

# AMENDED PROTOCOL FOR THE BAR ASSOCIATIONS OF AUSTRALIA TO RAISE ANY CONCERN ABOUT CONDUCT OF MEMBERS OF THE ADMINISTRATIVE APPEALS TRIBUNAL

August 2020

The President of the Administrative Appeals Tribunal ("**AAT**") has agreed with the President of the Australian Bar Association and, through him, the Presidents of the State and Territory Bar Associations, the terms of a protocol for the President of the Australian Bar Association and the Presidents of State and Territory Bar Associations to raise any concerns from time to time with the President of the AAT ("**AAT President**") about the conduct of members of the AAT ("**Members**"). This Protocol amends the existing protocol of December 2019.

The aim of this protocol is to allow barristers to raise their concerns about the conduct of Members with either:

- (a) the President of the Bar Association of which he or she is a member; or
- (b) the President of the Australian Bar Association,

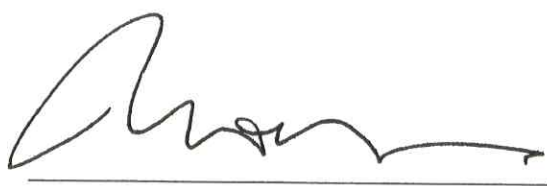
('President'), who may then raise concerns with the AAT President.

The steps in the procedure are:

1. A barrister may contact the President by telephone, email or in person to raise concerns about the conduct of a Member. The raising of the concern will be treated confidentially, save to the extent that disclosure to others is necessary for the purposes of this protocol. The barrister raising a concern need not be the person who has been the subject of the conduct, but should have knowledge of the conduct sufficient to raise the concern.

2. The President will make an assessment of the conduct and, for this purpose, may ask for more information from the barrister or others about the nature of the conduct and its impact.
3. If the President is of the view that the conduct is of the type that warrants action, the President may raise the matter with the AAT President on a confidential basis.
4. In appropriate cases, the President may raise concerns with the AAT President in accordance with this protocol of his or her own motion. Before doing so, the President will take into account, but not be bound by, the wishes of the aggrieved barrister/s.
5. After a matter has been raised with the AAT President, he may consider the matter, or cause the matter to be considered, and, amongst other things, may:
  - (a) have the matter brought to the attention of the relevant Member (without, so far as is possible, identifying which barrister has raised the concern where the President has advised that the barrister would prefer not to be identified) either at the time it is raised or at a subsequent time if that is appropriate having regard to all the circumstances;
  - (b) give the Member the opportunity to express his or her views;
  - (c) examine or have examined any in-court recording relevant to the conduct;
  - (d) read or have read any transcript of hearing/s relevant to the conduct;
  - (e) discuss the conduct or have the conduct discussed with the Member;
  - (f) discuss or have discussed with the Member what is the appropriate course to take.
6. Thereafter the AAT President will respond to the President, as considered appropriate, which may include:
  - (a) informing, in general terms, the President of the outcome of discussions with the Member;
  - (b) informing the President that in his or her view, the Member's conduct does not warrant any action.

7. Communications between the AAT President and the President are confidential.
8. The AAT President and the President may exchange information about any matters in relation to the operation of this protocol or Member conduct more generally.
9. This protocol is not intended to create any legal rights or obligations. Nor does it affect any existing legal rights or obligations.



The Honourable David Thomas  
President  
Administrative Appeals Tribunal



Matthew Howard SC  
President  
Australian Bar Association