



Annual Report of the

IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

For the 12 months ended 30 June 2015

*Presented to the House of Representatives pursuant to
s86(3) of the Immigration Advisers Licensing Act 2007*

Hon. Amy Adams
Minister of Justice

Pursuant to section 86(1) of the Immigration Advisers Licensing Act 2007, I have pleasure in presenting the Annual Report of the Immigration Advisers Complaints and Disciplinary Tribunal for the 12 months ended 30 June 2015.

Yours sincerely



Grant Pearson
Chair
Immigration Advisers Complaints and Disciplinary Tribunal

INTRODUCTION

Under the Immigration Advisers Licensing Act 2007 (the Act) the Tribunal determines complaints made against licensed immigration advisers. The Registrar of the Immigration Advisers Authority (IAA) refers complaints to the Tribunal. Any person, including the Registrar on her own motion, can initiate complaints.

The Tribunal also deals with appeals against the Registrar's decision:

- to cancel an immigration adviser's licence; or
- reject a complaint.

MEMBERSHIP

The Tribunal currently consists of the Chair, Grant Pearson, the inaugural Chair of the Tribunal appointed in October 2010. He is also the Customs Appeal Authority.

Mr Pearson is a former member of the Removal Review Authority and the Refugee Status Appeals Authority. He was the Deputy Chair of the Medical Practitioners Disciplinary Tribunal from 1999-2001.

MATTERS ARISING IN THE LAST 12 MONTHS

Processes

During the preceding year, the Tribunal addressed procedural issues that were a barrier to efficiently processing complaints. The IAA has also addressed its processes. The Tribunal is continuing to consult with stakeholders to develop a set of procedural rules that make the Tribunal's processes easy to use. In the year ending 30 June 2015, the Tribunal received 75 complaints. For the immediately preceding two years, the Registrar respectively filed 66 and 4 complaints.

The Tribunal expects the new procedures will result in the IAA filing fewer complaints, as a more rigorous process now weighs the merits before filing. The very low numbers in the 12 months prior to 30 June was a temporary reduction due to the resources required to examine the existing complaints, and evaluate their merits. The longer-term numbers are likely to be in the order of half the number filed under the original procedures (approximately 40-50). The Tribunal's work to process the complaints under the new system will be substantially less than what was required under the former system; both due to fewer numbers, and more rigorous identification of the grounds of complaint.

At 30 June 2015, the number of complaints on hand was 33, up from 13 at the start of the reporting year. Of the 33 matters on hand, 23 were awaiting information from parties and 10 required oral hearings. The Tribunal will be in a position to dispose of complaints and appeals in a timely and efficient manner under its revised processes, which are now fully in effect.

Legislative matters

MartinJenkins undertook a review of the Immigration Advisers licensing regime. In July 2014, the reviewers presented their report *Review of the Regulation of Immigration Advice* to the Ministry of Business, Innovation and Employment, which commissioned the report.

The report may lead to administrative and legislative changes to the regime created under the Act, and may directly or indirectly affect the Tribunal. Accordingly, any reconsideration of the legislation should be in that wider context.

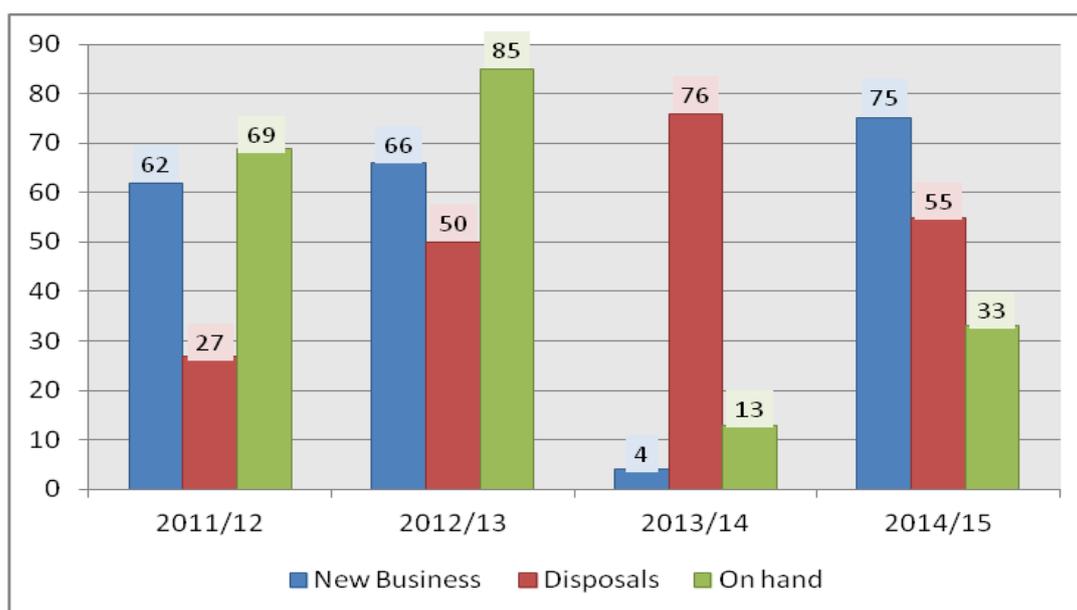
STATISTICS

This section outlines the number of matters considered and disposed by the Tribunal.

Cases received and disposed

The graph below shows the number of cases received, disposed, and on hand in, 2014/15 compared with the previous three financial years.

IACDT cases received, disposed and on hand



In the reporting year, the Tribunal received four appeals against a determination of the Registrar of the Immigration Advisers Authority, and 71 complaints. The Tribunal has not received any complaints initiated by the Registrar's own motion in the reporting year; clients or their representatives initiated all complaints.

The Tribunal did not receive any applications from the Registrar for suspension of licence pending outcome of complaints.

Disposition of cases

After hearing a complaint, the Tribunal may:

- dismiss the complaint;
- uphold the complaint but take no further action; or
- uphold the complaint and impose sanctions.

The table below shows the disposition of cases for the past three financial years.

Complaints/appeals dismissed and upheld

	2012/13	2013/14	2014/15
Complaints dismissed	12	25	3
Complaints upheld but no further action taken	1	0	0
Complaints upheld and sanctions imposed	37	49	*49
Appeals upheld	0	0	1
Appeals dismissed	0	0	2
TOTAL	50	74	55

* Note: three complaints for rehearing, sanctions not imposed pending determination.

Complaints upheld

Forty-six complaints upheld in 2014/15 resulted in sanctions (in three matters the adviser applied for a rehearing of the complaint). The sanctions available to the Tribunal are:

- caution or censure;
- requirement to undertake further training or remedy any deficiency;
- order to pay penalty;
- order to pay costs or expenses;
- order to refund fees;
- order to pay compensation; and
- order restriction, suspension or cancellation of licence.

Other decisions

Separate penalty decisions	56
Interim decisions	14
TOTAL other decisions	70

In addition, the Tribunal issued 30 directions relating to the conduct of proceedings, covering the identification of issues and other matters.