

Annexure B

Geraldine Hoeben

Competencies/Criteria for either Deputy President or Senior Member**Professional – Inclusive of:**

- **Conducting Hearings & other Tribunal proceedings;**
 - **Decision-making and reasoning;**
 - **Writing and communication skills;**
 - **independence and collegiality;**
 - **productivity, diligence and resilience;**
- As a senior, as well as an ordinary tribunal member in multiple state and federal tribunals, I have developed effective communication skills in being able to expeditiously deal with a wide range of matters varying from merits review with its requirements of handing down procedurally fair and just decisions (viz migration law and its sensitivity of diverse cultural backgrounds), *de novo* hearings of first instance as well as matters requiring the exercise of judicial jurisdiction in civil areas such as commercial law;
 - I appreciate the distinction between the formalities of courts and the informalities of tribunals but appreciate the significance of timeliness in decision-writing, professional member development and respect for applicants from all social/economic circumstances and cultural backgrounds. These latter skills were learnt from my time within the former federal RRT (Refugee Review Tribunal and as a former member in the federal MRD (Migration Review Division) of the AAT) and for over a decade on the NSW Bar Association/FCC (Federal Circuit Court) *pro bono* panel of the Refugee Review Tribunal Legal Advice Scheme (RRTLAS);
 - I have had broad experience in the development and implementation of new tribunals across many jurisdictions involving commercial, merits review and fair trading and consumer law often having concurrent federal jurisdiction while undertaking and coping with the challenges and uncertainties associated with the phasing out of former tribunals and the implementation of new ones;
 - within these tribunal change and re-organisational environments, I understand and have worked closely through a number of tribunal implementation committees to ensure that all members and staff including public servants participate actively and collaboratively in the implementation of new initiatives, practices and procedures. In these activities maintenance of a respectful collegiate spirit amongst everyone is central to achieving success within a new milieu;
 - more generally I have had an extensive career as an advocate since 1989 and have worn the hats of both merits review arbitrator and judicial officer – sometimes in the same jurisdiction such as at the former NSW Commercial Tribunal (CT) and the NSW Administrative Decisions Tribunal (NSWADT);

- I have a good grasp of effective communication, written and oral as well as well developed skills as a forensic analyst in being able to uncover the nub of matters before me as represented in the attached selected judgments;
- Having held multiple statutory memberships in numerous state and federal tribunals I have come to appreciate the significance of the notion of the meaning of what genuine member independence should mean to a tribunal member. It means that there are no IOUs from previous lives and that one must maintain, at all costs, the principles of integrity and honesty in all one's dealings as a federal statutory tribunal member;
- As a Masters of Education, former TAFE teacher, p/t university law lecturer and former active participant on a number of NSW Bar Association committees such as mediation and costs, I have always been actively involved either directly or indirectly in higher education activities. This has also included my role as a moot judge at the annual Sydney University National Womens Moot Competition since its inception. I have consistently maintained a continuing role and active participation in further education generally and particularly during my time as a barrister in NSW, in writing articles on tribunal law in Bar Brief, visiting presenter at higher institutes of education and mentoring new barristers;
- In my various judicial and merits review roles including Deputy Chairman of the former NSW Commercial Tribunal (viz as a District Court Judge (DCJ) in this latter role) and as a Foundation Judicial Member of the former NSWADT together as a former AAT ordinary member, I have built up a track record that has assisted me in being resilient, diligent and fair-minded in dealing with those appearing before me, no matter their cultural or socio/economic backgrounds, whilst, where relevant, maintaining leadership and authority. As both a tribunal head and as a former ordinary tribunal member I appreciate from all aspects and levels the significance of handing down decisions expeditiously, according to law and with an appreciation of maintaining a consistent jurisprudence across the board;

➤ **Leadership**

- I understand and appreciate the significance of the responsibilities of leadership but while leading a team I also am very much conscious of the value and contributions of also being a member of a collegiate team;
- As a former tribunal head I have handed down decisions on more complex matters and fully appreciate the significance of not only maintaining appropriate timelines but to also support members in their discharging of their responsibilities in this regard. Please see attached list of selected judgments;
- As a Tribunal head I have dealt with all levels and classes of tribunal personnel and participants including statutory tribunal members, public servants, opposing parties and counsel, clients and applicants from a wide variety of social, political and cultural backgrounds. I have communicated with politicians, departments heads, managed diverse caseloads, been a part of tribunal re-organisations, been active in the implementation of new tribunals, set budgets and sat on interview committees in the selection of appropriate tribunal members;

- given both my barrister background and my former numerous tribunal roles, I have since my original AAT appointment in 2015, provided a wide variety of legal advices at both Presidential and Deputy Division head level. These have included, but not limited to:
 - a. Setting up of the first Oral Student Hearing List where all decisions were handed down on an extempore basis;
 - b. alerting the Tribunal to the significant distinction between remittals by consent and remittals via judgment alleviating members' anxiety and confidence that consent remittals were administrative in nature;
 - c. recommended the creation of dedicated public servant *case managers* in the form of case support officer (CSO's) to support ordinary members within the MRD;
 - d. Introducing the first telephone hearings from home as a flexible initiative for future hearings in September 2019. This latter initiative became the norm during the commencement of the 2020 pandemic at the AAT and continues today;
 - e. flagging the novel Malaysian List as a security watch in certain circumstances;
 - f. providing advice on *hearings on the papers* (OTP) (within the MRD) regarding the significance of sensitivity to the vulnerabilities of some applicants not fully articulate in the English language nor tribunal practice as well as not fully appreciating the fact that they would be sacrificing entitlements to which they have a right under Australian law;
 - g. at Presidential request, draft & settled the policies of the *Commonwealth's Safe Plan* and *Social Distancing* issued to him on 3 and 23 March 2020 respectively and which later became the official Commonwealth basis for it's strategy for managing the pandemic across Australia;
 - h. The significance distinction as to member independence as opposed to the senior executive service similar to the concerns of the Callinan Statutory Review; and
 - i. Drafting and settling of *terms of settlement* at the request of the AAT *accountable authority* when a super/remuneration correction occurred for multiple members at the AAT over the last several years – and so on.
