

## Senate Estimates, November 7, 2022

[Legal & Constitutional Affairs \[Part 2\] - 07/11/2022 13:10:00 - Parliament of Australia \(aph.gov.au\)](#)

### Bullying complaints against AAT members

**15:45:50**

**CHAIR:** Thank you. How many members of the tribunal have had one or more bullying, harassment or discrimination complaint made about them since the first of July 2016?

**15:49:40**

**JAMIE CREW AAT CHIEF OPERATING OFFICER:** 19 members, including senior members and Deputy presidents have had more than one bullying, harassment or discrimination complaint made about them since 1 July 2016.

**HAWKINS:** One or more?

**CREW:** Had more than one?

**CHAIR:** Yes. How many had one or more?

**CREW:** So I think, Senator, we've provided some clarification about how we've interpreted that phrase. So we've interpreted the phrase more than to mean one or more, two or more three or more four or more five or more complaints received during that period. So more than one bullying complaint was 19. More than two was six. More than three was three, more than four was two, and then more than five was one.

**15:51:20**

**CHAIR:** And how many of those members who have had more than one bullying claim or more than one bland claim, harassment or discrimination complaint and Matt, are still members of the tribunal?

**16:00:20**

**CREW:** Yes, Chair, two former members, 17 current members, and the one with five or more is still a current member.

**CHAIR:** Okay, so of the 19, members with multiple complaints. Two are now former members, 17 remain tribunal members. And the member who has five complaints is still a member. Did the previous government reappoint any of these members who had multiple bullying harassment or discrimination complaints made against them?

## **AAT warrants for NACC investigations**

**15:38:05**

**CHAIR:** I just wanted to go to a matter that's been canvassed in this committee a number of times, I think, previously, and that's obviously the appointment of tribunal members. Not to go over some of the territory that's already been canvassed but I think it's clear that there's been about 90 political appointments made by the previous government and there certainly has been some, I would suggest some reputational damage to the AAT as a result. But I wanted to go to some comments made by the opposition leader in regards to the tribunal's potential role in a National anti-corruption commission and warrants that may be requested under the anti-corruption investigation. Firstly, can I just ask, Mr. Hawkins, in regards to the potential for warrants to come to the AAT what's your understanding of that proposal at the moment?

**MICHAEL HAWKINS (AAT REGISTRAR):** So my understanding, Senator is that such inquiries would come to the tribunal members acting in their persona designated a role? And as such, the AAT itself has no responsibility for it.

**CHAIR:** Okay, sorry. Just repeat that last bit for me.

**HAWKINS:** So as such the AAT itself as the Tribunal has no responsibility.

**CHAIR:** But it would go to tribunal members?

**HAWKINS:** Who happen to be authorised by the different acts.

**CHAIR:** And when it comes to those appointments, they have previously been made by the former government. This might be a question for you, then Minister, what basis would there be for questioning the politicisation of those appointments? It seems a bit hypocritical of the Leader of the Opposition to criticize the AAT for potential considerations of warrants under the National anti-corruption commission, and isn't it?

**ANTHONY CHISHOLM:** Yeah, so and as you'd probably be aware, the government has committed to introducing a new merit based and transparent process for the appointment of AAT members. So that's something that my understanding and the department might be, might be able to add a bit more detail to this that that process is being finalised and it is expected that the new process will be announced by the end of the year.

**CHAIR:** Minister, the leader of the opposition said that members of the AAT - and remembering that he and his Cabinet colleagues appointed almost every current member of the AAT - lack the requisite level of oversight and intellect to make the important decisions.

**CHISHOLM:** Well, it's particularly disappointing, I think that who would choose to talk about such an important institution that way? But I think it goes to the history of the previous government when it comes to establishing an anti-corruption commission. And the fact that I think they dragged their feet on this for so long, does not reflect well on them or the Leader of the Opposition in his current role.

**CHAIR:** Can I ask you, Ms Jones, in terms of we haven't talked about it in too much depth, but the previous model that was proposed, the exposure draft that was drafted by the previous government around national Commonwealth integrity commission, under that proposal, would the entity have been able to issue warrants? Chair, thank you for that question. Sarah Chidgey is here and she's the expert. She can answer questions on that.

**SARAH CHIDGEY:** Yes, Senator AAT members would also have been able to issue warrants under the telecommunications interception and Access Act,

**CHAIR:** So the model proposed by the previous government would have had warrants coming from the AAT is that right?

**SARAH CHIDGEY:** Yes, that's right.

**CHAIR:** Okay. And can I just make sure I understand this? I don't know if this is a question. Mr. Hawkins, you can answer in your expertise or Ms Chidgey, whether this is actually something you have an understanding of, but at the moment can AAT issue warrants to ACLEI including interception warrants?

**SARAH CHIDGEY** Yes, it can.

**CHAIR:** Okay. And ACLEI is, I guess the current existing anti-corruption body, albeit not a national anti-corruption commission, but it's the body that we have at the moment.

**SARAH CHIDGEY** Yes, Senator. So it's the anti-corruption commission covering Commonwealth law enforcement agencies. And I might also mention that our team members issue telecommunications interception and Access Act warrants for state anti-corruption conditions.

**CHAIR:** And in terms of other bodies that can request warrants, am I right that the AFP, the ACIC, State and Territory police, state anti-corruption agencies, all of them can obtain approval for interception and other warrants from the AAT?

**SARAH CHIDGEY** Yes, that's correct.

**CHAIR:** Okay. And can I ask under the previous government, did the former minister or Attorney-General ever raise concerns about the role of AAT in issuing warrants while in government during the last nine years?

**SARAH CHIDGEY** Not to my knowledge, Senator, but the telecommunications interception Access Act was at that point administered by the Department of Home Affairs and Minister for Home Affairs.

**CHAIR:** So sorry, the Minister of Home Affairs, who, who was obviously Mr. Dutton. He actually introduced powers that invariably gave the AAT authority to approve warrants to exercise those powers didn't he?

**SARAH CHIDGEY** I'm not familiar, we need to take that on notice.

**15:45:10**

[The NACC Bill as passed by the House of Representatives on November 24, 2022, had an amendment that requires surveillance and interception warrants to be issued by eligible judges of federal superior courts.]