



Elizabeth Shearer  
**Deputy President**