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Politics Federal Courts

## Government tribunal paid some members in years they did no work



By [Katina Curtis](#)

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Several members of the tribunal that reviews government decisions were paid in years they did not work, documents reveal as the tribunal comes under renewed scrutiny from federal Parliament.

Administrative Appeals Tribunal (AAT) records show there were 15 part-time members who did no official business in at least one year between July 2018 and June 2021.



AAT registrar Sian Leathem fought the publication of details about the workloads of the tribunal's members. ALEX ELLINGHAUSEN

Five members received payment in at least one of those years when they did not work, documents given to a Senate estimates committee reveal. These were former Liberal senator

Sue Boyce, Perth criminal lawyer Seamus Rafferty, occupational physician Michael Couch, Sydney lawyer Teresa Nicoletti, and former ACT Liberals leader Bill Stefaniak.

However, this includes a period when some part-time members were paid a retainer for their availability.

A spokeswoman for the AAT said the independent Remuneration Tribunal removed the minimum payment in 2019 and the final payment was made to eligible members in August that year.

The tribunal also noted members may have received payments for work they did in the previous financial year.

The AAT conducts independent reviews of administrative decisions made by government ministers, departments and agencies under Commonwealth laws.

Dr Nicoletti said she had not received any payment in the past two financial years.

She was appointed to the tribunal in 2006 but with the growing demands of running her legal practice, sought not to be reappointed in 2017. However, the AAT's president persuaded her to stay on, she said, because the tribunal didn't have other specialists in pharmaceutical patents.

Since then, very few pharmaceutical cases have come up and Dr Nicoletti doesn't intend to seek reappointment when her term ends in 2022.

She noted tribunal work could often be time-consuming because the AAT required members to take on cases outside their area of expertise.

"Historically, I have done a lot of social security cases and also tax law cases, customs cases, where you are required to get across another area of law in order to be able to make a determination," she said.

Mr Rafferty said, contrary to the AAT's documents given to the Senate, he did not receive any payment in 2019-20 and was paid only \$50.64 in 2020-21.

He said ultimately, he "worked for free" when he sat as an AAT member.

"My memory is that I sat on four or five matters all up and that I did not receive payment for those appearances and could not be bothered chasing them up," he told *The Sydney Morning Herald* and *The Age* on Monday.

The records also show five part-time members didn't do any work for the AAT from 2018 to June 2021: Ms Boyce, Dr Couch, Mr Rafferty, Eric Knight, and barrister Andrew Tragardh.

Although Mr Tragardh is named in the documents the AAT gave Parliament, he said he was never sworn in as a member, having declined the appointment due to ill health.

Mr Rafferty and Mr Stefaniak's appointments expired earlier this year, before the end of the 2020-21 financial year.

The tribunal noted reasons for part-time members recording zero hours in a particular year could include them having said they wouldn't be available due to personal or professional circumstances, or few or no cases being allocated.

[AAT registrar Sian Leathem had fought](#) to keep the details of individual members' workloads and cases secret. However, the tribunal produced the documents after the Senate's legal and constitutional affairs committee unanimously rejected her reasons, which included concerns it could bring the AAT into disrepute.

Labor senator Kim Carr has won an inquiry into appointments to the Administrative Appeals Tribunal.

ALEX ELLINGHAUSEN

Senators are going to spend the next five months digging into the AAT and appointments to its ranks after Labor's Kim Carr teamed with One Nation leader Pauline Hanson to push for a committee inquiry.

Senator Carr has been a strong critic of the opaque appointment process. Over the past eight years, he says the government has appointed 79 former Liberal politicians, candidates, staffers and party members.

"It is long past time for the Senate to put the tribunal under the microscope, along with other long-neglected aspects of Australia's administrative review system," he said.

"Members of the Administrative Appeals Tribunal are tasked with making life-changing decisions for tens of thousands of Australians each year, such as whether an older Australian receives an age pension, whether a veteran receives a service pension, whether a participant of the NDIS receives funding for essential supports or whether a refugee obtains a visa to remain in this country."

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**Katina Curtis** is a political reporter for The Sydney Morning Herald and The Age, based at Parliament House in Canberra. Connect via [Twitter](#) or [email](#).

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