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Annual Report of the

# IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

For the 12 months ended 30 June 2016

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

Hon. Mark Mitchell  
Associate 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 2016.

Yours sincerely



Grant Pearson  
Chair  
Immigration Advisers Complaints and Disciplinary Tribunal

## INTRODUCTION

Under the Immigration Advisers Licensing Act 2007 (the Act) the Immigration Advisers Complaints and Disciplinary Tribunal (the Tribunal) determines complaints made against licensed immigration advisers. The Registrar of the Immigration Advisers Authority (the Authority) 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 introduced procedural changes to improve the process for hearing complaints. The Authority also addressed its processes and now has a more rigorous approach to determining whether cases reach the threshold for referral to the Tribunal. Accordingly, the Authority now files fewer cases with the Tribunal, and the Tribunal has reduced the resources required for hearings in most cases.

In the year ending 30 June 2016, the Tribunal received 38 cases, compared to 75 in 2014/15 and 4 in 2013/14 (a transitional period while the Authority changed its processes). The Tribunal anticipates the reduced numbers will continue, and drop below the levels for this year.

At 30 June 2016, the number of complaints on hand was 38, up from 33 at the start of the reporting year. Of the 38 matters on hand, 19 were awaiting information from parties, 2 required oral hearings and 17 were reserved decisions.

## ***Legislative matters***

At present the key elements of the regime governing the Tribunal function well. In some respects, the legislation could be improved, but there is currently a functional and credible professional disciplinary regime for Licensed Immigration Advisers, who are still a relatively new profession. Accordingly, rather than an urgent need for reform, the Tribunal anticipates a review in the course of legislative work programmes will provide incremental improvements.

The effective day to day functioning of the regime owes a good deal to increased maturity and awareness on the part of the profession, pragmatic intervention in proceedings on the part of the Authority, and the use of practice notes issued by the Tribunal. The combination of those elements has been necessary to establish what has become a settled process. The complaints now relate to a profession where there is a high level of awareness of professional standards, and obligations relating to service delivery.

In preceding years a factor affecting the Tribunal, the Authority, and the profession has been the reality that licensed immigration advisers are a recently established profession. The profession and its regulation commenced without the benefit of an established programme for gaining qualifications and experience. The Authority had only a limited opportunity to vet people seeking admission to the profession because they had not been working in a regulated environment.

Inevitably in the early phase of establishing the profession, some people entered it with no commitment to maintaining professional standards and in many cases little comprehension of what those standards were. In past years the Tribunal addressed a number of complaints against practitioners in that position. Many of those practitioners have left the profession voluntarily or by compulsion. The Tribunal is now generally dealing with practitioners with a far more mature understanding of their professional obligations and appreciation that they must respond professionally to the Authority and the Tribunal.

The Tribunal anticipates that complaint numbers will continue to fall. Fewer practitioners are likely to fail to maintain professional standards. Importantly, practitioners more commonly have the professional skills to respond to complaints, and avoid escalation through early and effective intervention.

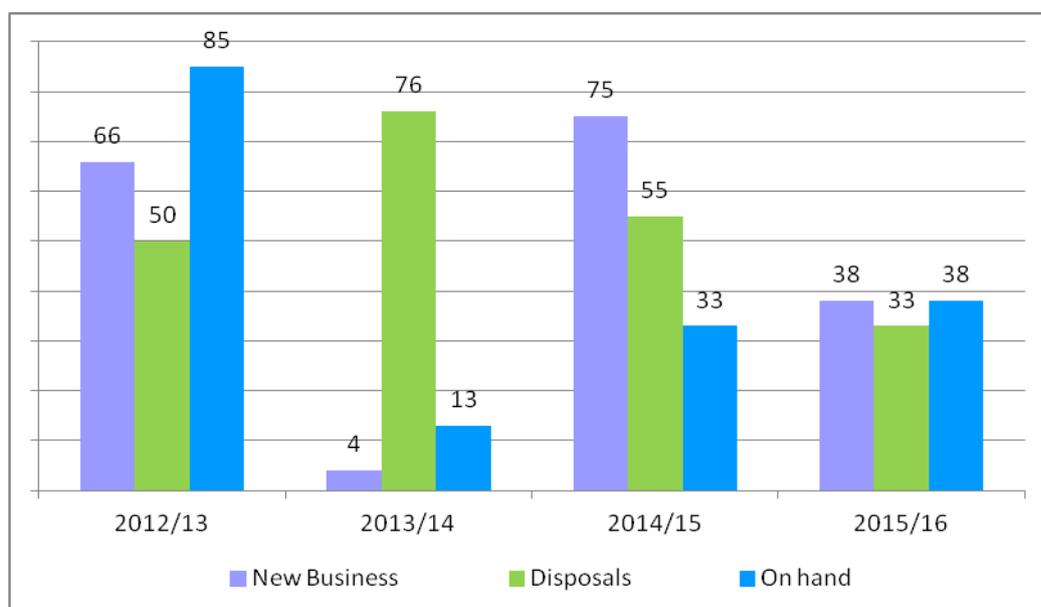
## STATISTICS

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

### ***Cases received and disposed***

The graph below shows the number of cases received, disposed, and on hand in, 2015/16 compared with the previous three financial years.

*Tribunal cases received, disposed and on hand*



In the reporting year, the Tribunal received 1 appeal against a determination of the Registrar of the Immigration Advisers Authority, and 37 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***

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
Complaints dismissed	25	3	5
Complaints upheld but no further action taken	0	0	0
Complaints upheld and sanctions imposed	49	*49	27
Appeals upheld	0	1	1
Appeals dismissed	0	2	0
<b>TOTAL</b>	<b># 74</b>	<b>55</b>	<b>33</b>

Note:

# Two complaints were withdrawn with the Tribunal's consent without opposition from the Registrar- total disposals 76

\* Three complaints for rehearing, sanctions not imposed pending determination.

### ***Complaints upheld***

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	30
Interim decisions	9
<b>TOTAL other decisions</b>	<b>39</b>

In addition, the Tribunal issued 54 directions relating to the conduct of proceedings, covering the identification of issues and other matters.