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ARTICLES

The National Disability Insurance Scheme and Administrative Decision-Making: Unique Challenges and Opportunities – *Louise P Bygrave and Ron McCallum*

The National Disability Insurance Scheme provides financial support to persons with disabilities. The NDIS Division of the Administrative Appeals Tribunal was established to review certain decisions, including whether a person meets the access criteria for the Scheme or the reasonable and necessary supports in a participant’s plan. This article examines challenges and opportunities for administrative decision-making within the framework of the Scheme. Key themes from decisions made by the Tribunal and the Courts emerge, such as the inherent tension between the objects in the legislation with the requirement to ensure the financial sustainability of the Scheme. Many applicants to the Tribunal have had a difficult history of seeking supports for their disabilities. Traversing these issues requires Tribunal Members to be legally accurate and culturally competent. Statistics from the Tribunal show a clear trend towards parties settling prior to hearing, raising questions about the effect of adversarial hearings on persons with disabilities and transparency of outcomes. 191

Australian Tribunals: Impact of Amalgamation – *Robin Creyke*

Australia has pioneered the practice of amalgamation of its tribunals, a movement which culminated, since the late 1990s, in the establishment of tribunals combining civil and administrative jurisdictions. This occurred in all the states except Tasmania, which is soon to join its brethren. The Commonwealth too has amalgamated its tribunals, the last occasion being in 2015. Its tribunals, for constitutional reasons do not extend to civil matters. These developments have not been examined to determine whether the process of amalgamation has met the objectives identified intended by the change. As a first step in that discovery process, the author surveyed the tribunals to tease out the impact of amalgamation. The outcome, of necessity, reflects the views of the tribunals themselves. Nonetheless, the results begin the task of assessing the success or otherwise of these moves. Others need to pursue the task of exploring users’ views of the value of the development. 206

Administrative Justice and the Legacy of Executive Devolution: Establishing a Tribunals System for Wales – *Sarah Nason and Huw Pritchard*

Uniquely, Wales has a primary legislature, but remains part of a single legal jurisdiction with England. It does not have responsibility for administering civil and criminal justice but has long had a range of devolved tribunals. Given this jurisdictional and constitutional context, a distinctively Welsh approach to administrative law and administrative justice, tribunal reform, and “integrity” institutions has developed. Welsh tribunals have become

a test bed for further devolution of justice powers and the eventual establishment of a separate Welsh courts and tribunals service. In this article we examine reforms to Welsh tribunals, alongside the potential for building a broader justice system from the foundations of administrative justice. 233

Administrative Justice and Tribunals in the United Kingdom: Developments; Procedures; and Reform – Robert Thomas

Tribunals are a major part of administrative law in the United Kingdom. They hear and determine appeals against administrative decisions in areas such as social security, immigration, and tax. This article surveys recent developments in the world of tribunals and their ability to deliver effective administrative justice. It examines the following topics: the 2007 reforms which introduced a coherent tribunal system; the relationship between government and tribunals; jurisdictional issues concerning tribunals and tribunal procedures; the role of the Upper Tribunal; initial administrative and review decision-making; and the current modernisation – or digitisation – of tribunals. 255

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