



Annual Report of the

IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

For the 12 months ended 30 June 2012

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

Hon Judith Collins
Minister of Justice

Pursuant to section 86(3) of the Immigration Advisers 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 2012.

This report also covers the period since my appointment in October 2010.

Yours sincerely



Grant Pearson

Chair

Immigration Advisers Complaints and Disciplinary Tribunal

INTRODUCTION

The Immigration Advisers Complaints and Disciplinary Tribunal was established in 2010 under the Immigration Advisers Licensing Act 2007.

The Tribunal considers and determines complaints made against licensed immigration advisers referred to it by the Registrar of the Immigration Advisers Authority (IAA). Complaints may be initiated by any person, or on the Registrar's own motion.

After considering a complaint the Tribunal may:

- Dismiss the complaint;
- Uphold the complaint but take no further action; or
- Uphold the complaint and impose one or more sanctions.

The Tribunal also deals with appeals against decisions made by the IAA. These may relate to:

- A decision of the Registrar to cancel the licence of an immigration adviser; or
- A determination of the Registrar to reject a complaint against a licensed immigration adviser.

MEMBERSHIP

The Tribunal currently consists of the Chair, Grant Pearson. Mr Pearson is the inaugural Chair of the Tribunal, and was appointed in October 2010.

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

Caseload

The Tribunal started receiving complaints from January 2010, but these could not be dealt with until the appointment of the Chair in October 2010.

At the time the Chair was appointed there were 24 cases awaiting determination.

The caseload of the Tribunal was expected to be limited and the Tribunal's demand for resources was expected to be low. However, it has become evident that the volume of complaints being received by the Tribunal is higher than anticipated.

The number of cases received in 2011/12 is more than double the number received in 2010/11, and the number of cases on hand has risen to 69 as at 30 June 2012. The increase in cases received is thought to be due to greater public awareness of the complaints process.

Accordingly, the Tribunal has allocated additional resources to ensure complaints are addressed in a timely manner. A Legal and Research Officer has been appointed to assist for 20 hours per week, as a significant amount of time is required to deal with reading of files, producing preliminary findings and seeking submissions on findings.

The Chair has also increased the time he allocates to Tribunal work to three days a week. This will enhance the rate at which decisions are produced.

Ministry officials have met frequently with the Registrar of the IAA to discuss the workload of the Tribunal. The IAA plays a significant role, as the quality of its decisions and the quality of service provided by licensed immigration advisers are important to the efficacy of the industry and have a direct impact on the Tribunal.

The Chair of the Tribunal spoke at the New Zealand Association of Migration and Investment (NZAMI) seminar in December 2011. The NZAMI represents a significant number of licensed immigration advisers. At the seminar, the Chair stressed the importance for immigration advisers to maintain professionalism, and provided advice on managing client relationships and handling complaints effectively.

Legislative matters

The legislation governing the Tribunal has proved adequate to address the complaints on which the Tribunal has adjudicated.

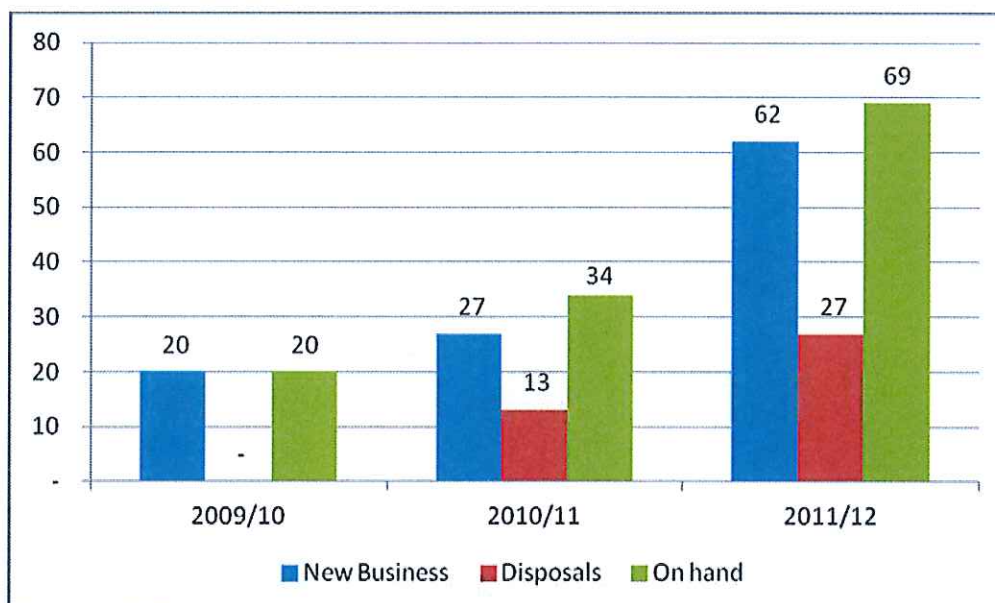
At this point the Tribunal has not identified any aspects of the legislation it would like to see reviewed.

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 for each of the past three financial years.



*No cases were disposed in 2009/10 as the Chair was not appointed until October 2010

All cases received by the Tribunal relate to complaints. The Tribunal has not received any appeals against IAA decisions.

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 a sanction.

Table 2 shows the disposition of cases for past two financial years.

Table 2: Complaints dismissed and upheld

	2010/11	2011/12
Complaints dismissed	4	9
Complaints upheld but no further action taken	5	2
Complaints upheld and sanctions imposed	4	16
TOTAL	13	27

Complaints upheld

As noted in Table 2, 20 complaints have been upheld and resulted in sanctions being imposed.

The sanctions available to the Tribunal are:

- Caution or censure;
- Requirement to undertake further training or remedy any deficiency;
- Order preventing a person from reapplying for a specified period;
- Order to pay penalty;
- Order to pay costs or expenses;
- Order to refund fees;
- Order to pay compensation; and
- Restriction, suspension or cancellation of licence.

The sanctions imposed all related to the restriction, suspension or cancellation of licences.

In addition to final decisions, the Tribunal has issued:

- 54 directions/minutes (31 in 2010/11; 23 in 2011/12) relating to the conduct of proceedings, covering the identification of issues, publication and other matters;
- 18 penalty or interim decisions; and
- Four suppression / limited publication decisions.