



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

# Migration Review Tribunal Refugee Review Tribunal

## ANNUAL REPORT 2008–2009

To provide visa applicants and sponsors with fair,  
just, economical, informal and quick reviews of  
migration and refugee decisions







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## Migration Review Tribunal and Refugee Review Tribunal Annual Report 2008–09

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and the Refugee Review Tribunal.

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Local call charges apply from anywhere  
within Australia. Not available from mobile  
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#### TRANSLATING AND INTERPRETING SERVICE

To inquire about interpreting services for  
non-English speakers telephone 131 450 from  
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a week.

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[www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au)

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**Australian Government**

**Migration Review Tribunal · Refugee Review Tribunal**

1 October 2009

Senator the Hon. Chris Evans  
Minister for Immigration and Citizenship  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I have pleasure in presenting to you this Annual Report on the operations of the Migration Review Tribunal and the Refugee Review Tribunal for the year ending 30 June 2009.

The Report has been prepared in accordance with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act bodies*, which were approved by the Joint Committee of Public Accounts and Audit under subsections 63(2) and 70(2) of the *Public Service Act 1999* and issued by the Department of the Prime Minister and Cabinet in June 2009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Denis O'Brien', written over a light grey circular stamp.

Denis O'Brien  
Principal Member

## About this report

This is a report on the operations of the Migration Review Tribunal and the Refugee Review Tribunal for the financial year 2008–09.

The Report is presented in 6 parts:

**Part 1** is a report by the Principal Member. It includes a review of the Tribunals' performance, a summary of significant developments and an outlook for the next year.

**Part 2** is a report by the Registrar. It provides a summary of significant corporate and organisational developments.

**Part 3** is an overview of the Tribunals' roles and the way in which the Tribunals operate.

**Part 4** contains a report on the performance of the Tribunals over the year. It includes assessments against performance indicators, an analysis of the work of the Tribunals over the year, and case statistics.

**Part 5** contains information on governance, management and accountability.

**Part 6** contains the audited financial statements for the year.

The **Appendices** set out a range of additional information.

## AIDS TO ACCESS INFORMATION

The contents page is located at page 5. A glossary of terms and abbreviations is located at page 144. An index is at page 154. An index of compliance with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act bodies* issued by the Department of the Prime Minister and Cabinet in June 2009 is located at page 140.

## STATISTICS

All statistics used in this report are of 'cases'. Multiple applications for review are counted as a single case where the legislation provides that the applications for review can be combined, usually where members of a family unit have applied for the grant of visas at the same time.

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PART 1

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# Principal Member's Report

## Part 1 – Principal Member’s Report



I am pleased to report that in 2008–09 the Tribunals continued to provide visa applicants, former visa holders and sponsors with fair, just and independent reviews of migration and refugee decisions made by officers of the Department of Immigration and Citizenship.

The Tribunals decided 8,229 cases, setting aside the decision under review and making a decision favourable to the applicant in more than 3,200 or 39% of the cases decided.

Increasing the capacity to decide cases was an important focus over the year, and it was pleasing that the number of cases decided was 9% higher than the 7,537 decided in 2007–08. Investing additional resources in the initial analysis of cases resulted in a higher proportion of cases being allocated having regard to Member expertise, and was one of the factors which resulted in improved Member productivity.

Improving the time it takes a review to be completed after allocation to a Member was another factor. A ‘best practice’ guide was issued in October 2008, giving practical guidance to Members on managing cases through a review.

Despite the increase in cases decided, a larger increase in lodgements resulted in the number of cases on hand increasing to 6,919 by the end of the year – an increase of 36% over the number on hand at the end of 2007–08. The Tribunals received 9,960 new cases over the year, an increase of 16% over the 8,609 new cases received in 2007–08.

Looking forward, an effective increase in the membership during and since the end of the year will provide increased capacity to deal with cases. At the time of this Report, the Tribunals have 95 Members in total, comprising myself, 5 Senior Members and 89 Members. While this is only a modest increase in the overall number of Members compared to the membership in 2008–09, the number of Members appointed on a full-time basis has increased from 6 to 24.

There were two Member appointment rounds in 2008–09. The terms of all Senior Members expired on 31 December 2008, and the terms of 39 Members expired on 30 June 2009. In both cases, the positions were advertised nationally and an assessment panel established consistently with Government policy for merit-based selection of statutory office holders.

In the first round, 5 Senior Members were appointed by the Governor-General with effect from 1 January 2009, Ms Linda Kirk, Ms Amanda MacDonald, Mr Peter Murphy, Dr Irene O’Connell and Mr Giles Short. Mr Short was reappointed as a Senior Member. Ms MacDonald and Dr O’Connell were existing Members and both had previously acted as Senior Members. Ms Kirk was previously a Senator for South Australia and served on various parliamentary committees including the Joint Standing Committee on Migration.

Mr Murphy was the Director of Internal Review for the Victorian WorkCover Authority and a previous Member of the Tribunals and of the Social Security Appeals Tribunal. Senior Members provide leadership, guidance and advice to a group of Members, and consider applications involving more complex legal and factual issues.

In the second appointment round, the Governor-General reappointed 31 Members and appointed 12 new Members with effect from 1 July 2009. Five of the new Members were appointed as full-time Members: Dr Jennifer Beard, Mr Tony Caravella, Mr Ismail Hasan, Mr Brook Hely and Ms Margret Holmes. Seven of the new Members were appointed as part-time Members: Mr Glen Cranwell, Ms Suhad Kamand, Mr Bruce MacCarthy, Ms Mara Moustafine, Ms Pamela Summers, Ms Belinda Wells and Ms Carolyn Wilson. The qualifications and experience of the new members enhance the breadth and depth of expertise which exists across the membership.

Six of the Members reappointed were part-time Members who have now been appointed as full-time Members: Ms Dione Dimitriadis, Mr Dominic Lennon, Ms Kira Raif, Mr James Silva, Mr Don Smyth and Ms Linda Symons. Mrs Mary Urquhart resigned as Deputy Principal Member of the RRT in order to take up appointment as a full-time Member to both Tribunals. I particularly thank Mrs Urquhart for the outstanding pastoral role she performed as the Deputy Principal Member of the RRT, and for the substantial contribution she made to Member professional development.

After the end of the year, the Governor-General appointed 8 part-time Members as full-time Members for the remainder of their terms. The appointments of these Members, and the appointments of a further 38 Members, will expire on 30 June 2010. These positions, and the vacant position of Deputy Principal Member, will be advertised during the course of 2009–10.

The need for the Tribunals to deal with an increased caseload in 2009–10 is also addressed in a Principal Member Direction on caseload and constitution arrangements which I issued on 31 July 2009. This sets out priorities, time standards and allocation arrangements which should support the completion of more than 10,000 reviews over the course of the year.

Despite the pressures of an increased caseload, it is important that the Tribunals continue to provide fair and high quality reviews – fair to individuals, and capable of improving the quality and consistency of migration and refugee decisions at the primary level.

During the year we developed or revised various Tribunal guidance documents. We developed, consulted on and published the Guidance on Vulnerable Persons, revised the Guidance on the Assessment of Credibility and issued Guidelines on Expert Opinion Evidence and on Referrals for Ministerial intervention. These documents, and all Principal Member Directions, are available on the Tribunal website.

The 90-day period for RRT reviews is an area that I consider needs to be reconsidered in any review of the merits review architecture of the *Migration Act 1958*. The 90-day period was introduced in 2005 when there were significant backlogs of protection visa cases at the primary and review levels, and when there were large numbers of protection visa applicants in immigration detention.

While most cases can be fairly decided within 90 days, the requirement for reports to be presented to Parliament every 4 months on all protection visa cases which exceed 90 days

has the tendency to place greater emphasis on speed than on fairness to the applicant and distorts priorities between the two Tribunals. There is a case for this level of reporting to be maintained only for applicants who are in immigration detention. This would improve the capacity of those assisting applicants and our Members to continue to give high priority to detention cases. The timeliness of reviews involving persons not in immigration detention could be reported on satisfactorily in Annual Reports, in the same way as performance against time standards is reported across the MRT caseload.

I have suggested to Government that a comprehensive review be undertaken of the procedures and structure of the MRT and the RRT and of the judicial review framework in which the Tribunals operate. In my view, the way in which merits and judicial review operates in this jurisdiction needs to be brought more within the mainstream of Australian administrative law in order to deliver greater fairness to applicants and to reduce judicial review litigation.

A relatively simple reform which, in one step, would substantially enhance fairness for applicants and reduce the potential for litigation would be the introduction of a requirement for review applicants to be provided with a copy of all documents held by the Department relevant to the review. Currently, RRT applicants have to resort to a Freedom of Information Act request to get documents, while MRT applicants must use the facility in section 362A of the Migration Act to get documents. In my view, fairness demands that all relevant documents held by the Department be provided by the Department to review applicants as a matter of course after the lodgement of their application for review with the MRT or RRT.

I thank the Members and staff of the Tribunals for their professionalism and commitment over the year. I know that their efforts are underpinned by an appreciation that, for many applicants, the outcome of proceedings before us is a matter of life-changing importance.

**Denis O'Brien**

Principal Member

PART 2

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# Registrar's Report



## Part 2 – Registrar’s Report

Over the last two years the Tribunals have had to deal with an increasing and more complex caseload and this has been a focus for change in relation to the management of caseloads, the nature and quality of support services provided to Members, the information and guidance that we publish, and our relationships with stakeholders.

The increased use of legal and registry resources in the initial analysis of cases has supported an increased allocation of cases to Members through the batching of cases which raise similar issues, which makes more efficient use of Member time and expertise. It has also improved our focus in setting priorities for professional development and training and the preparation of legal, research and policy materials.

A very significant development was the decision taken during the year to make public on the Tribunal website country research prepared within the Tribunals. Starting in January 2009, the coverage has now extended to more than 40 countries. This provides valuable country information for applicants, representatives and the community.

Following a survey of Sydney Members in June 2009, the Sydney Research Committee, comprising Members and Country Research staff, recommended to the Management Board an increase in staff to enable improved services to Members. An increase in staff numbers has been approved by the Board and additional country advisers are being recruited. The additional resources will improve the capacity for greater analysis and advice to Members on country information that is relevant to the claims of refugee applicants.

The Tribunals also increased the number of Tribunal decisions which are published, from at least 20% of decisions to at least 40% of decisions made. In doing so, we responded to feedback from representatives and other interested parties that they would find a larger database of decisions more valuable when advising applicants and for the purpose of research and identifying trends. Both MRT and RRT decisions are published on the AustLII website at [www.austlii.edu.au](http://www.austlii.edu.au). RRT decisions are edited to remove information which would identify the applicant or relatives of the applicant, as required by the *Migration Act 1958*. MRT decisions are published in full, as required by the Migration Act, unless the Member has determined that this would not be in the public interest.

Both the publication of country research and the increase in the number of decisions published have been well received by the community and practitioners, and support consistency, transparency and accountability.

Building on these positive developments, we developed a draft stakeholder engagement plan towards the end of the year which is aimed at developing our communication and engagement with our stakeholders. The draft plan is currently being reviewed through our current community liaison network.

As part of Refugee Week 2009, the RRT hosted open afternoons in Sydney, Melbourne and Perth. Visitors were able to view a mock hearing and to attend presentations on aspects of protection visa reviews.

The Minister, Senator Chris Evans, issued new guidelines in December 2008 in relation to the Minister’s powers to substitute a more favourable decision than that made by the Tribunals. The guidelines provide for the assessment of cases raising humanitarian and compassionate



circumstances which are referred to the Department by the Tribunals. The Principal Member in turn issued guidelines for Members relating to the referral of cases to the Department for the Minister's consideration and the setting out of relevant circumstances or considerations in the Tribunal's statement of decision and reasons. Between 1 January and 30 June 2009, Members referred 135 cases to the Department, which represented 4% of the cases decided.

The 10th anniversary of the MRT occurred on 1 June 2009. The MRT was established in 1999, replacing a two tier review model which consisted of internal review by an authorised review officer, and an external review by the Immigration Review Tribunal.

In relation to staffing matters, the Australian Industrial Relations Commission agreed to a variation and extension of the Certified Agreement covering Tribunal staff in April 2009. The salary increases are linked to productivity improvements which will be progressed through 2009–10 alongside other measures to reduce expenditure during what is a tight budgetary environment.

I mentioned in last year's report that the Tribunals had been progressing a review of funding arrangements with the Department of Finance and Deregulation. An agreement is close to being settled. It will be based on a review of the costs of the Tribunals' operations, and to provide the Tribunals with the capacity to address the increase in cases.

In closing, I would like to express my thanks and appreciation to Members and all staff of the Tribunals for their hard work, commitment and sensitivity to client needs and expectations over the year.

**John Lynch**  
Registrar



PART 3

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# The role of the Tribunals



## Part 3 – The role of the Tribunals

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) are statutory bodies providing a final, independent merits review of visa and visa-related decisions made by the Minister for Immigration and Citizenship (the Minister) or by officers of the Department of Immigration and Citizenship (the Department), acting as delegates of the Minister.

The Tribunals are established under the *Migration Act 1958*. The Tribunals' jurisdictions, powers and procedures are set out in the Migration Act and the Migration Regulations 1994. The Tribunals comprise Members (appointed by the Governor-General under the Migration Act for fixed terms) and staff (appointed under the Migration Act and employed under the *Public Service Act 1999*).

All Members and staff are cross-appointed to both Tribunals and the Tribunals operate as a single agency for the purposes of the *Financial Management and Accountability Act 1997*.

The MRT reviews a wide range of decisions in relation to visas other than protection visas.

The RRT reviews decisions in relation to protection visas.

A visa is required by anyone who is not an Australian citizen and who wishes to travel to, and remain in, Australia. The Migration Act and the Migration Regulations set out the criteria for visas. There are specific criteria which relate to the purpose of particular visas, and general criteria relating to matters such as health and character.

A visa is refused if a decision maker is not satisfied that a person meets the criteria for the visa. A visa may be cancelled if, for example, it was obtained by making false statements or if the visa holder has not abided by the conditions of the visa.

In reviewing a decision to refuse to grant or to cancel a visa, the Tribunals are required to conduct a 'merits review' that is 'fair, just, economical, informal and quick'.

### MERITS REVIEW

Merits review is an administrative reconsideration of a case. A merits review body makes decisions within the same legislative framework as the primary decision maker, and may exercise all the powers and discretions conferred on the primary decision maker.

The principal objective of merits review is to ensure that the correct or preferable decision is reached in the particular case. The decision and reasons of a merits review body should also improve the general quality and consistency of decision making, and enhance openness and accountability of an area of government decision making.

The Tribunals reconsider each case in light of the facts before them, the law and Government policy (to the extent that this is not inconsistent with the law). A decision made by a Member in one case does not bind Members in other cases. However, consistency is highly desirable and it is generally expected that a decision in a particular case would be consistent with other decisions in like matters.

The Tribunals have the power to affirm the primary decision, vary the primary decision, set aside the primary decision and substitute a new decision, or remit (return) a matter to

the Department for reconsideration with specific directions. For example, a matter may be 'remitted' if a Member is satisfied that a visa applicant meets one or more of the criteria for the visa. The Department may then need to undertake further processing in relation to other requirements for the visa.

## MATTERS REVIEWED BY THE MRT

The MRT can review decisions relating to a wide range of visas. Reviewable decisions include decisions to refuse to grant visas, to cancel visas, to refuse to approve sponsors, and to refuse to approve a nominated position or business activity.

Bridging visas are granted to provide temporary lawful status to non-citizens in Australia, for example, while a temporary entrant is awaiting the outcome of an application for permanent residence. Visitor visas are granted to tourists and to persons visiting relatives in Australia. Student visas are granted to persons enrolled at schools, colleges and universities in Australia. Temporary business visas are granted for four years to persons whose proposed employment or business activities will contribute to the creation or maintenance of employment within Australia, the expansion of Australian trade, an improvement in links with international markets and/or greater competitiveness in the economy.

Permanent business visas are granted to successful business people, who obtain a substantial ownership interest in a new or existing business in Australia and actively participate in that business at a senior management level. Skilled visas are granted to persons in skilled occupations who have the education, skills and employability to contribute to the Australian economy.

Partner visas are granted to partners of Australian citizens or permanent residents. Family visas are granted to children, parents, remaining relatives (persons who have limited family contacts other than relatives living in Australia), aged dependent relatives (elderly overseas relatives who have been financially supported by a close Australian relative for a reasonable period) and carers (persons who are able and willing to provide assistance needed by a relative in Australia).

## MATTERS REVIEWED BY THE RRT

The RRT reviews decisions to refuse to grant or to cancel protection visas within Australia. The review of these decisions usually involves a consideration of whether or not the applicant is a person to whom Australia has protection obligations. This involves consideration of whether he or she is a 'refugee' within the meaning of the 1951 United Nations Convention Relating to the Status of Refugees (as amended by the 1967 UN Protocol Relating to the Status of Refugees) (the Convention).

The Convention was drafted between 1948 and 1951 with the principal aim of creating a regime to cope with the large numbers of people who had been displaced by the Second World War. The original definition permitted a person to be declared a refugee as a result of events occurring in Europe before 1 January 1951. However, the 1967 UN Protocol Relating to the Status of Refugees (the Protocol) removed the time and geographical limitation in the Convention's definition of a refugee. The Convention now extends to all persons who are refugees because of events occurring at any time in any place. Australia became a signatory to the Refugees Convention in 1954 and to the Protocol in 1973.

The term 'refugee' is defined in Chapter 1, Article 1 of the Convention. In particular, Article 1A(2) of the Convention, as amended by the Protocol, defines a refugee as a person who:

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it ...

Other provisions of the Convention may be relevant to an assessment of the entitlement to a protection visa.

A number of provisions of the Migration Act expressly qualify certain aspects of the Convention. These provisions focus principally on the concepts of persecution and the nature and seriousness of certain crimes relevant to the determination of whether Australia has protection obligations to an asylum seeker. Many aspects of the Convention, however, are not specifically defined by the legislation and must be interpreted in accordance with established legal principles.

## APPLYING FOR REVIEW

Whenever a decision is made which is reviewable by the MRT or the RRT, the Department is required by law to advise the person or persons involved of their review rights. This includes setting out who can apply for review, where an application for review can be made and the time limit within which the application must be made.

It is important that persons who receive a Departmental decision read the information about review rights carefully. The Tribunals do not have discretion to accept an application for review which has been lodged outside the relevant time limit or by a person who is not entitled to apply for review.

Form M1 is the general MRT application form. Form M2 is the MRT application form for persons in immigration detention. Form R1 is the RRT application form. These forms are available on the Tribunal website or from Tribunal registries.

A fee of \$1,400 is payable for all MRT applications other than for the review of decisions to refuse to grant or to cancel a bridging visa in relation to a person in immigration detention. Payment of the fee may be waived if payment would cause severe financial hardship.

There is no application fee when applying to the RRT. However, a \$1,400 fee is payable if the Tribunal affirms the primary decision.

## THE CONDUCT OF REVIEWS

The Tribunals are usually constituted by a single Member. The Member is required to conduct an independent review and reach an independent decision.

An applicant may appoint a representative to assist with his or her case. With very limited exceptions, only a registered migration agent can act as a representative or provide immigration assistance to an applicant before the Tribunals.

## THE PUBLICATION OF DECISIONS

The Tribunals decided in late 2008 to enhance transparency and accountability by increasing substantially the number of MRT and RRT decisions which would be published. The decision was to publish at least 40% of MRT and RRT decisions, double the previous level.

A new Publications Team was formed within the Research and Information Services Section to take over a range of functions from other areas of the Tribunals.

MRT decisions are published in their entirety, unless the Tribunal has issued a direction that certain information not be published. These directions are made subject to a public interest test, and commonly relate to information which may facilitate identity theft and sensitive details such as particular medical conditions or allegations of family violence or sexual assault.

Decisions of the RRT cannot be published in a way that would identify an applicant or his or her relatives. These decisions are carefully edited to remove personal details such as names and birthdates, and other information which may identify a particular person.

Decisions are published on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)). From December 2008 to June 2009, more than 46% (1861) of all decisions made in the period were published on AustLII. Of these, 681 were RRT decisions and 1180 were MRT decisions.

A significant proportion of applicants are not represented and Tribunal procedures and information are designed to assist applicants who are not represented.

The applicant (or his or her representative) can request a copy of the documents before the Tribunal and can at any time provide written submissions and written evidence.

A Member must ensure that an applicant has the opportunity to address the issues arising in the review, particularly any information which may be the reason or part of a reason for affirming the decision under review. The Tribunals can invite an applicant in writing or at hearing to comment on or respond to relevant information.

In most cases, the applicant is invited to attend a hearing to give oral evidence and present arguments on the issues arising in the review. The applicant can ask that an interpreter be present, and can be accompanied by a representative and/or a friend, relative or support person. The applicant can also request that the Tribunal take evidence from other persons.

The hearings do not have a strict procedure; however, evidence is usually taken under oath or affirmation. The Member will explain the procedures and ask questions. The applicant may or may not choose to make a statement. Neither the Minister nor the Department is represented.

Hearings are usually held in person, but may also be held through video or telephone links. All hearings are audio recorded, and the applicant can request a copy of the recording.

MRT hearings must be open to the public, unless there is a public interest reason for conducting the hearing in private. All RRT hearings must be held in private.

## INFORMATION AVAILABLE TO ASSIST APPLICANTS

The Tribunals provide information to applicants about procedures and processes throughout a review, and publish a wide range of information which can assist applicants or those assisting applicants. Information which is available on the Tribunal website at [www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au) includes:

- Principal Member Directions on the conduct of reviews, the conduct of hearings and caseload and constitution arrangements
- the *Guide to Refugee Law in Australia*
- guidelines on the assessment of credibility, vulnerable persons, expert opinion evidence, quality decision making, the use of interpreters and referrals of cases for Ministerial intervention consideration
- *Précis* – a bulletin produced every 4 weeks which summarises selected Tribunal decisions and court judgments
- extensive country research information on more than 40 countries
- forms, brochures and factsheets
- statistics on caseloads and the timeliness of reviews
- the Tribunals' Service Charter

Tribunal decisions are available on the AustLII website at [www.austlii.edu.au](http://www.austlii.edu.au). The Tribunals currently publish at least 40% of decisions made by the MRT and the RRT. RRT decisions are edited to remove information which would identify an applicant or relatives of an applicant, as required by the Migration Act. MRT decisions are published in full, as required by the Migration Act, unless the Member has determined that publication of certain information or the applicant's identity would not be in the public interest.

## DECISIONS

The Member may in some cases make an oral decision at the end of a hearing. In most cases, the Member either allows time for further documents to be lodged or may need more time to consider the case.

In all cases, a written statement of decision and reasons is prepared and provided to the applicant and the Department.

## VISION, PURPOSE AND VALUES

The Tribunals provide an independent and final merits review of decisions. The review must be fair, just, economical, informal and quick. We seek to treat all those with whom we deal with courtesy, respect and dignity.

The Tribunals' Plan, Member Code of Conduct, Service Charter and Interpreters' Handbook promote and uphold these values. All of these documents are available on the Tribunal website. A membership chart is at page 23. A staff organisational chart is at page 24. An overview of information about the Tribunals is set out in 'The Tribunals at a Glance' at page 25.



# Membership of MRT and RRT as at 31 August 2009

## Denis O'Brien PRINCIPAL MEMBER

**Linda Kirk**  
Senior Member  
Vic

**Full-time Members**  
Tony Caravella  
Paul Fisher  
Brook Hely  
Margret Holmes  
David Mitchell  
Mary Urquhart

**Peter Murphy**  
Senior Member  
Vic

**Full-time Members**  
Jennifer Beard  
Danica Buljan  
Rosa Gagliardi  
George Haddad  
Dominic Lennon

**Amanda MacDonald**  
Senior Member  
NSW

**Full-time Members**  
John Cipolla  
Ismail Hasan  
Linda Symons  
Robert Wilson

**Irene O'Connell**  
Senior Member  
NSW

**Full-time Members**  
Richard Derwiany  
Dione Dimitriadis  
Namoi Dougall  
Louise Nicholls  
Donald Smyth

**Giles Short**  
Senior Member  
NSW

**Full-time Members**  
Philippa McIntosh  
Kira Raif  
Shahyar Roushan  
James Silva

**Part-time Members**  
Wendy Boddison  
Mary Cameron  
Jennifer Ellis  
Adolfo Gentile  
Genevieve Hamilton  
Deborah Jordan  
Gary Ledson  
Sydelle Muling  
Louise Spieler  
Karen Synon  
David Thomas  
Lisa Ward

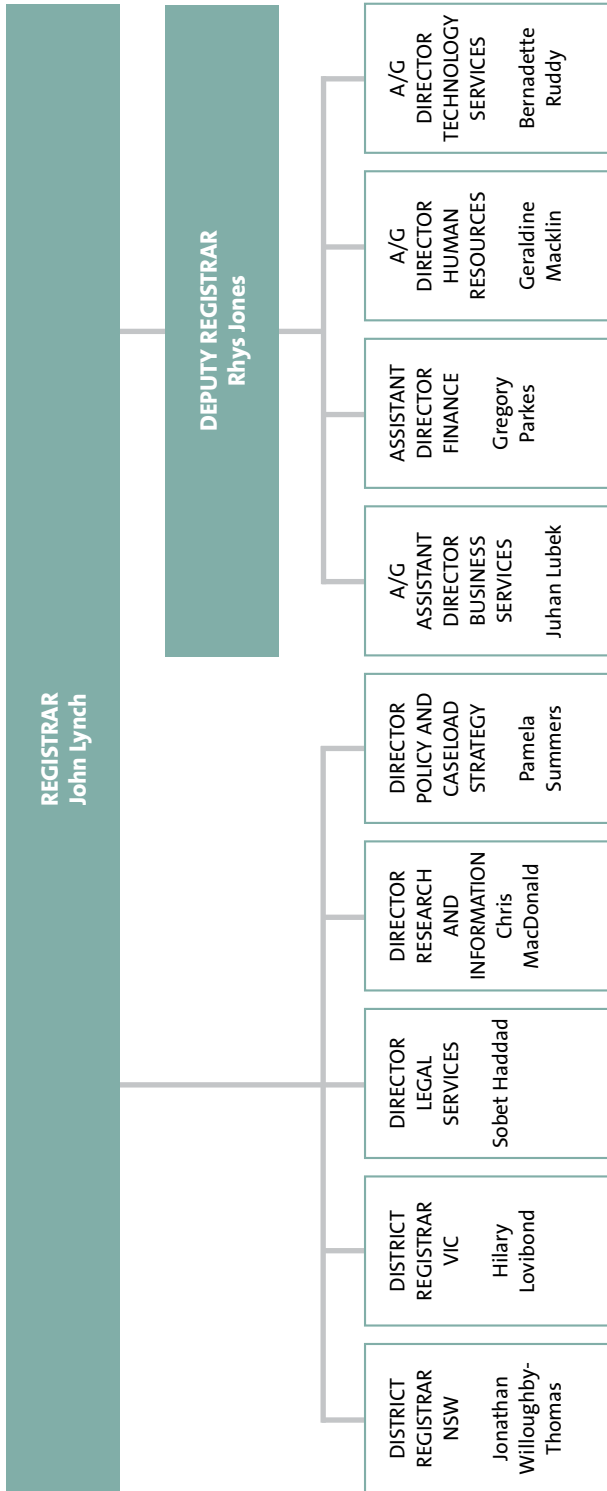
**Part-time Members**  
John Atkins  
Nicole Burns  
Tim Connellan  
Bernadette Cremean  
Alan Gregory  
Megan Hodgkinson  
Diane Hubble  
Kay Kirmos  
Deborah Morgan  
Noel Pullen  
Greg Robinson  
Peter Tyler  
Belinda Wells  
Carolyn Wilson  
David Young

**Part-time Members**  
Diane Barnetson  
Catherine Carney  
Jonathon Duignan  
Suseela Durvasula  
Bronwyn Forsyth  
Kerry-Anne Hartman  
Rodney Inder  
Suhad Kamand  
Suzanne Leal  
Jane Marquard  
Mara Moustafine  
Ann O'Toole  
Phillippa Wearne

**Part-time Members**  
Jennifer Ciantar  
David Connolly  
Glen Cranwell  
Sue Crosdale  
Gabrielle Cullen  
David Dobell  
Henrike Johnston  
Christine Long  
Andrew Mullin  
Christopher Packer  
Susan Pinto  
Pauline Pope

**Part-time Members**  
Bronwyn Connolly  
Michael Cooke  
Angela Cranston  
Ted Delofski  
Mary-Anne Ford  
Mila Foster  
Luke Hardy  
Andrew Jacovides  
Patricia Leehy  
Bruce MacCarthy  
Rosemary Mathlin  
Lilly Mojsin  
Pamela Summers

# Staff Organisational Chart as at 30 June 2009



## The Tribunals at a glance

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) provide final independent merits reviews of visa-related decisions made by the Minister for Immigration and Citizenship (the Minister) or by officers of the Department of Immigration and Citizenship (the Department) acting as delegates of the Minister.

The Tribunals are established under the *Migration Act 1958*. The Tribunals' jurisdictions, powers and procedures are set out in the Migration Act and in the Migration Regulations 1994.

**Principal Member** Denis O'Brien

**Registrar** John Lynch

	MRT	RRT	MRT and RRT
Established	1999	1993	
Cases lodged	7,422	2,538	9,960
Cases decided	5,767	2,462	8,229
Cases on hand	6,295	624	6,919
% of primary decisions set aside	48%	19%	40%
% of primary decisions affirmed	35%	73%	46%
% of cases withdrawn or otherwise resolved	17%	8%	14%
Average time taken to decide a case (weeks)	39	12	
% of decided cases where applicant represented	68%	46%	61%
Hearings arranged	5,120	3,285	8,405
% of decided cases where hearing held	61%	72%	64%
% of hearings where interpreter was required	67%	90%	76%
Languages and dialects			100+
% of decisions taken to judicial review	4%	36%	
% of decisions set aside on judicial review	31%	18%	
Members			92
Staff			268
Cost			\$38.3m

Unless otherwise indicated, all information is as at 30 June 2009 for the 2008–09 financial year.



PART 4

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# Performance Report



## Part 4 – Performance report

The Tribunals contributed to Australia’s migration and refugee programs during the year through the provision of quality and timely reviews of decisions, completing 8,229 reviews. The outcomes of review were favourable to applicants in 40% of the cases decided.

### PERFORMANCE FRAMEWORK

The Tribunals operate in a high volume decision making environment where the case law and legislation are complex and technical. In this context, fair and lawful reviews are dependent on a number of factors, including adequate resources, appropriate Member numbers and skilled staff support services.

Both Tribunals have the same statutory objective, set out respectively in sections 353 and 420 of the Migration Act:

**The Tribunal shall, in carrying out its functions under this Act, pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.**

The key strategic priorities for the Tribunals are to meet the statutory objectives through the delivery of consistent, high quality reviews and timely and lawful decisions. Each review has to be conducted in a way that ensures, as far as practicable, that the applicant understands the issues and has a fair opportunity to comment on or respond to any matters which might lead to an adverse outcome. The Tribunals also aim to meet government and community expectations and to have effective working relationships with stakeholders. These priorities are reflected in the Tribunals’ Plan.

During 2008–09, the key outcome agreed with Government was:

**To provide visa applicants and sponsors with fair, just, economical, informal and quick reviews of migration and refugee decisions.**

Table 4.1 summarises the Tribunals’ performance against the indicators and measures that were set out in the 2008–09 portfolio budget statements.

Table 4.1 – Performance information and results

Measure	Result
<b>EFFECTIVENESS IN DELIVERING OUTCOMES</b>	
Extent to which the MRT and the RRT contribute to the quality and consistency of administrative decision making.	The Tribunals publish a range of guidance aimed at improving the quality and consistency of decision making. These include the Guide to Refugee Law, the Guidance on the Assessment of Credibility, the Interpreters’ Handbook and a range of Principal Member Directions on the conduct of reviews.
	The Tribunals’ Legal Services Section and Research and Information Services Section maintain extensive information holdings, and provide advice to Members on request.
	There is an active professional development program for Members which includes regular training sessions and attendance at conferences and seminars.
	The Tribunals liaise with the Department of Immigration and Citizenship (the Department) in relation to quality issues in decision making.

Measure	Result
Extent to which there are professional and effective working relationships with stakeholders.	Regular community liaison meetings are held and the Tribunals consult on the development of new guidelines such as the Guidance on Vulnerable Persons.  Regular liaison meetings with the Department are held to discuss operational issues, the impact of court decisions and caseload trends.
<b>PERFORMANCE INDICATORS</b>	
Less than 5% of Tribunal decisions set aside by judicial review.	248 or 4% of MRT decisions and 874 or 36% of RRT decisions made in 2008–09 were appealed to the courts. 51 of 164 MRT matters and 99 of 560 RRT matters resolved were remitted to the MRT or RRT for reconsideration. At the time of this Report, 1% of MRT and 4% of RRT decisions made in 2008–09 had been set aside by judicial review.
Less than 5 complaints per 1,000 cases decided.	The Tribunals received 31 complaints, less than 4 complaints per 1,000 cases decided. 21 complaints were in relation to the MRT, and 10 were in relation to the RRT.
70% of cases decided within time standards.	88% of bridging visa (detention cases) were decided within 7 working days; 73% of RRT cases were decided within 90 calendar days; 50% of general MRT cases were decided within 320 days; and 79% of MRT visa cancellations were decided within 150 calendar days.
7,500 MRT cases and 3,050 RRT cases decided.	The Tribunals decided 5,767 MRT cases and 2,462 RRT cases, which represented an increase of 17% for the MRT, and 11% for the RRT when compared to 2007–08.

As part of a review of agency outcome statements in response to the ‘Operation Sunlight’ report by former Senator Andrew Murray, the Government during the year settled a revised outcome statement for the Tribunals. The revised outcome statement, which will apply in 2009–10, is ‘To provide correct and preferable decisions for visa applicants and sponsors through independent, fair, just, economical, informal and quick merits reviews of migration and refugee decisions’.

The Tribunals are proceeding with a number of strategies to respond to a growth in the MRT caseload and to improve processing times for both MRT and RRT cases. These strategies include increasing the degree to which cases are allocated according to Member experience and proficiency, ensuring that appraisal and professional development and training activities are effective and outcome focussed, reviewing the information and research resources that are available to Members, and increasing the proportion of Members who are appointed on a full-time basis.

## FINANCIAL PERFORMANCE

The MRT and the RRT are prescribed as a single agency, the ‘Migration Review Tribunal and Refugee Review Tribunal’ (the MRT-RRT) for the purposes of the *Financial Management and Accountability Act 1997*.

The Tribunals’ funding is based on a funding agreement with the Department of Finance and Deregulation which takes into account the number of cases decided and an assessment of fixed and variable costs. The Tribunals were funded to decide 7,500 MRT cases and

3,050 RRT cases in 2008–09. The Tribunals decided 5,767 MRT cases and 2,462 RRT cases, and the Tribunals' revenue as set out below takes into account an adjustment to appropriation based on the number of cases decided.

The Tribunals' revenues from ordinary activities totalled \$38.3m and expenditure totalled \$40.0m, resulting in a net loss of \$1.7m.

Table 4.2 sets out the budgeted and actual costs to Government in 2008–09, and the budgeted costs for 2009–10.

**Table 4.2 – Price of outputs**

	Budget 2009–10 \$'000	Actual 2008–09 \$'000	Budget 2008–09 \$'000
<b>PRICE OF OUTPUTS INDEPENDENT MERITS REVIEW</b>			
Revenue from Government (appropriation)	41,014	38,266	39,837
Revenue from other sources	60	60	60
<b>TOTAL PRICE OF OUTPUTS</b>	<b>41,074</b>	<b>38,322</b>	<b>39,897</b>
Average staffing levels*	315	305	325

\* Including Members and staff.

The Tribunals administer application fees on behalf of Government. Details of administered revenue are set out in the financial statements.

The financial statements for 2008–09, which are set out in Part 6, have been audited by the Australian National Audit Office and received an unqualified audit opinion.

## OVERVIEW OF CASELOAD

The Tribunals received 9,960 cases during the year and decided 8,229 cases.

The MRT received 7,422 cases, decided 5,767 cases and had 6,295 active cases at the end of the year.

The RRT received 2,538 cases and decided 2,462 cases, and had 624 active cases at the end of the year.

Statistical tables and charts covering the MRT and RRT caseloads are set out on pages 32–39.

The Tribunals count multiple applications for review as a single 'case' where two or more applications for review are combined, usually from members of a family unit who made a combined application for visas. In some cases, there may be different outcomes for the individuals included in a 'case'. All statistics used in this report are of 'cases'.



## LODGEMENTS

Lodgements of applications for review tend to fluctuate between years, according to trends in primary applications and in primary decision making, as well as changes to visa criteria and jurisdiction.

The MRT has jurisdiction to review a wide range of visa, sponsorship and other decisions relating to migration and temporary entry visas. Across the categories that are MRT-reviewable, the Department deals with more than 500,000 cases annually. The primary grant rate across these categories is more than 90% and the percentage of cases which come to the MRT is less than 5% of all cases.

In 2008–09, the MRT had very large increases in the skilled, business and visitor categories. These increases reflected increasing demand for these visas.

About 40% of visa refusal lodgements to the MRT related to persons outside Australia seeking a visa. The MRT's jurisdiction in relation to visas applied for outside Australia depends on whether there is a requirement for an Australian sponsor or close relative, and these cases are mainly in the skilled, visitor, partner and family categories.

The RRT has jurisdiction to review protection (refugee) visa decisions made within Australia. The Department deals with around 4,000 initial protection visa applications each year. All protection visa applicants within Australia have a right of review if a protection visa is not granted.

While lodgements to the RRT were made by applicants from over 90 countries, the majority were from the Asian region. 66% of the RRT's lodgements involved nationals from 5 countries, the People's Republic of China, India, Malaysia, Bangladesh and Indonesia. By far the largest numbers of applications were in relation to nationals of the People's Republic of China. These amounted to more than triple the number of applications received from the next largest source country, India.

Applicants to both Tribunals tend to be located in the larger metropolitan areas. 52% of all applicants reside in New South Wales, mostly in the Sydney region. Approximately 25% of applicants reside in Victoria, 9% in Queensland, 8% in Western Australia, 3% in South Australia, 2% in the Australian Capital Territory and Northern Territory combined and less than 1% in Tasmania.

Detention cases comprised less than 3% of the cases before the Tribunals, with most applicants within Australia holding a bridging visa or other visa during the course of the review.

## STATISTICS

### Caseload overview

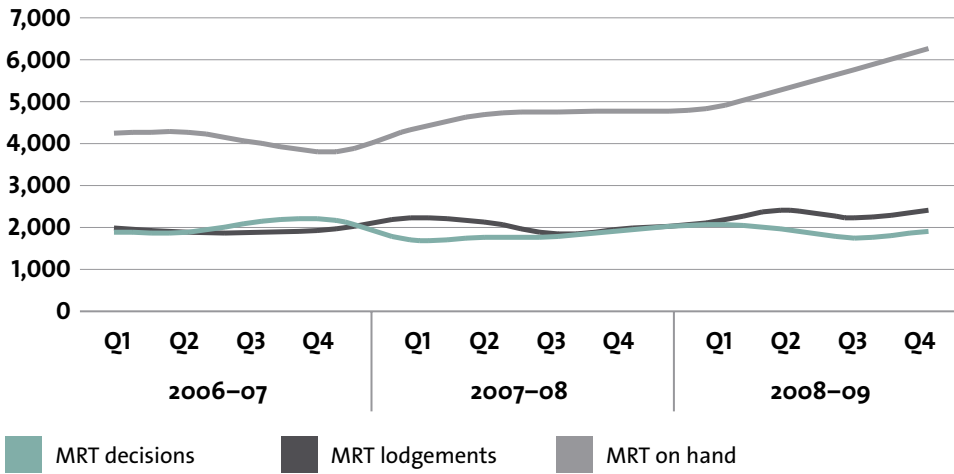
	2008-09	2007-08	2006-07
<b>MIGRATION REVIEW TRIBUNAL</b>			
On hand at start of year	4,640	3,534	3,927
Lodged	7,422	6,325	5,810
Decided	5,767	5,219	6,203
On hand at end of year	6,295	4,640	3,534
<b>REFUGEE REVIEW TRIBUNAL</b>			
On hand at start of year	548	582	849
Lodged	2,538	2,284	2,835
Decided	2,462	2,318	3,102
On hand at end of year	624	548	582



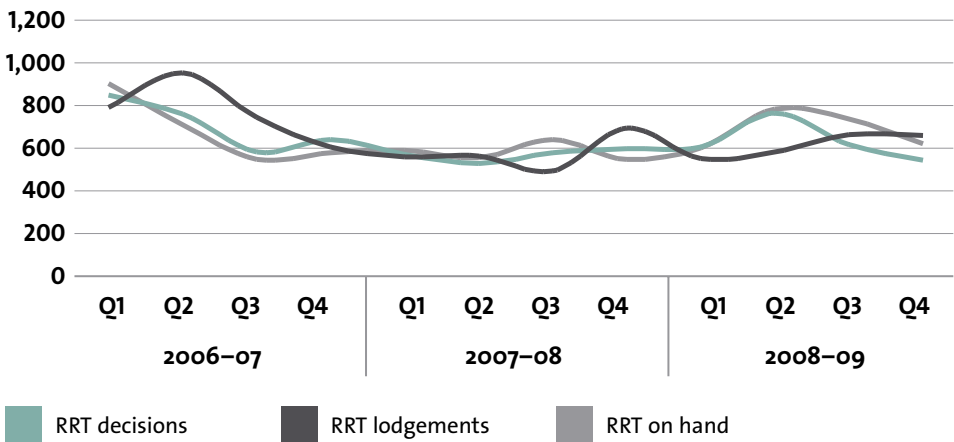
## Lodgements

	2008-09	2007-08	2006-07	% change 2007-08 to 2008-09
<b>MIGRATION REVIEW TRIBUNAL</b>				
Visa refusal – Bridging	139	177	138	-21%
Visa refusal – Visitor	562	389	289	+44%
Visa refusal – Student	691	781	415	-12%
Visa refusal – Temporary business	684	626	243	+9%
Visa refusal – Permanent business	314	182	148	+73%
Visa refusal – Skilled	1,889	933	671	+102%
Visa refusal – Partner	1,372	1,474	1,927	-7%
Visa refusal – Family	536	537	559	-
Cancellation – Student	501	653	1,009	-23%
Sponsor approval refusal	209	113	52	+85%
Other	525	460	359	+14%
<b>Total MRT</b>	<b>7,422</b>	<b>6,325</b>	<b>5,810</b>	<b>+17%</b>
<b>REFUGEE REVIEW TRIBUNAL</b>				
China (PRC)	999	890	1,081	+12%
India	287	215	364	+33%
Malaysia	165	126	86	+31%
Bangladesh	121	157	193	-23%
Indonesia	115	164	171	-30%
Lebanon	80	51	56	+57%
Sri Lanka	77	47	102	+64%
Korea, Republic of	60	41	43	+46%
Fiji	59	38	48	+55%
Pakistan	58	67	57	-13%
Other	517	488	634	+6%
<b>Total RRT</b>	<b>2,538</b>	<b>2,284</b>	<b>2,835</b>	<b>+11%</b>
<b>Total MRT and RRT</b>	<b>9,960</b>	<b>8,609</b>	<b>8,645</b>	<b>+16%</b>

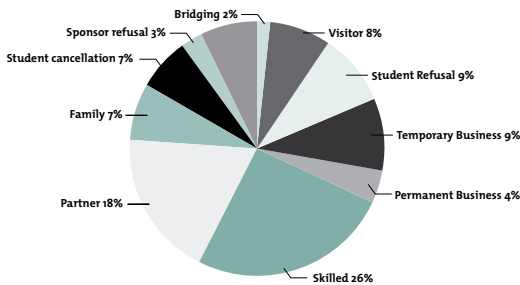
### MRT lodgements, decisions and cases on hand



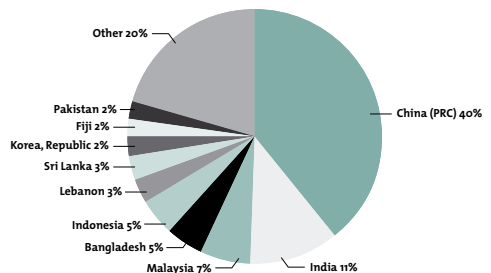
### RRT lodgements, decisions and cases on hand



### MRT lodgements by case type



### RRT lodgements by country of reference



## Cases on hand

	2008–09	2007–08	2006–07
<b>MIGRATION REVIEW TRIBUNAL</b>			
Visa refusal – Bridging	24	18	10
Visa refusal – Visitor	178	254	158
Visa refusal – Student	699	571	250
Visa refusal – Temporary business	649	525	196
Visa refusal – Permanent business	322	173	123
Visa refusal – Skilled	1,746	815	459
Visa refusal – Partner	1,431	1,279	1,273
Visa refusal – Family	439	460	437
Cancellation – Student	224	135	333
Sponsor approval refusal	214	100	40
Other	369	310	255
<b>Total MRT</b>	<b>6,295</b>	<b>4,640</b>	<b>3,534</b>
<b>REFUGEE REVIEW TRIBUNAL</b>			
China (PRC)	228	215	191
India	70	48	133
Malaysia	27	28	14
Bangladesh	18	38	33
Indonesia	17	31	21
Lebanon	15	14	13
Sri Lanka	32	13	20
Korea, Republic of	9	11	2
Fiji	14	9	12
Pakistan	15	11	14
Other	179	130	129
<b>Total RRT</b>	<b>624</b>	<b>548</b>	<b>582</b>
<b>Total MRT and RRT</b>	<b>6,919</b>	<b>5,188</b>	<b>4,116</b>

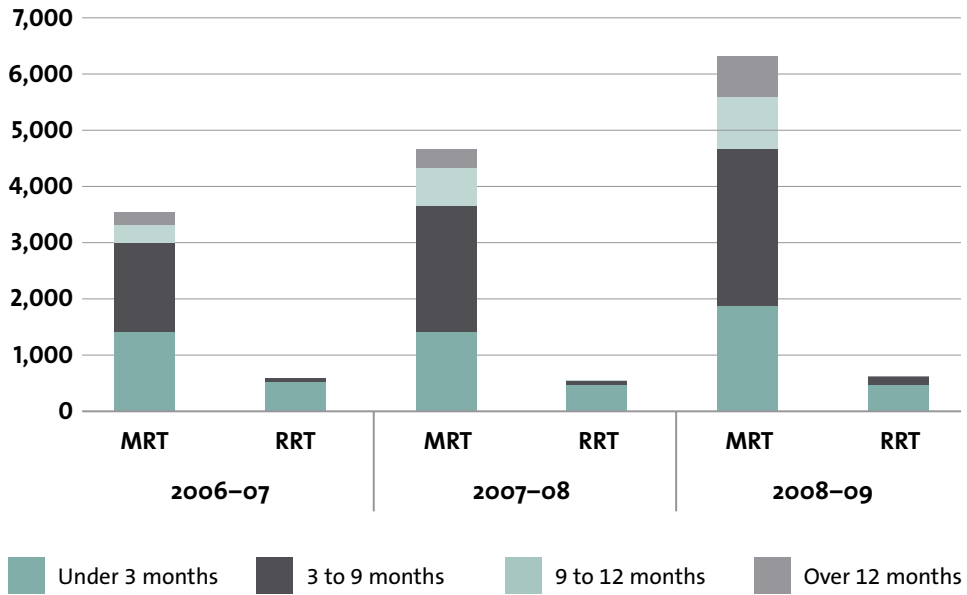
## Timeliness of reviews

	2008–09	2007–08	2006–07
<b>AVERAGE TIME TAKEN IN CALENDAR DAYS</b>			
Bridging (detention) cases (MRT)	7	7	7
Visa cancellations (MRT)	114	136	146
All other MRT cases	293	284	288
Protection visa cases	86	85	79
<b>PERCENTAGE DECIDED WITHIN TIME STANDARDS*</b>			
Bridging (detention) cases (MRT) – 7 working days	88%	93%	83%
Visa cancellations (MRT) – 150 calendar days	79%	66%	61%
All other MRT cases – 320 calendar days	50%	62%	65%
Protection visa cases – 90 calendar days	73%	70%	77%

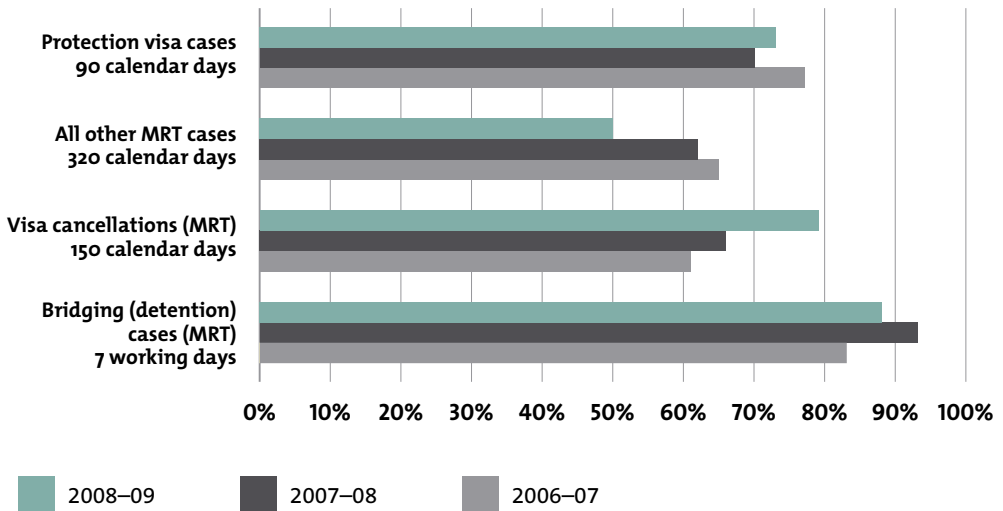
\* Time standards as set out in the Migration Act and Migration Regulations or in the 2008–09 Portfolio Budget Statement. For MRT cases, time taken is calculated from date of lodgement. For RRT cases, time taken is calculated from the date the Department's documents are provided to the RRT. The average time from lodgement of an application for review to receipt of the Department's documents was 18 days for MRT cases and 6 days for RRT cases.



## Number and age of cases on hand



## Percentage of cases decided within time standards



## Outcomes of review

	2008–09	2007–08	2006–07
<b>MIGRATION REVIEW TRIBUNAL</b>			
Primary decision set aside or remitted	2,783	2,611	3,290
Primary decision affirmed	2,005	1,875	2,138
Application withdrawn by applicant	495	369	386
No jurisdiction to review*	484	364	389
<b>Total</b>	<b>5,767</b>	<b>5,219</b>	<b>6,203</b>
<b>REFUGEE REVIEW TRIBUNAL</b>			
Primary decision set aside or remitted	468	422	649
Primary decision affirmed	1,787	1,661	2,202
Application withdrawn by applicant	29	33	52
No jurisdiction to review*	178	202	199
<b>Total</b>	<b>2,462</b>	<b>2,318</b>	<b>3,102</b>

\* No jurisdiction decisions include applications not made within the prescribed time limit, not made in respect of reviewable decisions or not made by a person with standing to apply for review. The Tribunals' procedures provide for an applicant to be given an opportunity to comment on any jurisdiction issue before a decision is made. Some cases raise complex questions as to whether a matter is reviewable and whether a person has been properly notified of a decision and of review rights.





## Cases decided and set aside rates

	2008-09		2007-08		2006-07	
	Cases	% set aside	Cases	% set aside	Cases	% set aside
<b>MIGRATION REVIEW TRIBUNAL</b>						
Visa refusal – Bridging	133	12%	169	25%	142	18%
Visa refusal – Visitor	637	59%	294	48%	232	44%
Visa refusal – Student	564	37%	459	49%	361	37%
Visa refusal – Temporary business	560	37%	294	37%	237	27%
Visa refusal – Permanent business	165	42%	131	47%	172	47%
Visa refusal – Skilled	958	51%	577	53%	728	62%
Visa refusal – Partner	1,221	67%	1,468	62%	2,267	69%
Visa refusal – Family	557	45%	517	43%	622	45%
Cancellation – Student	412	40%	853	51%	1,041	44%
Sponsor approval refusal	96	27%	55	36%	78	29%
Other	464	35%	402	32%	323	31%
<b>Total MRT</b>	<b>5,767</b>	<b>48%</b>	<b>5,219</b>	<b>50%</b>	<b>6,203</b>	<b>53%</b>
<b>REFUGEE REVIEW TRIBUNAL</b>						
China (PRC)	986	21%	866	22%	1,189	22%
India	265	4%	300	5%	359	6%
Malaysia	166	7%	112	1%	95	2%
Bangladesh	141	9%	152	11%	230	11%
Indonesia	129	8%	154	3%	193	7%
Lebanon	79	32%	50	24%	54	15%
Korea, Republic of	62	5%	32	3%	49	4%
Sri Lanka	58	38%	55	31%	116	49%
Fiji	54	13%	41	12%	46	7%
Pakistan	54	17%	70	24%	65	20%
Other	468	32%	486	29%	706	35%
<b>Total RRT</b>	<b>2,462</b>	<b>19%</b>	<b>2,318</b>	<b>18%</b>	<b>3,102</b>	<b>22%</b>
<b>Total MRT and RRT</b>	<b>8,229</b>	<b>40%</b>	<b>7,537</b>	<b>40%</b>	<b>9,305</b>	<b>42%</b>

## CONDUCT OF REVIEWS

The procedures of the MRT and the RRT are inquisitorial rather than adversarial in nature. Proceedings before the Tribunals do not take the form of litigation between parties. The review is an inquiry in which the Member defines the issues or criteria in dispute, initiates investigations or inquiries to supplement evidence provided by the applicant and the Department and ensures procedural momentum. At the same time, the Member must maintain an open and impartial mind.

Applicants appointed a representative to assist or represent them in 68% of MRT cases decided and in 46% of RRT cases decided.

In the 5,767 MRT cases decided, hearings were arranged in 3,979 cases, and held in 3,508 or 61% of the cases decided. In the 2,462 RRT cases decided, hearings were arranged in 2,240 cases, and held in 1,775 or 72% of the cases decided.

The cases which do not proceed to hearing include cases where a decision favourable to the applicant is made prior to the hearing date, cases where the applicant does not attend the hearing, and cases where the applicant withdraws his or her application before the hearing. Favourable decisions on the papers were made in 7.6% of MRT cases (including in 20% of skilled visa refusal cases) and in 0.2% of RRT cases.

Most hearings are held in person. Video links were used in 16% of hearings. The average duration of MRT hearings was 75 minutes, and the average duration of RRT hearings was 129 minutes. Two or more hearings were held in 9% of RRT cases and in 3% of MRT cases.

There were a number of legislative changes to procedural provisions during the year. These included changes to the powers to obtain information and the removal of the requirement to formally hand down decisions.

## INTERPRETERS AT HEARINGS

The Tribunals aim to identify, implement and promote best practice in interpreting at hearings. High quality interpreting services are fundamental to the work of the Tribunals. In 2008–09, the Tribunals arranged 8,405 hearings. Interpreters were required for 67% of MRT hearings held and for 90% of RRT hearings, across more than 100 languages and dialects.

The Tribunals have an Interpreter Advisory Group which has the primary objective to ensure, as far as possible, that the Tribunals have access to a high standard of interpreters. The IAG monitors developments in the use of interpreters and makes recommendations to the Management Board and the Member Professional Development Committee. The IAG arranges or conducts training for both new and existing Members, and monitors the standardised languages list.

The IAG has a national membership. The IAG is chaired by Member Philippa McIntosh, and comprises Senior Member Irene O'Connell, Members Paul Fisher and Don Smyth, and officers Sonja Karsai, Frank Bregianis, Michael Haynes and Lauren Anglin.

## OUTCOMES OF REVIEW

A written statement of decision and reasons is prepared in each case and these are provided to both the applicant and the Department.

The MRT set aside or remitted the primary decision in 48% of cases decided and affirmed the primary decision in 35% of cases decided. The remaining 17% of cases were either withdrawn by the applicant or were cases where the Tribunal decided it had no jurisdiction to conduct the review.

The RRT set aside or remitted the primary decision in 19% of cases decided and affirmed the primary decision in 73% of cases decided. The remaining 8% of cases were either withdrawn by the applicant or were cases where the Tribunal decided it had no jurisdiction to conduct the review.

The fact that a decision is set aside by the Tribunal is not necessarily a reflection on the quality of the primary decision, which may have been correct and reasonable at the time of the decision. Departmental officers in general make sound decisions across a very large volume of cases and make favourable decisions in a large proportion of cases.

Applicants who apply for Tribunal review typically respond to the concerns of the primary decision maker by providing submissions and further evidence to the Tribunal. By the time of the Tribunal's decision, there is often considerable further information before the Tribunal, and there may be court judgments or legislative changes which may affect the outcome of the review.

Applicants were represented in 61% of cases before the Tribunals. Most commonly representation was by a registered migration agent. In cases where applicants were represented the set aside rate was 48% compared with 27% for unrepresented applicants. The difference was most notable for RRT cases where the set aside rate was 32% for represented applicants and 8% for unrepresented applicants. Unrepresented applicants may or may not have sought advice on their prospects of success before applying for review, and fewer than 60% of unrepresented applicants to the RRT attend hearings, compared to more than 90% of applicants who have a representative.

For the MRT, this difference was still notable with a set aside rate of 52% for represented applicants and 40% for unrepresented applicants.

Set aside rates also vary by gender of the review applicant. For the MRT, the set aside rate was 52% for females and 47% for males. For the RRT, the set aside rate for female review applicants was 26% and the set aside rate for male applicants was 16%.

A total of 233 cases (3% of the cases decided) were referred to the Department during the year for consideration under the Minister's ministerial intervention guidelines. These cases raised humanitarian or compassionate circumstances which Members considered should be drawn to the attention of the Minister.

## TIMELINESS

The Tribunals aim for a speedy resolution of cases. Members actively manage their caseloads from the time of allocation until decision. Members are expected to quickly identify the relevant issues in a review and the necessary courses of action to enable the

review to be conducted as effectively and efficiently as possible. Older cases are regularly reviewed by Senior Members.

Some cases cannot be decided within the relevant time standard. These include cases where hearings need to be rescheduled because of illness or the unavailability of an interpreter, cases where the applicant requests further time to comment or respond to information, cases where new information becomes available, and cases where an assessment or information needs to be obtained from another body or agency.

The number of MRT cases on hand has increased over the last 3 years. Over the year, cases on hand increased by 36%. The Tribunals have responded by enhancing business intelligence to enable an increased batching of cases for efficiency gains, and increasing the days worked by part-time Members. Member appointments and reappointments since the end of the year have increased the proportion of full-time Members and this will have a positive impact in 2009–10.

As required by section 441A of the Migration Act, the Principal Member provided reports every 4 months to the Minister for Immigration and Citizenship for tabling in Parliament in relation to the operation of the 90 day period for RRT reviews. Over the year, 73% of RRT cases were decided within 90 days. The reasons why cases exceeded 90 days included compliance with statutory procedural requirements (55% of cases), further investigations, requests for further time to provide documents or submissions, and the postponement or adjournment of hearings.

## JUDICIAL REVIEW

For persons wishing to challenge a MRT or RRT decision, two avenues of judicial review are available. One is to the Federal Magistrates Court for review under section 476 of the Migration Act. The other is to the High Court pursuant to paragraph 75(v) of the Commonwealth Constitution.

The applicant and the Minister are generally the parties to a judicial review of a Tribunal decision. Although frequently joined as a party to proceedings, the Tribunals do not take an active role in litigation. As a matter of course, the Tribunals enter a submitting appearance, consistently with the principle that an administrative tribunal should generally not be an active party in judicial proceedings challenging its decisions.

In 2008–09 the number and percentage of decisions taken to judicial review decreased in comparison with previous years. Table 4.3 sets out judicial review applications and outcomes in relation to the Tribunal decisions made over the last 3 years.

Decision making under the Migration Act remains an area where the level of court scrutiny is very intense and where the same Tribunal decision or same legal point may be upheld or overturned at successive levels of appeal.

If a Tribunal decision is set aside or quashed, the court order is usually for the matter to be remitted to the Tribunal to be reconsidered. In such cases, the Tribunal (usually constituted by a different Member) must reconsider the case and make a fresh decision, taking into account the decision of the court and any further evidence or changed circumstances. In about 60% of MRT cases and 30% of RRT cases reconsidered, the reconstituted Tribunal makes a decision favourable to the applicant.

Table 4.3 – Judicial review applications and outcomes

	MRT			RRT		
	2008–09	2007–08	2006–07	2008–09	2007–08	2006–07
Tribunal decisions	5,767	5,219	6,203	2,462	2,318	3,102
<b>Court applications</b>	<b>248</b>	<b>250</b>	<b>353</b>	<b>874</b>	<b>1,069</b>	<b>1,566</b>
% of Tribunal decisions	4.3%	4.8%	5.7%	35.5%	46.1%	50.5%
<b>Applications resolved</b>	<b>164</b>	<b>236</b>	<b>343</b>	<b>560</b>	<b>1,018</b>	<b>1,542</b>
– decision upheld or otherwise resolved	113	144	229	461	867	1,296
– set aside by consent or judgment	51	92	114	99	151	246
– % set aside of judicial applications resolved	31.1%	39.0%	33.2%	17.7%	14.8%	16.0%
– % of total MRT/RRT decisions set aside	0.9%	1.8%	1.8%	4.0%	6.5%	7.9%

The outcome of judicial review applications is reported on completion of all court appeals against a Tribunal decision. Previous years' figures are affected if a further court appeal is made in relation to a case previously counted as completed.

A summary of some significant judicial decisions since 1 July 2008 is set out below. These decisions had an impact on the Tribunals' decision making or procedures, or on the operation of judicial review in relation to Tribunal decisions.

There are restrictions on identifying applicants for protection visas, and letter codes or reference numbers are used by the courts. Unless stated otherwise, references are to the Migration Act and Migration Regulations. The Minister for Immigration and Citizenship is a party in most cases, and 'MIAC', 'MIMA' or 'MIMIA' is used to identify the Minister in the abbreviated citations provided:

### Domestic violence

Mr Sok applied for a partner visa on the basis of his marriage to an Australian citizen. His application was refused by a delegate of the Minister on the grounds that the relationship had ceased. On review before the MRT, Mr Sok claimed for the first time that the relationship had ceased due to domestic violence committed against him. The MRT, relying on an independent expert's opinion from a social worker, found that Mr Sok had not suffered domestic violence. Overturning a judgment of the Full Court of the Federal Court that found that such claims of domestic violence could not be considered by the MRT if not raised in the original visa application, the High Court held that the MRT may exercise all the powers and discretions conferred on the Minister in relation to claims of 'non-judicially determined domestic violence'. As such it had been correct for the MRT to consider if Mr Sok had suffered domestic violence. [*Sok v MIAC* [2008] HCA 50]

## Information provided in confidence

Mr Kumar applied for a partner visa on the basis of his marriage to an Australian citizen. A delegate of the Minister decided not to grant the visa on the basis that the relationship was not a genuine spousal relationship. As part of the review, the MRT invited Mr Kumar in writing to comment on information, received by the MRT ‘in confidence, stating that your marriage to your nominator is contrived for the sole purpose of migrating to Australia’. Mr Kumar denied the allegation. Relying in part on the ‘confidential information’ the MRT affirmed the decision under review. On appeal, the High Court overturned a decision of the Full Court of the Federal Court that had found that adverse information provided to the MRT by a third party was not non-disclosable information if it concerned the commission of crimes and frauds and that the MRT should have also disclosed the identity of the informant and the full nature of the information. The High Court held that the legislation intended to afford a measure of procedural fairness to applicants, while protecting the public interest in protecting informants, lest information be withheld which assists in the proper administration of the Act. [*MIAC v Kumar* [2009] HCA 10]

## Power to obtain information

The visa applicant applied for a protection visa on the basis that he feared persecution in Bangladesh by reason of his Ahmadiyya faith. In support of his application, the applicant provided to the RRT a letter of support from an Ahmadiyya association in Bangladesh. The RRT sent an email to the Department of Foreign Affairs and Trade (DFAT) requesting that it contact the head of the association to verify the authenticity of the letter. DFAT passed on the request to its post in Dhaka which, after meeting with the head of the organisation, provided a report to the RRT. The RRT affirmed the decision not to grant the visa. Dismissing an appeal, a Full Court of the Federal Court held that the RRT had not been required to issue a formal invitation to DFAT under subsection 424(2). The Court held that subsection 424(2) only applied to information that was additional to that already placed before the RRT by the invitee. The Court also observed that ‘documents’ were not ‘information’ and that the provision was directed at obtaining information from a natural person whose identity is known at the time of the invitation. [*SZLPO v MIAC* [2009] FCAFC 51] More recently, the High Court has confirmed that the Tribunals have a general power to obtain information, and that the Tribunals have a discretion to issue a formal invitation [*MIAC v SZKTI* [2009] HCA 30].

## Inviting comment on adverse information

The visa applicant applied for a protection visa on the basis that he suffered persecution by religious extremists in Pakistan. A delegate of the Minister refused to grant the visa and that decision was subsequently affirmed by the RRT. The RRT invited the applicant at a hearing to comment on country information that indicated that he did not face a real chance of persecution throughout Pakistan, and subsequently relied upon that information in reaching its decision. A Full Court of the Federal Court agreed that there was no requirement for the RRT to also send a written invitation to the applicant to comment on the information and that the requirement to disclose ‘information’ could be done either at hearing or in writing. [*SZMCD v MIAC* [2009] FCAFC 46]

## Obligation to be fair and just

The visa applicants applied for protection visas on the basis that the husband feared persecution because of his role as a political journalist for a newspaper and his membership of a political party. He claimed for the first time at the RRT hearing that there were false proceedings pending against him in Bangladesh. The RRT permitted him a week to provide documentary evidence but made it clear that it would probably not accept the claim as credible as it had not been mentioned previously and there were no details. The RRT subsequently found the documents provided by the applicant were not genuine. On appeal from a judgment by a Federal Magistrate quashing the RRT's decision, a Full Court of the Federal Court held that there was nothing unfair or unjust in the manner in which the RRT proceeded. The Court held that the requirement that the RRT 'must act in a way that is fair and just' did not impose procedural requirements beyond what was provided for in the Act. [*MIAC v SZMOK* [2009] FCAFC 83]

## Proper construction of visa condition 8202

Mr Brar's student visa was granted in January 2007. He was studying commercial cookery. The education provider notified him in June 2007 that he had failed to maintain satisfactory course attendance, as required by visa condition 8202, and his visa was subsequently cancelled. On review, the MRT found that Mr Brar had breached the condition by failing to attend 80% of contact hours during term 2 of 2007, and that the breach was not due to exceptional circumstances beyond his control. The MRT decision in March 2008 applied the version of condition 8202 as it existed prior to 1 July 2007. A Federal Magistrate quashed the MRT's decision. On appeal, a Full Court of the Federal Court held that condition 8202, as it was immediately prior to 1 July 2007, was not invalid and had been correctly applied by the MRT. [*MIAC v Brar* [2009] FCAFC 53]

Mr Maan's student visa was granted in March 2007. Prior to 1 July 2007, he received a number of warning notices from his education provider in relation to inadequate course attendance. In September 2007, he was certified as not achieving satisfactory course attendance by his education provider. The MRT found, based upon the education provider's certification, that mandatory grounds for cancellation existed as the applicant's non-compliance with visa condition 8202 was not due to exceptional circumstances. A Federal Magistrate agreed with the approach adopted by the MRT, that non-compliance with condition 8202 occurs when the non-compliance is certified by the education provider not when the relevant student conduct occurs. In the case of certification of non-compliance after 1 July 2007, it is the current form of the condition which is applicable. [*Maan v MRT & Anor* [2008] FMCA 1738. At the time of this Report, this judgment was on appeal.]

## Time limits for judicial review

The visa applicant applied for a protection visa in 1997. A delegate of the Minister refused to grant the visa and that decision was affirmed by the RRT in 1999. A copy of the RRT's decision was sent to the applicant on the same day. Shortly thereafter, the applicant unsuccessfully asked the Minister to set aside the RRT decision and make a more favourable decision. In 2007, the applicant commenced a proceeding in the Federal Magistrates Court in respect of the RRT decision. A Full Court of the Federal Court found that the application for judicial review was not made within the statutory time limit. The Court held that if an applicant has physically received a copy of the RRT's decision

and reasons, there has been actual notification of the decision for the purposes of section 477 of the Act, and the time limits for lodging an application to the Courts will start to run. [*SZKNX v MIAC* [2008] FCAFC 176]

### English language requirements for student visas

Mr Shah applied for a student visa in March 2007. A delegate of the Minister refused to grant the visa on the basis that the applicant had not provided evidence that he met the English language requirements for the visa. On review, the applicant submitted documents to the RRT, including English language test results showing he had been tested in August 2007 and obtained the necessary test score. In affirming the delegate's decision, the MRT found that the regulations required the language test to have been conducted no more than 2 years prior to the application. [This was an area in which Members had different views as to whether or not later English language results could be considered.] A Federal Magistrate held that the expression, 'less than two years before' meant that the test must be conducted before the application was made, not during the processing of the application. [*Shah v MIAC* [2008] FMCA 108]

In a similar case involving a Mr Kamal, another Federal Magistrate concluded that the same words, 'less than two years before', did not preclude a test taken after the date of visa application. [*Kamal v MIAC* [2009] FMCA 238]. This judgment has been recently upheld on appeal by a Full Court of the Federal Court. [*MIAC v Kamal* [2009] FCAFC 98]

The High Court is expected to decide two cases dealing with subsection 91R(3) this year, and these are expected to clarify an area of some uncertainty – whether delegates and the RRT are precluded from having regard to 'any conduct' engaged in after arriving in Australia for the purpose of strengthening an applicant's claim to be a refugee, whether or not it would support or undermine an applicant's claims.

## SOCIAL JUSTICE AND EQUITY

The Tribunals' Service Charter expresses our commitment to providing a professional and courteous service to review applicants and other persons with whom we deal. It sets out general standards for client service covering day to day contact with the Tribunals, responding to correspondence, arrangements for attending hearings, the use of interpreters and the use of clear language in decisions. In 2009–10 the Tribunals plan to review and update the Service Charter in consultation with stakeholders.

Table 4.4 sets out the Tribunals' performance during the year against service standards contained in the Service Charter.



**Table 4.4 – Report against service standards**

Service standard	Report against standard for 2008–09	Outcome
1. Be helpful, prompt and respectful when we deal with you	New Members and staff attend induction training emphasising the importance of providing quality service to clients. A ‘building client satisfaction’ course was designed during the year with the assistance of an external provider and, at the time of this Report, 127 staff had attended this course.	Achieved
2. Use language that is clear and easily understood	Clear English is used in correspondence and forms. Staff use the Translating and Interpreting Service to communicate with clients from non-English speaking backgrounds. There is a language register listing staff available to speak to applicants in their language.	Achieved
3. Listen carefully to what you say to us	The Tribunals book interpreters for hearings whenever they are requested by applicants. Interpreters were used in 76% of hearings held (67% MRT and 90% RRT) in 2008–09. The Tribunals employ staff from diverse backgrounds who speak more than 30 languages. Staff use the Translating and Interpreting Service to communicate with clients from non-English speaking backgrounds. Wherever possible, accredited interpreters are used in hearings.	Achieved
4. Acknowledge applications for review in writing within 2 working days	In 2008–09, an acknowledgement letter was sent within 2 working days of lodgement in more than 95% of cases.	Achieved
5. Include a contact name and telephone number on all our correspondence	All letters include a contact name and telephone number.	Achieved
6. Help you to understand our procedures	The Tribunals provide applicants with information about the Tribunals’ procedures at several stages during the review process. The Tribunal website includes a significant amount of information, including forms and factsheets. Tribunal case officers are available in each Registry to explain procedures over the counter or the telephone. There is an email enquiries address where applicants can seek general information about procedures.	Achieved

Service standard	Report against standard for 2008–09	Outcome
7. Provide information about where you can get advice and assistance	The Tribunal website, Service Charter and application forms provide information about where applicants can get advice and assistance. Factsheet MR2: Immigration Assistance notifies applicants of organisations and individuals who can provide them with immigration assistance. Factsheet MR4: Multilingual Advice explains in 16 community languages how applicants may contact the Translating and Interpreting Service.	Achieved
8. Engage interpreters for hearings, where required	The Tribunals book interpreters for hearings whenever they are requested by applicants. Interpreters were used for 76% of hearings (67% MRT and 90% RRT) in 2008–09.	Achieved
9. Attempt to assist you if you have special needs	The Tribunals employ a range of strategies to assist applicants with special needs. Our offices are wheelchair accessible and hearing loops are available for use in hearing rooms. Wherever possible, requests for interpreters of a particular gender, dialect, ethnicity or religion are met. Hearings can be held by video. A national enquiry number is available from anywhere in Australia (calls are charged at the cost of a local call – not available from mobile telephones). 698 fee waiver applications were considered, with the \$1,400 application fee waived in 338 cases.	Achieved
10. Provide written reasons when we make a decision	In all cases, a written record of decision and the reasons for decision is provided to the review applicant and to the Department.	Achieved
11. Publish and adhere to guidelines relating to the priority to be given to particular cases	Guidelines relating to the priority to be given to particular cases are published in Principal Member Directions which are available on the Tribunal website. The Tribunals' procedures require that the Principal Member be provided with a report each week on priority cases which have not been allocated to Members within specified timeframes.	Achieved
12. Publish the time standards within which we aim to complete reviews	Time standards are set out in Principal Member Direction 1/2009 and are published on the Tribunal website.	Achieved

Service standard	Report against standard for 2008–09	Outcome
13. Abide by the Australian Public Service Values and Code of Conduct (staff)	New staff attend induction training, which includes training on the APS Values and the Code of Conduct. Ongoing staff complete refresher training at regular intervals.	Achieved
14. Abide by the Member Code of Conduct (Members)	New Members attend induction training, which covers the Member Code of Conduct. All Members complete annual conflict of interest declaration forms and undergo performance appraisals by Senior Members.	Achieved

The Tribunals are particularly conscious that a high proportion of clients have a language other than English as their first language. Clear language in letters and forms and the availability of staff to assist applicants are important to ensuring that applicants understand their rights and our procedures and processes.

The Service Charter is available on the Tribunal website, along with the Tribunals' Plan, the Member Code of Conduct, the Interpreters' Handbook and Principal Member Directions relating to the conduct of reviews.

The Tribunal website is a significant information resource for applicants and others interested in the work of the Tribunals. The publications and forms available on the website are regularly reviewed to ensure that information and advice are up-to-date and readily understood by clients.

The Tribunals have offices in Sydney and Melbourne which are open between 8.30am and 5pm on working days. The Tribunals have an arrangement with the Administrative Appeals Tribunal (the AAT) for documents to be lodged and for hearings to be held at AAT offices in Brisbane, Adelaide and Perth. The Tribunals also have a national enquiry number – 1300 361 969 – available from anywhere in Australia (calls are charged at the cost of a local call – not available from mobile telephones). Persons who need the assistance of an interpreter can contact the Translating and Interpreting Service (TIS) on 131 450 for the cost of a local call.

The Tribunals have a Disability Action Plan and Workplace Diversity Program. Further information about these strategies and plans is set out in Part 5.

## COMPLAINTS

As mentioned above, the Tribunals' Service Charter sets out the standards of service that clients can expect. It also sets out how clients can comment on or complain about the services provided by the Tribunals. The Service Charter is available on the 'complaints and compliments' page on the Tribunal website.

A person who is dissatisfied with how we have dealt with a matter or with the standard of service they have received, and who has not been able to resolve this by contacting the office or the officer dealing with their case, can forward a written complaint marked 'confidential' to the Complaints Officer. A complaints and compliments button on the homepage of the Tribunal website makes it easier for clients to make a complaint.

Alternatively, a person can make a complaint to the Commonwealth Ombudsman, although, as a general rule, the Ombudsman will not investigate complaints until they have been raised with the relevant agency.

The Tribunals will acknowledge receipt of a complaint within 5 working days. A senior officer will investigate the complaint and aim to provide a written response to the complaint within 20 working days of receipt of the complaint. 100% of complaints dealt with in 2008–09 were responded to within 20 working days.

Table 4.5 sets out the number of complaints finalised over the last 3 years.

**Table 4.5 – Complaints**

	2008–09	2007–08	2006–07
<b>MIGRATION REVIEW TRIBUNAL</b>			
Complaints resolved	21	19	20
Cases decided	5,767	5,219	6,203
Complaints per 1,000 cases	3.6	3.6	3.2
<b>REFUGEE REVIEW TRIBUNAL</b>			
Complaints resolved	10	9	9
Cases decided	2,462	2,318	3,102
Complaints per 1,000 cases	4	3.9	2.9

The majority of complaints related to the conduct of the review process. Others were about the timeliness of the review or the decision. The Tribunals considered that 26% of the complaints made during the year related to matters that could have been handled more appropriately. The Tribunals respond to specific issues and also consider changes to procedures and training and development needs. Set out below are summaries of 5 of the complaints received in 2008–09:

**Case 1** – The representative for the applicant felt that the manner in which the Member conducted the hearing was such that the applicant was not provided with a genuine opportunity to present their case. An apology was made and the matter was reconstituted to a different Member.

**Case 2** – The interpreter complained that the Member treated her discourteously during the hearing. The Member acknowledged that her concerns should have more appropriately been raised in another forum. An apology was given to the interpreter.

**Case 3** – The applicant claimed that significant documents on the file were overlooked and requested that the decision be reopened. The case was reopened and reconstituted to another Member.

**Case 4** – The applicant felt the Tribunal unreasonably adjourned the hearing when he had travelled interstate to appear before the Tribunal. The applicant was invited to submit a claim for reimbursement of reasonable travel expenses.

**Case 5** – The applicant claimed that the person she appointed to receive correspondence on her behalf had not provided her with a copy of the Tribunal's decision. Noting the circumstances were unfortunate, the Tribunal advised that it could take no action against the person, noting that the person was not a registered migration agent or a lawyer.

Table 4.6 sets out the complaints made to the Commonwealth Ombudsman over the last 3 years and the outcomes of the complaints resolved.

**Table 4.6 – Complaints to the Commonwealth Ombudsman**

	2008–09	2007–08	2006–07
New complaints	28	31	30
Complaints resolved	32	28	30
Administrative deficiency found	1	2	0

The finding of administrative deficiency in 2008–09 related to a failure to continue a redirection service in relation to a PO Box address which was being phased out.

The Tribunals referred 4 matters to Migration Agents Registration Authority (MARA) during 2008–09 relating to the conduct of migration agents. MARA is responsible for the registration of migration agents and monitoring the conduct of registered migration agents. The Migration Institute of Australia ceased to operate as MARA with effect from 1 July 2009 with the functions taken over by the Office of the Migration Agents Registration Authority, a discrete office attached to the Department of Immigration and Citizenship.



## COMMUNITY AND INTERAGENCY LIAISON

The Tribunals hold regular community liaison meetings to provide a forum for the Tribunals to meet, exchange information and consult with interested stakeholders. Representatives who attend the meetings are from migration and refugee advocacy groups, migration agents associations, human rights bodies and other government agencies. The aim of the meetings is to facilitate the distribution and exchange of information in relation to the Tribunals' procedures and caseloads, to provide participants with updates on relevant developments and to consult with them, as appropriate, regarding these matters.

The Tribunals place great importance on maintaining regular contact with key stakeholders in migration, refugee and advocate organisations. With the aim of providing better access to justice, in June 2009, the Management Board endorsed a draft Tribunal Stakeholder Engagement Plan and the establishment of a Stakeholder Engagement Steering Committee to consult on the final form of the Plan and its subsequent implementation. The draft Plan envisages an increase in liaison, consultation and education activities.

Reflecting the value the Tribunals place on networking with like organisations, Members and senior officers of the Tribunals continued an active participation in several bodies concerned with the operations of tribunals, including the national and state chapters of the Council of Australasian Tribunals, the Australasian Institute of Judicial Administration (AIJA), the Australian Institute of Administrative Law (AIAL) and the International Association of Refugee Law Judges (IARLJ).

The Tribunals hold regular high level and local liaison meetings with the Department to discuss policy, operational and general business issues. The agencies also have ongoing daily operational contact. A joint Memorandum of Understanding (MOU) with the Department reflects the statutory and operational relationships between the agencies and is available on the Tribunal website.

In September 2008, the Principal Member and the Deputy Principal Member of the RRT attended the 'Human Rights at the Frontier: Conference in New Zealand' where the theme was New Zealand's Immigration Legislation – an International Human Rights Law Perspective. They also took the opportunity to meet with the New Zealand migration and refugee appeals tribunals. In October 2008, the Principal Member delivered a speech on developments in the MRT and the RRT at the Migration Institute of Australia's Immigration Law Conference. In December 2008, the Shadow Minister for Immigration and Citizenship, Dr Sharman Stone, visited the Tribunals' Principal and NSW Registries and met with the senior leadership team of the Tribunals.

In January 2009, the Deputy Principal Member of the RRT, a Senior Member and seven Members attended the 8th World Conference of the IARLJ in Cape Town, South Africa where the theme was: 'Where to Now: Changing the Future Course of International Protection'. The Deputy Principal Member chaired the working party session at the conference on procedures in respect of vulnerable persons.

There have been numerous requests for briefings by the Tribunals and information from the Tribunals over the last year. For example, in March 2009, the Tribunals hosted a visit by Mr John Vines, Chief Inspector for the UK Border Agency. In February 2009, Mr Brian Lewis, Registrar of the New Zealand Refugee Status Appeals Authority, visited the Victoria Registry to exchange information concerning caseload and current challenges. The Victoria Registry also hosted a visit from Justice North of the Federal Court of Australia who was interested to learn about information resources available to the Tribunals. The Tribunals also provided briefings on the Tribunals' operations and caseloads to senior Australian diplomats, including the Australian Ambassador Designate and Consul-General Designate to Vietnam and the Australian Ambassador Designate to Amman, Jordan.

## MAJOR REVIEWS

There were no major reviews in 2008–09.

## SIGNIFICANT CHANGES IN THE NATURE OF FUNCTIONS OR SERVICES

The *Migration Legislation Amendment Act (No. 1) 2008* commenced on 27 October 2008 and removed the procedure for the handing down of Tribunal decisions and created an office of Deputy Principal Member of the MRT. The removal of the handing down requirement means that the Tribunals can now directly notify the applicant and the Department as soon as a decision is made.

## DEVELOPMENTS SINCE THE END OF THE YEAR

There have been no significant developments since the end of the year.

## Case studies

The following case summaries provide an insight into the range of matters which come before the Tribunals.

### RRT – CHINA – FALUN GONG

The applicant, a Chinese citizen, travelled to Australia on a business visa and applied for a protection visa shortly thereafter. She claimed she had been arrested and detained by the Chinese government because she practised Falun Gong. The delegate considered her claims were unsubstantiated noting that she had not provided any details of relevant dates and places. A protection visa was not granted.

The applicant applied to the RRT. She told the RRT that she had been introduced to Falun Gong in January 1999 by a customer at her beauty salon. She began to study Falun Gong and then started to practice at a local park every morning, where she got to know other practitioners and joined a weekly study group. She found it improved her health and personality.

The applicant said she was horrified when the Chinese government banned Falun Gong in July 1999. She said she continued to practice secretly at home. She claimed that in 2001 local police officers came to her home while she was at work and searched it, seizing Falun Gong books and CDs. She said she was taken to the police station for questioning and was detained for a week. She was interrogated and pressured to write a letter guaranteeing she would no longer practice Falun Gong. After a month in a forced labour camp, she wrote the letter, because she feared for her children and her mother.

The RRT found the applicant to be, overall, a credible witness. While the RRT had concerns about apparent inconsistencies and deficiencies in the applicant's evidence, the RRT was satisfied that the applicant had engaged in the practice and study of Falun Gong in China. In remitting the Department's decision, the RRT accepted that Falun Gong practitioners are at risk of persecution and repression in China.

### MRT – SKILLED VISA – POINTS TEST

The applicants, Thai nationals, applied for Skilled Independent Overseas Student (Residence) visas based on the skills of the applicant husband. Applicants for this type of visa are awarded points for skills, age, language skills, employment experience and Australian education qualifications. If an applicant's score is more than or equal to the pass mark of 120 points, the applicant has received the 'qualifying score'.

At the time the applicant was assessed, the applicant had received a total score of 115 points. At the MRT hearing, additional time was requested to allow the applicant to undergo a new English language test. The MRT agreed to this request. The applicant subsequently provided results from a number of English language tests he had undertaken, in which he had received a mix of scores across the four test components. However, in no single test did he achieve the required score of at least six in each of the four test components. The MRT found that 115 points was the correct score and affirmed the decision under review.



## MRT – SKILLED VISA – EMPLOYED IN OCCUPATION FOR AT LEAST 6 MONTHS

The applicant, a national of Pakistan, applied for a Skilled Australian Sponsored (Migrant) visa on the basis of his qualifications and experience as a ‘software designer’. The delegate did not grant the visa on the basis that the applicant had not been employed in that occupation for at least 6 months.

The applicant had provided documentation indicating that he had been employed by Company A as a junior, and later as a senior programmer/software designer, for about 5 years from 1999 to 2004. He also provided evidence that he had later worked as a software designer for Company B and Company C, before starting his own software consultancy business in 2008. However, the Department had conducted site visits to Company A and Company B, and determined that he had not been employed at Company B and that Company A did not exist.

The applicant provided evidence to the MRT that the Departmental officers did not speak to the person to whom the applicant reported to at Company B, and had entered the wrong building when attempting to visit Company A.

The MRT accepted that Company A did exist and that the applicant had been employed at Company A and Company B, and that he had been employed as a software designer for the requisite period. The visa application was remitted to the Department for reconsideration.

## RRT – MALAYSIA – RELIGION

The applicant is a 27 year old single female citizen of Malaysia who applied for a Protection visa 2 weeks after her arrival into Australia. She is a Christian and she claimed she was being forced to convert to Islam. She claimed that she had been in a relationship for 4 years but when she became pregnant his family wanted her to convert in order for them to marry. Because of this, she underwent an abortion. She stated that when she told him about it, he became angry and slapped her. He then approached the leader of the Islamic community who prepared documents for her to convert. The delegate was not satisfied that the applicant would be persecuted if she returned to Malaysia.

The RRT scheduled a hearing and the applicant attended. However, the interpreter was unavailable so the hearing was rescheduled to another date. The applicant did not attend this hearing and when she was contacted by phone, she stated that she was ill. She subsequently failed to provide a medical certificate as requested, and the RRT proceeded to make a decision.

On the basis of country information and the limited evidence of the applicant, the RRT was not satisfied that if the applicant were to return to Malaysia, she would not be able to seek protection from the authorities. There was no evidence that she had reported a claimed assault to the Malaysian authorities or police or had ever sought the help of authorities. The RRT did not accept that protection would be withheld from her because she was not Muslim.

The RRT did not consider that there was a real chance the applicant would suffer serious harm should she return to Malaysia. Accordingly, the Tribunal was not satisfied that she met the criteria for the grant of a protection visa.

## MRT – PARTNER VISA – DEFACTO RELATIONSHIP

The sponsor is 29 and lives in Sydney. He visited relatives in Turkey in 2007 and was introduced to a distant relative. They developed a relationship and were married three weeks later. The sponsor returned to Australia to return to work and an application was made for a partner visa so that she could join him. The application was refused as it was established that the sponsor was still married to his former wife.

The sponsor lodged an application to the Tribunal and proceeded to finalise divorce proceedings with his former wife. Eleven months after they first met, the sponsor returned to Turkey and legally married the visa applicant.

At the time of the MRT hearing, the sponsor was once again in Turkey, for the birth of their first child. The MRT interviewed the sponsor and visa applicant by telephone. The MRT found that while they had not been validly married at the time of the visa application, they met the requirements for a de facto relationship. The MRT was satisfied that there were compassionate and compelling reasons for granting the visa even though the relationship had been of less than 12 months duration at the time of the visa application.

## MRT – STUDENT VISA – SUFFICIENT FUNDS

The applicant is an international student from Lebanon who had applied for a further student visa to continue her studies in Australia. Her visa application was refused as she did not provide evidence of sufficient funds required for course fees, living, expenses and travel costs.

The MRT determined that the applicant was required to provide evidence of \$13,000 for living costs, \$3,700 for course fees and \$1,250 for travel costs, a total of \$17,950. The applicant provided evidence of funds and course fee payments to the MRT as requested. Based on this evidence, the MRT found that she had sufficient funds to meet the applicable visa requirements.

## MRT – PARTNER VISA – PERMANENT VISA

The visa applicant was born in Lebanon and arrived in Australia on a provisional partner visa in mid 2004. The relationship broke down and he departed Australia in late 2004. In 2006 he was granted another provisional partner visa on the basis of a relationship with a woman he had met before he left Australia. However, when it was time for the grant of a permanent visa to be considered, it was refused as no evidence was provided that the relationship was continuing.

In applying for review, the applicant claimed that there was a misunderstanding as to who was going to provide the necessary documents to the Department. The MRT was provided with a birth certificate for the child of the visa applicant and sponsor and a range of letters of support. After taking evidence from the visa applicant and sponsor at hearing, the MRT made an oral decision in their favour.

## RRT – INDIA – SAME SEX RELATIONSHIP

The applicant is an Indian citizen who came to Australia on a student visa to complete a bachelor degree. Shortly before her student visa expired, she applied for a protection visa. The applicant said she was a lesbian, and that this was known publicly in India. Because of this she had been harassed and assaulted by local Hindu fanatics in her workplace. Her

parents had also been harassed and assaulted by neighbours. The applicant said that her father had disinherited her and that family members had disowned her so she was forced to close her business and flee India.

The applicant said that her parents had wanted a son, so they had treated her like one as a child; her name was masculine, she was dressed like a boy, she hung out with boys and played male sports like soccer and cricket. She had a same-sex relationship at college, which was discovered and revealed to the whole school, her parents and the community. She was forbidden from seeing her girlfriend again.

The applicant met her current partner in 2002 at a relative's wedding in Sydney. In Mumbai they leased a flat together. On one occasion they were surrounded by a group of people and attacked. They filed a complaint at the local police station but the duty officer refused to file the report after discovering why the incident had occurred. Once she and her partner had tried to gain help from the state minister for police after they had been attacked. The matter was referred to the police commissioner but once her sexuality was revealed, nothing was done.

In remitting the delegate's decision, the RRT found that the applicant was a homosexual and that she had been in an on-going relationship with a female partner in India prior to coming to Australia. The RRT had regard to country information showing that homosexual activity is illegal in India and punishable by life imprisonment.

## RRT – CHINA – FALUN GONG

The applicants are a married couple from China. They applied for protection visas one month after their arrival in Australia on the basis that they were long term practitioners of Falun Gong. The applicant husband claimed that he was detained because of his participation in demonstrations against the government in Beijing asking for fair treatment for Falun Gong followers. Later, he was visited by the police on a regular basis every six months until he was again detained for a period of a few days. The applicant wife claimed that she was also detained. The applicants claimed that they feared persecution if they returned to China because of their involvement with Falun Gong. They provided photographs as evidence of their involvement in Falun Gong in Australia.

The RRT did not accept that the applicants were practitioners of Falun Gong as they had not provided detailed claims. When questioned, the applicants were defensive and provided ambiguous responses. The RRT found the description of visits by the local police to be not commensurate with somebody recounting their own actual experiences. The RRT found that the applicants did not satisfy the criteria for protection visas.

## RRT – INDIA – RELIGION

The applicant is a 30 year old male from India, who came to Australia to attend World Youth Day. He claimed that he had been persecuted for reasons of his religion as a Latin Catholic Christian. He claimed that his problems began in 2003 when Muslims came to buy up properties and he spoke out against this. He claimed that he had collected loan repayments for a charitable society for 10 years and that when the Muslims bought land from the local people, he had to ensure that the owners repaid their loans. He claimed that the Muslims kidnapped him and attempted to kill him. He departed for Australia 6 months later. He said that the Christians had got together to oppose the Muslim businessmen and there had been assaults, intimidation and threats. He said he had complained to the police but he had not received any justice. He claimed that he would be killed if he returned to India.

The RRT found that the applicant's evidence was not consistent with published information about the work of charitable societies in the area, that he was unable to provide a level of detail about his employment, his employer and the loans and repayments he was handling which was consistent with the role he claimed to have had, and that parts of his story, including his movements within India in the year before he left for Australia, were inherently inconsistent. The RRT accepted that the applicant is a Christian but did not accept that there was a real chance that he would be persecuted for reasons of his religion as a Christian or specifically as a Latin Catholic Christian, if he returned to India now or in the reasonably foreseeable future. The RRT affirmed the decision not to grant the applicant a protection visa.

### MRT – CARER VISA – MEMBER OF FAMILY UNIT

The Department granted a carer visa to the primary applicant but did not grant a visa to a person who was included in the visa application as a member of his family unit. The primary applicant is a single man who claimed that his sister-in-law had given him an abandoned baby in 1990. He claimed that he 'adopted' the child, and acted as her father and guardian from that point on. His name was on various documents, including the child's birth certificate, as her father.

Country information on customary adoption in the Philippines stated that the practice of 'simulated birth', where a child's birth certificate is faked, with the adoptive parents' names used instead of the biological ones, is common. The information indicated that this practice is illegal but widespread, with many Filipino couples adopting this way to avoid the financial costs and bureaucratic procedures involved with legal adoptions.

The MRT was satisfied that the adoption followed the custom of 'simulated birth' in the Philippines, and found that the child, now a young woman with a child of her own, was a member of the primary applicant's family unit.

### MRT – TEMPORARY BUSINESS VISA – SKILLS AND EXPERIENCE

The visa applicant applied for a visa to work as a sweet maker for an Indian sweet shop in Melbourne. His application was refused because the delegate was not satisfied that he had appropriate skills and experience. Officers of the Department had visited his claimed employer in New Delhi and were advised that the sweet shop had been operating for only two years. He had submitted references stating that he had worked there for 4 years. The delegate consequently found that his work references were not genuine.

The sponsor applied for review of the decision and at the MRT hearing said that there was a strong demand for Indian sweets in Melbourne, and her business had grown quickly. She said the apparent discrepancies in the applicant's references were explained by the fact that his employer had been operating as a wholesale business before commencing retail trading through the shop in New Delhi. She said that reliable documentary evidence was difficult as employment records were not often kept in India, and invited the MRT to directly contact the employer.

The Member advised the sponsor that it was not the type of circumstance where the MRT would make its own enquiries, and invited her to submit further material. No further evidence was submitted. The MRT was not satisfied that the visa applicant had worked as claimed, and affirmed the decision under review.

## RRT – CHINA – RELIGION

The applicant indicated his ethnicity as Han and his religion as Christian. He claimed that he travelled to Australia under an alias claiming to fear persecution by the Chinese authorities due to his involvement with his local family church. The applicant claimed he was baptized when he was 12 years old. In order to expand his local church, he became a volunteer, assisting to distribute printed materials in the area. He claimed he was often abused and harassed by local villages. He claimed that he was detained for 1 week in 2002, and for 2 weeks in June 2007 during which time his mother passed away and he was unable to attend her funeral. He provided documents relating to his detention.

The RRT accepted that the applicant was a committed Christian and a member of the local church, having regard to his knowledge of Christianity and his detailed responses about the impact and influence of his faith in his daily life. However, the RRT did not accept he had been detained. The RRT did not accept that the detention documents submitted were genuine. The RRT was satisfied that the applicant's religious activities in Australia were for the purposes of his own spiritual development and not for the purpose of strengthening his claim for refugee status.

Having regard to country information, the RRT found that if he returned to China, there was a real chance that the applicant could be detained, now or in the reasonably foreseeable future, for his involvement in the 'local church' and that such detention, even for a short period, would constitute serious harm amounting to persecution. The RRT was satisfied that the applicant was a person to whom Australia had protection obligations under the Refugees Convention.



PART 5

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# Management and accountability



## Part 5 – Management and accountability

The Tribunals' policies, practices and structure have been designed with sound corporate governance principles in mind. This Part sets out what the Tribunals have done to ensure that appropriate management and planning processes are in place.

### SENIOR MANAGEMENT

Mr Denis O'Brien is the Principal Member of the Tribunals. He was appointed from 3 September 2007 for a term to 30 June 2012.

Sections 397 and 460 of the *Migration Act 1958* provide that the Principal Member is 'the executive officer' of the Tribunals and is responsible for their overall operation and administration, including 'monitoring the operations' of the Tribunals 'to ensure that those operations are as fair, just, economical, informal and quick as practicable'. Sections 353A and 420A provide that the Principal Member may give written directions as to the operation of the Tribunals and the conduct of reviews by the Tribunals.

Mrs Mary Urquhart was the Deputy Principal Member of the RRT up to 30 June 2009. Mrs Urquhart was appointed as a full-time Member of both Tribunals from 1 July 2009.

Senior Members of the Tribunals provide leadership and guidance to Members. Up until 31 December 2009, the Senior Members were Ms Rea Hearn Mackinnon (Vic), Mr Bruce MacCarthy (NSW), Dr Irene O'Connell (NSW) (Acting) and Mr Giles Short (NSW). From 1 January 2009, the Senior Members were Ms Linda Kirk (Vic), Ms Amanda MacDonald (NSW), Mr Peter Murphy (Vic), Dr Irene O'Connell (NSW) and Mr Giles Short (NSW).

Sections 407 and 472 of the Act provide that the Registrar, the Deputy Registrar and other officers of the Tribunals have such duties, powers and functions as are provided by the legislation, and such other duties and functions as the Principal Member directs. Mr John Lynch is the Registrar and Mr Rhys Jones is the Deputy Registrar.

As at 30 June 2009, the governance framework for the Tribunals was as follows:

- A Management Board, consisting of the Principal Member, the Deputy Principal Member of the RRT, the Registrar and the Senior Members. The Board meets monthly.
- A Senior Management Group (SMG), comprising the Registrar, the Deputy Registrar and the Executive Level 2 managers. The SMG meets monthly and deals with management and planning issues.
- The Registrar is the general manager of the Tribunals' operations and also the chief financial officer. He is assisted by the Deputy Registrar.
- An Audit and Risk Management Committee oversees the engagement and work program of the Tribunals' internal auditors and considers issues relating to risk management.





The Management Board. From left to right, acting Senior Member Rosa Gagliardi, Senior Members Giles Short and Irene O'Connell, Principal Member Denis O'Brien, Senior Member Linda Kirk, Registrar John Lynch and Senior Member Amanda MacDonald. Senior Member Peter Murphy was on leave at the time the photo was taken.

## CORPORATE AND OPERATIONAL PLANS

The operations of the Tribunals are funded through annual appropriations made by the Australian Parliament. Portfolio Budget Statements are prepared bi-annually and set out the proposed appropriations to Government outcomes. The budget statements state that the MRT-RRT is expected to provide visa applicants and sponsors with fair, just, economical, informal and quick reviews of migration and refugee decisions. The budget statements include performance indicators, and a report against these is set out in Part 4 of this Report.

The Tribunals' Plan 2007–2010 states that we want to be known among other things for being highly competent Tribunals delivering fair, just and timely reviews, for our fairness and professionalism, for the quality, integrity and consistency of our decisions, and for being courteous and respectful. The Plan is available on the Tribunal website.

The Tribunals' caseload and constitution arrangements are set out annually in a Principal Member Direction. This sets out operational strategies which take into account current and anticipated caseloads and the priorities to be given to cases. All Principal Member Directions are publicly available.

## ETHICAL STANDARDS

Members are required to act in accordance with a Member Code of Conduct and staff are required to act in accordance with the Australian Public Service (APS) Values and APS Code of Conduct.

All Members of the Tribunals sign a performance agreement. The agreement requires that a Member will act in accordance with the principles set out in the Member Code of Conduct. The Code provides that Members should behave with integrity, propriety and discretion,

and should treat applicants, representatives, interpreters and other persons with respect, courtesy and dignity. The Member Code of Conduct is available on the Tribunal website.

## RISK MANAGEMENT

The Tribunals have an Audit and Risk Management Committee (ARMC). All ARMC meetings are attended by senior Tribunal management, representatives from the Australian National Audit Office (ANAO) and from Deloitte Touche Tohmatsu, in their capacity as the provider of internal audit services to the Tribunals. The role of the ARMC is to consider matters that it deems appropriate and which relate to the financial affairs and risk management issues of the Tribunals and matters referred to it by the Management Board.

The Tribunals have a Fraud Control Plan which details the Tribunals' strategic approach to fraud prevention, detection, investigation and prosecution in accordance with the Commonwealth Fraud Control Guidelines. Annual fraud data is collected and reported to the Attorney-General's Department. The following certification is provided:

I, Denis O'Brien, certify that I am satisfied that for the financial year 2008–09, the Migration Review Tribunal and Refugee Review Tribunal have had:

- appropriate fraud risk assessments and a fraud control plan prepared that comply with the Commonwealth Fraud Control Guidelines;
- appropriate fraud prevention, detection, investigation and reporting procedures and processes in place; and
- annual fraud data that has been collected and reported in compliance with the Commonwealth Fraud Control Guidelines.

**Denis O'Brien**

Principal Member  
September 2009

The Tribunals' business continuity plan is supported by memoranda of understanding with the Department and with other federal merits review tribunals (the AAT, the SSAT and the VRB) to provide assistance to each other in the event of a disruption to services or facilities.

The Legal Services Section undertook audits of fee waiver processing and requests for access to documents during the year. The objective of the fee waiver audit was to assess whether officers had properly assessed the fee waiver requests in compliance with the law. The audits also sought to ensure that the Tribunal has appropriate administrative practices and guidelines in place and to identify any areas for improvement.

## EXTERNAL SCRUTINY

The Tribunals are subject to external scrutiny through the publication of decisions, appeals to the courts, Annual Reports to Parliament, appearances before Parliamentary Committees, complaints to and enquiries by the Commonwealth Ombudsman and reports and enquiries by the ANAO and other bodies. The Tribunals interact with agencies like the ANAO on compliance issues, and closely monitor Parliamentary Committee reports and other reports across the public sector.

Section 440A of the Migration Act requires the Principal Member to give the Minister for Immigration and Citizenship a report every 4 months on the conduct of RRT reviews not completed within 90 days and requires the Minister to table these reports in Parliament in a specified period.

Between 2005 and 2007, the ANAO conducted a detailed performance audit on the management of the Tribunals' operations. The report of the audit was tabled in Parliament on 14 June 2007 – Audit Report No.44 of 2006–07: Management of Tribunal Operations – Migration Review Tribunal and Refugee Review Tribunal. The report concluded that the Tribunals' operations were effectively managed, that the Tribunals had successfully implemented a series of proposals to achieve operational efficiencies, and that the Tribunals had established sound governance arrangements.

The ANAO made 5 recommendations related to strengthening planning, reporting and communication with applicants, representatives and stakeholders. The Tribunals agreed with all 5 recommendations. Table 5.1 sets out the progress made in relation to each recommendation.

**Table 5.1 – Implementation of ANAO recommendations**

Item	Recommendation	Progress
R1	<p>The ANAO recommends that, to enhance their planning and performance monitoring capability, the Tribunals:</p> <ul style="list-style-type: none"><li>• develop an annual operational plan which identifies priorities for major business activities and initiatives, and allocates responsibilities and specifies timeframes for their implementation; and</li><li>• prepare an annual performance information framework which consolidates details of Tribunal performance information which is required to be collected and reported for accountability purposes.</li></ul>	<p>The Tribunals' Plan 2007–2010 was issued on 30 July 2007.</p> <p>The Tribunals' caseload and constitution arrangements are reviewed annually and are set out in a Principal Member Direction which sets out operational strategies, the priorities to be given to cases, and time standards for the completion of cases.</p> <p>A Governance and Reporting Requirements Table has been developed and is maintained on the Tribunals' intranet.</p>

Item	Recommendation	Progress
R2	<p>The ANAO recommends that the Tribunals strengthen their outcomes and outputs frameworks set out in their Portfolio Budget Statements (PBS) by:</p> <ul style="list-style-type: none"> <li>• articulating the basis on which the Tribunals assess their contribution to the quality and consistency of decision making concerning migration and temporary entry visas and protection visas and their professional and effective working relationships with stakeholders; and</li> <li>• specifying appropriate targets or other bases of comparison for quality indicators for measuring the efficiency of Tribunal outputs, in terms of case processing timeliness, complaints and appeals against decisions.</li> </ul>	<p>The outcomes and outputs information set out in the Portfolio Budget Statements has been strengthened.</p> <p>The 2008–09 PBS statements included specific information in relation to quality indicators and the Tribunals' outputs. There are specific measures for case processing timeliness, complaints and appeals against Tribunal decisions.</p> <p>The Department of Finance conducted a review of outcome and outputs as part of the Government's response to the 'Operation Sunlight' report. A revised outcome statement for the MRT-RRT received Ministerial approval in March 2009. The 2009–10 PBS statements set out the revised outcome and revised performance information.</p>
R3	<p>The ANAO recommends that the Tribunals strengthen external reporting through their Annual Reports by:</p> <ul style="list-style-type: none"> <li>• addressing the impact of their outputs and their contribution to outcomes; and</li> <li>• including clear assessments of output performance, reporting performance results against PBS targets and providing more comprehensive analysis of factors affecting performance.</li> </ul>	<p>The ANAO's recommendations were taken into account in the design of the 2006–07 and 2007–08 Annual Reports.</p> <p>Included in each of these Reports is an assessment of performance against the PBS targets.</p>
R4	<p>The ANAO recommends that the Tribunals enhance internal management reporting by introducing:</p> <ul style="list-style-type: none"> <li>• an overarching 'balanced scorecard' type management report which covers their full range of PBS performance indicators; and</li> <li>• common formats, across both Tribunals and both Registries, for management reports on particular areas of Tribunal performance.</li> </ul>	<p>The adoption of a scorecard 'balanced scorecard' is to be further considered in 2009.</p> <p>Common formats have been implemented for monthly management reports for the Senior Management Group and the Management Board.</p>

Item	Recommendation	Progress
R5	<p>The ANAO recommends that the Tribunals enhance the quality of services to applicants and their representatives by:</p> <ul style="list-style-type: none"> <li>committing to regular review of the joint service charter, more widely promoting the charter, and making information about overall time targets for the completion of reviews more accessible to applicants;</li> <li>reviewing application forms to improve the quality of guidance to applicants and the user friendliness of their structure and format;</li> <li>issuing more comprehensive guidance on complaints handling and providing Members with more systematic complaints feedback; and</li> <li>conducting regular surveys of the satisfaction of applicants and their representatives with Tribunal service performance.</li> </ul>	<p>A draft stakeholder engagement plan and steering committee was endorsed by the Management Board in June 2009. A review of the Service Charter is included in the plan.</p> <p>Time targets are set out in a Principal Member Direction published on the Tribunal website. The time targets are also set out on the Service Charter page.</p> <p>A consultant has been engaged to assist with a review of application forms.</p> <p>A comprehensive policy on complaints handling was issued by the Principal Member on 1 July 2008.</p> <p>A series of surveys is planned, starting with a survey of Members and staff in 2009.</p>

## HUMAN RESOURCES

The Tribunals comprise Members (appointed under the Migration Act) and staff (appointed under the Migration Act and employed under the Public Service Act).

The Tribunals recognise that it is through our Members and staff that we achieve the Tribunals' objectives and the outcomes expected by Government. The Tribunals seek to create an environment where Members and staff are supported and encouraged to be professional and courteous, to deliver quality services, to uphold values and codes of conduct and to contribute to organisational improvements.

The Tribunals are committed to providing a workplace that:

- encourages good workplace behaviour;
- values diversity;
- identifies and addresses health and safety issues; and
- assists Members and staff to balance work with their family and community responsibilities and lifestyle choices.

The work of the Tribunals is recognised as important, challenging and stimulating. Remuneration and conditions are commensurate with responsibilities.

### Members

The Members are appointed by the Governor-General for fixed terms on a full-time or part-time basis. The remuneration of Members is determined by the Remuneration

Tribunal, and their terms and conditions of employment are determined by the Minister for Immigration and Citizenship. The Remuneration Tribunal's determinations are available on its website at [www.remtribunal.gov.au](http://www.remtribunal.gov.au).

Persons appointed as Members to the Tribunals have typically worked in a profession or have had extensive experience at senior levels in the private or public sectors. The work is suited to working on a part-time basis and more than 65% of Members are part-time.

The appointments of 3 Senior Members and 2 acting Senior Members expired on 31 December 2008. A selection process was undertaken and 5 Senior Members were appointed on 1 January 2009 for a term of 5 years.

The membership as at 30 June 2009 is set out in Table 5.2.

**Table 5.2 – Membership as at 30 June 2009**

	Women	Men	Total
Principal Member	–	1	1
Deputy Principal Member	1	–	1
Senior Members	2	2	4
Full-time Members	3	3	6
Part-time Members	49	31	80
<b>Total</b>	<b>55</b>	<b>37</b>	<b>92</b>

The appointments of 5 full-time Members and 34 part-time Members expired on 30 June 2009. A selection process was undertaken and 15 full-time Members and 28 part-time Members were appointed on 1 July 2009 for a term of 5 years. The Deputy Principal Member of the RRT was appointed as a full-time Member of both Tribunals. The position of Deputy Principal Member of the MRT and RRT is currently vacant.

During August 2009, 8 continuing part-time Members were appointed as full-time Members for the remainder of their terms of appointment. As at the end of August 2009 the membership of the Tribunals comprised 95 Members, as set out in Table 5.3.

**Table 5.3 – Membership as at 31 August 2009**

	Women	Men	Total
Principal Member	–	1	1
Deputy Principal Member	–	–	–
Senior Members	3	2	5
Full-time Members	11	13	24
Part-time Members	43	22	65
<b>Total</b>	<b>57</b>	<b>38</b>	<b>95</b>

A list of Members and their appointment periods as at 31 August 2009 is available in Appendix 1 of this Report. Member biographies are available on the Tribunal website.

## Member professional development and performance

The Tribunals have a highly competent and professional membership supported by continuing professional development and legal, research and administrative staff. All Members have a performance agreement, and annual appraisals are conducted by Senior Members. The quality of decisions, the timeliness of reviews, productivity expectations and participation in professional development and mentoring activities are all factors which are taken into account.

Members on appointment, although experienced in other fields, do not necessarily have detailed knowledge of migration or refugee law or experience as a representative or in the conduct of hearings. New Members are provided with induction training supported by a program of mentoring and further training over several months.

A Member Professional Development Committee comprising the Principal Member, all Senior Members and two other Members is responsible for continuing education for Members. The scope of professional development covers legal knowledge; decision making; working with applicants, representatives and interpreters; understanding gender and cultural differences; effective case management, and dealing with the stress and demands of the office. It is important to include perspectives from outside the Tribunals, and programs include in-house presentations from academics, lawyers and journalists, and the attendance of Members at external conferences, seminars and courses.

Dr Sandra Hale, Associate Professor at the University of Western Sydney, visited the Tribunals in February 2009 and delivered a talk to Members on 'Trends in Interpreting'. Dr Michelle Foster, Senior Lecturer and Director of the Research Programme in International Refugee Law at the Institute for International Law and Humanities, Melbourne Law School, presented a seminar to Members on developing conceptions of the grounds in the Refugees Convention. Dr Ian Freckelton SC delivered a session to Members on understanding and assessing psychology reports. Paul White, former RRT Member and now Senior Protection Officer from the UNHCR in Nepal, visited the Tribunals and conducted a seminar on citizenship certificates and statelessness. The Tribunals also received a visit from David Matas, Canadian international human rights lawyer and co-author of a report on organ harvesting in China, who briefed a group of Members on current human rights issues in China. Dr Geoff Raby, Australian Ambassador to China, visited the Tribunals in October 2008.

One initiative designed to provide Members with greater contextual insight into culture and location-specific issues is a program of 'background briefing' sessions. The first session in May 2009 was presented by the highly regarded journalist and author Jane Hutcheon on the topic of China.

## Staff

An important role of staff is the provision of Member and client services. Professional staff support to Members is vital to efficient and lawful conduct of reviews. Staff are the point of contact when applicants or their representatives lodge review applications or deal with the Tribunals on issues concerning the conduct of reviews. Efficient and effective dealings by staff with all stakeholders are essential for good Tribunal performance and are important to our professional reputation as Tribunals. Important values are understanding and responding to client needs and seeking to improve services for individuals, families, businesses and the community.

Staff are employed under the Public Service Act and are appointed as Tribunal officers under the Migration Act. As at 30 June 2009, the Tribunals employed 268 APS employees comprising:

- 221 ongoing full-time employees;
- 36 ongoing part-time employees;
- 10 non-ongoing full-time employees; and
- 1 casual employee.

Table 5.4 sets out the number of staff employed as at 30 June 2009. Approximately 37% of employees are men and 63% are women.

**Table 5.4 – Staff as at 30 June 2009**

APS Level	NSW		Victoria		Total
	Women	Men	Women	Men	
APS 1	0	0	0	0	0
APS 2	1	5	2	0	8
APS 3	21	9	10	6	46
APS 4	29	18	12	6	65
APS 5	25	7	12	5	49
APS 6	20	15	9	7	51
Legal Officer	6	3	3	3	15
Executive Level 1	9	4	2	2	17
Senior Legal Officer	4	1	0	3	8
Executive Level 2	3	3	1	0	7
Principal Legal Officer	1	0	0	0	1
SES B2	0	1	0	0	1
<b>Total</b>	<b>119</b>	<b>66</b>	<b>51</b>	<b>32</b>	<b>268</b>

Further staffing statistics are set out in Appendix 3.



## Workforce planning

The Tribunals continue to review strategies to attract and retain quality staff. There is a wide range of skills and expertise required, from general administrative staff, to lawyers, to accountants, to computer professionals. Staff are employed across 9 sections: the Executive Support Section, the Policy and Caseload Strategy Section, the Legal Services Section, the Research and Information Services Section, the NSW Registry, the Victoria Registry, the Human Resources Section, the Technology Services Section and the Finance and Business Services Section.

### Section profile – Research and Information Services

There are many components that go into producing quality decisions. One significant aspect is the provision of high quality country-of-origin information to Members. The Research and Information Services Section employs professional research advisers with expertise in collecting, disseminating and managing information. Research advisers hold a variety of degrees and post-graduate qualifications, and assist Members with the often complex and varied nature of the claims raised by applicants. Research advisers monitor political developments, patterns of internal conflict, institutions and organisations in source countries, read widely and evaluate the available information.

The Section provides a range of research services and products that cater for both a broader assessment of source country conditions through to those specifically related to individual cases. Sources referred to must be able to be disclosed and these include government, NGO, media and academic sources. A key resource for specific information is the Department of Foreign Affairs and Trade, through its People Smuggling, Refugees and Immigration Section.

The Tribunals participate and take a close interest in the annual State of the Service survey conducted on behalf of the Australian Public Service Commission (the APSC). This survey is across APS agencies and employees and provides valuable information on employees' views on a range of issues including attraction and retention. The survey results are available on the APSC website and identify areas where APS agencies perform well and areas where there is a need for improvement or review.

With changes in the availability of skills, and changing expectations about the length of time a person may stay in one job, the Tribunals are conscious of the need to be flexible in approach and expectations. The ways in which vacancies are advertised, the nature of the work, the workplace environment, training, personal development and advancement, and remuneration and flexibility of conditions are all factors which affect our capacity to attract and retain quality staff.



## Personal profile – Elly Fleming

From my marital name it won't be apparent that I was born in the former Soviet Union and migrated to Australia with my family at the age of 12. We left the USSR just before the Berlin Wall came down and after the last Soviet troops were pulled out of the deeply unpopular and costly war in Afghanistan.

We also left at a time when one by one my school class mates began to disappear. There were murmurs that some families were going to America, Canada and Australia. No one dared to speak about this in public. My parents also decided to take a chance and migrate to Australia. It wasn't an easy journey, especially for them, as we had to leave everything behind, family, friends, and beloved pets, all in the hope of a brighter future. We also had to learn a new language and get accustomed to a totally new way of life.

Soon after arrival in Sydney, I went to high school and it was a huge culture shock, to say the least. I recall attending my first school assembly and hearing one of the teachers constantly saying 'Righty-ho'. I was puzzled, as I couldn't comprehend why he was referring to the radio. In the years to come there were many more examples of phrases 'lost in translation'.

Not surprisingly, during my studies at the University of NSW, I was instantly drawn to immigration law and knew that I wanted to work in this field. Mainly, because I understood the high stakes involved for people wanting to migrate to Australia and what a difference it could make to their lives. For a couple of years, I volunteered with the Immigration Advice and Rights Centre, where I had the privilege of working with very passionate and talented people. Incidentally a number of them have, over the years, joined the Tribunals as Members and Legal Officers. This experience provided me with great insight into the migration industry as well as exposure to case work and practical application of the law.

After graduating with my Bachelor of Laws, I seized an opportunity to join the MRT in January 2004. Since then, I have worked in a number of different roles, including as a Case Officer with the NSW Registry, as a Policy and Publications Officer, and in my current capacity as an Executive Officer.

It is never dull, and after 5 years with the Tribunals, I feel there is still so much to learn about this very rich and constantly evolving legal field. For me there is no such thing as a typical day. I could be writing briefing papers, drafting speeches and presentations for the Principal Member, co-ordinating visitor programs for overseas delegates, preparing operational reports, answering media enquiries, or putting together an issue of the Tribune newsletter. Each has its own challenges and rewards.

## Training and development

A changing work practice environment requires us to do our core business well, to clearly define roles, standards and expectations and to identify good performance. Training during this year focussed on corporate training programs such as performance management, APS Code of Conduct and Values, and selection and merit processes. Over 100 different training activities were undertaken to improve job and knowledge competency with a specific focus on the statutory framework of the Tribunals' business.

Individual development and training needs are identified through a 'plan on a page' performance agreement system. The objectives of the performance agreement system are:

- providing a clear link between individual performance and organisational priorities and plans;
- improving communication between employees and supervisors;
- determining learning and development needs and appropriate activities; and
- defining supervisor and employee responsibilities and expectations.

A new database and reporting system has been developed to enable more efficient learning and development administration and to streamline the identification of training needs through the performance management system.

The Tribunals have a studies assistance scheme. A total of 26 staff undertook approved courses of study, taking a total of 110 days study leave and being reimbursed \$77,504 in course fees.

## Executive remuneration

The Tribunals have one Senior Executive Service (SES) officer. Remuneration and conditions were determined through an Australian Workplace Agreement (AWA) and a section 24 determination, taking into account current APS remuneration levels and the market demand for the skills of the particular officer. The AWA made provision for performance pay at a level consistent with other similarly qualified officers in the APS.

## Certified Agreement

The current Certified Agreement covers all non-SES employees and was varied and extended by the Australian Industrial Relations Commission on 9 April 2009. The nominal expiry date is 29 November 2011.

The objectives set out in the Agreement are:

- to attract and retain quality people by having an affordable and attractive package of pay and conditions;
- to ensure our employment conditions continue to meet the needs of the Tribunals and our employees;
- to contribute to the achievement of, and be consistent with, the Tribunals' corporate objectives; and
- to improve productivity through greater efficiency and flexibility in the way that the Tribunals implement Government policy.

Table 5.5 sets out the salary range as at 30 June 2009. This reflects the most recent salary increase in the Certified Agreement, which was 4.3% from 9 April 2009.

**Table 5.5 – Salary range pay points as at 30 June 2009**

Level	Lowest	Highest
APS 1	\$22,212	\$40,883
APS 2	\$41,857	\$46,386
APS 3	\$47,636	\$51,390
APS 4	\$53,056	\$57,583
APS 5	\$59,146	\$63,863
APS 6	\$65,452	\$73,361
Legal Officer	\$53,056	\$73,361
EL 1	\$81,789	\$90,418
Senior Legal Officer	\$81,789	\$101,880
EL 2	\$94,304	\$109,926
Principal Legal Officer	\$110,509	\$116,509

Salary advancement through pay points at each classification level occurs where an employee is assessed as satisfactory under the performance management system.

The Certified Agreement as varied includes provision for:

- access to an employee assistance programme;
- study assistance;
- a public transport loan scheme;
- influenza vaccination and eyesight testing;
- allowances for first aid officers, fire wardens, health and safety representatives and harassment contact officers;
- a period of 5 years for return to work or access to part-time work, following the birth or adoption of a child;
- inclusion of cultural kinship relationships for bereavement leave;
- one day's paid leave per year for volunteer work or emergency services training;
- access to unpaid career interval leave after 5 years service; and
- contributions towards promoting good health.

Following the extension and variation of the MRT-RRT Certified Agreement, all non-SES AWAs were terminated. Up to this time, seven non-SES employees had AWAs. The terms and conditions of the AWAs were determined taking into account APS remuneration levels and the skills of the particular employees. Six AWAs provided a responsibility allowance and one provided for the use of an agency-leased car. One AWA provided a retention allowance. The AWAs were comprehensive agreements which provided a similar range of non-salary benefits to those set out in the Certified Agreement.

Seven AWAs, in respect of one SES officer, one Principal Legal Officer and 5 Executive Level 2 officers, provided for performance-linked bonuses. An aggregate amount of \$83,531 was

paid in performance-linked bonuses during 2008–09 in respect of performance in calendar year 2008. The average bonus payment was \$11,933.

The extended and varied MRT-RRT Certified Agreement in April 2009 includes a flexibility clause which provides for the supplementation of terms and conditions. Supplementary agreements have been made with 7 non-SES employees in accordance with the flexibility clause and all include provision for a bonus based on performance, which the Certified Agreement does not otherwise provide for.

## Occupational health and safety

As a result of amendments to the *Occupational Health and Safety Act 1991* (OHS Act) that commenced on 15 March 2007, the Tribunals established health and safety management arrangements (HSMAs) during 2008 in consultation with Members and employees.

The HSMAs are aimed at ensuring the health and safety at work of Members and employees through:

- providing and maintaining a healthy and safe work environment;
- providing financial and other resources to ensure that necessary OHS programs and activities are established and maintained;
- providing a forum for consultation and cooperation on OHS matters;
- complying with legislation as a minimum standard and implementing in full the requirements of the Act and the Occupational Health and Safety (Safety Arrangements) Regulations 1991 in all aspects of the Tribunals' business;
- making all levels of management within the Tribunals accountable for OHS; and
- ensuring that all Members and employees of the Tribunals are aware of their obligations under the Act and that they have the necessary skills to meet these obligations.

The Tribunals' Health and Safety Representatives are elected as required by the OHS Act. All Health and Safety Representatives attend a five day training course that covers their responsibilities under the OHS Act.

OHS Committees in Sydney and Melbourne meet quarterly. No investigations were conducted under the OHS Act, nor were any directions or notices given.

The Tribunals' focus is on reducing the social and financial cost of occupational injury and illness through timely intervention, promoting prevention activities and improving OHS capability. OHS and prevention activities undertaken in the Tribunals during the year included:

- providing office and workstation assessments by professional occupational therapists and physiotherapists;
- facilitating instruction and education by occupational therapists and physiotherapists of Members and staff in correct ergonomic practices and injury prevention;
- providing influenza vaccinations in the workplace; and
- improving awareness of health and safety issues of managers and staff through training.

The 2009–10 Workers' Compensation premium for the Tribunals as advised by Comcare is 25% less than the cost for 2008–09. This reduction is attributable to a combination of

legislative changes and early intervention strategies in the management of risk in the workplace and in relation to rehabilitation action.

## SWINE FLU RESPONSE

In response to the outbreak of H1N1 Influenza 2009 in Australia we updated our Action Plan for Pandemic Influenza consistent with whole of Government planning to manage this potential health emergency. We also developed a Summary Plan for Pandemic Influenza that assists us to identify key services to be provided to Members, staff and clients in the event, or threat of a pandemic influenza or similar situation.

To minimise risks to clients and employees and any impact on our productivity we established a H1N1 influenza page on our intranet. It contains links to key external websites and information such as preventative measures to minimise the risk of influenza spreading, how to protect yourself and others and frequently asked questions.

## Workplace diversity

The Tribunals value a workplace free from discrimination and harassment, and seek to ensure that employment decisions are based on merit. Through the Certified Agreement, the Tribunals emphasise flexibility and choice for employees to enable balance between work, family, community and lifestyle choices.

The Tribunals' Workplace Diversity Program was implemented in February 2006. The Program focuses on strategies to facilitate an understanding of workplace diversity (WD) principles and to ensure fairness and inclusiveness are applied in all business activities, and in human resource policies and practices.

The principles underlying the Program are:

- treating each other with respect and dignity;
- making judgements based on equity and merit;
- recognising people as individuals and valuing their diversity;
- using the contributions that people can make to the Tribunals;
- taking appropriate action to identify and deal with discrimination and harassment; and
- providing a safe, secure and healthy working environment.

In 2009 the WD Steering Committee, comprising management and staff representatives, commenced a review of the WD Program. To improve the quality of our diversity data and to enable us to better focus program strategies employees were asked to complete an online questionnaire on diversity.

To heighten awareness of the benefits of diversity to the Tribunals' workforce, this year we celebrated Harmony Day and International Women's Day. We also included profiles of employees from diverse backgrounds and articles about sexual harassment in the Tribunals' internal newsletter.

Approximately 1.9% of APS staff in the Tribunals identify as Aboriginal or Torres Strait Islander. Through its Workplace Diversity Program the Tribunals are working to engage, support and retain indigenous employees. This year, we participated in the APSC's Indigenous Entry Level Recruitment Programme (IELRP) and offered a traineeship in Sydney. The Programme is designed to increase the number of Indigenous Australians employed in the APS. It looks to provide a pathway to employment for Aboriginal and Torres Strait Islanders who may not hold formal qualifications or a working background relevant to employment in the APS.

During the year we held regular meetings for our Workplace Harassment Contact Officer Network to improve the visibility and cohesiveness of the group. We also updated our Workplace Harassment Prevention Guideline.

### Disability strategy

The Tribunals' Disability Action Plan sets out how the MRT and the RRT comply with the *Disability Discrimination Act 1992* and the Commonwealth Disability Strategy. The Strategy provides a framework for identifying and developing strategies that will improve access to services and facilities.

The plan commits the Tribunals to ensuring that people with disabilities are not disadvantaged when accessing the services provided by the Tribunals. The plan encompasses the activities of the Tribunals as a service provider and purchaser. The plan is reviewed annually and is reinforced by other planning documents, including the Tribunals' Plan, the Service Charter and the Workplace Diversity Program.

The Tribunals' Disability Action Plan is set out in Appendix 4.

## ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PERFORMANCE

Section 3A of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) sets out the principles of ecologically sustainable development. The Tribunals review these principles in relation to Tribunal activities on an annual basis.

Members and staff are encouraged to contribute to reducing our impact on the environment. The Tribunals use 100% recycled A4 paper and energy compliant computer monitors, encourage the use of double-sided printing, promote awareness about the use of electricity and water; encourage the use of E10 and diesel fuels in agency cars (16% of fuel purchased in 2008–09) and encourage the storage and use of electronic records and documents.

## THE GREEN COMMITTEE

A Green Committee in one form or another has been operating within the Tribunals for more than 10 years. The current terms of reference, established in 2006, provide for members to be drawn from Members, management and staff. The aim is to identify opportunities and develop proposals for more environmentally sustainable practices, processes and purchasing and to promote an environmentally sustainable culture within the Tribunals. The Green Committee:

- has a web page on the Tribunal intranet which encourages participation and suggestions;
- publicises local and national events promoting environmentally sensitive behaviours;
- organises participation in 'Ride to Work Day', 'Walk to Work Day' and 'Earth Hour';
- initiated monitoring of the consumption of paper and water;
- initiated a study of providing documents on CDs rather than on paper when responding to requests for access to documents; and
- supported building management recycling programs.

## PURCHASING

The Tribunals' purchasing arrangements with suppliers include contracts and purchase orders for the supply of consultancies, interpreting and translation services, communication services, rental of property and other goods and services. All purchases over \$10,000 are recorded on AusTender and the Tribunals comply with the Senate Order on Departmental and Agency contracts by maintaining on the Tribunal website details of contracts exceeding \$100,000 in value.

All purchasing is conducted in accordance with the Commonwealth Procurement Guidelines and Chief Executive Instructions. In line with these policies, the Tribunals conduct procurement with value for money as the core principle. This is achieved through:

- encouraging competition;
- the efficient, effective and ethical use of resources; and
- accountability and transparency in decision making.

The Tribunals provided information and participated in activities related to scoping studies being conducted in relation to whole-of-Government procurement during the course of the year.

Official air travel was arranged consistently with the Government's best fare of the day policy, and the Tribunals achieved the target of at least 25% use of smaller airlines on the Canberra-Sydney route.

No contracts or offers were exempted from publication in AusTender on the basis that publication would disclose exempt matters under the *Freedom of Information Act 1982*. The Tribunals use a standard contract proforma with provisions providing for access by the Auditor-General.



The Tribunals have not let any Competitive Tendering and Contracting (CTC) contracts during 2008–09 for the provision of services previously performed in-house.

## ASSETS MANAGEMENT

The Tribunals manage over 1,000 assets with a combined value of \$5.4 million. The major asset categories include fit-out, office machines, furniture and fittings, IT equipment and intangible assets (software). Assets are depreciated at rates applicable for each asset class.

The Finance Section prepares accrual-based monthly reports on the progress of purchases against capital plans and depreciation against the budget in order to achieve effective asset management.

An annual stocktake is performed to update and verify the accuracy of asset records.

## CONSULTANCY SERVICES

A range of services are provided to the Tribunals under contract, including consultancy services. Consultants are distinguished from other contractors by the nature of the work they perform. A consultant is an individual, a partnership or a corporation engaged to provide professional, independent and expert advice or services that will assist with agency decision-making.

The Tribunals engage the services of consultants when:

- there is a need for specialist knowledge or skills;
- an independent assessment or opinion is desirable;
- the proposed consultancy meets corporate objectives or will bring about productivity savings; and
- alternatives to the use of a consultant have been considered.

In determining whether contracts are for consultancy or non-consultancy services, the Tribunals have regard to guidelines published by the Department of Finance and Deregulation.

During 2008–09, 5 new consultancy contracts were entered into involving total actual expenditure of \$18,181. None exceeded \$10,000. No ongoing consultancy contracts were active during the 2008–09 year.

**Table 5.6 – Annual expenditure on consultancy contracts**

	2008–09	2007–08	2006–07
Expenditure	\$18,181	\$100,558	\$83,302

Information on expenditure on contracts and consultancies is also available on the AusTender website [www.tenders.gov.au](http://www.tenders.gov.au).

## PURCHASER/PROVIDER ARRANGEMENTS

All agencies are required to report on purchaser/provider arrangements. Purchaser/provider arrangements relate to arrangements where the outputs of one agency are purchased by another agency to contribute to outcomes. Purchaser/provider arrangements can occur between Commonwealth agencies or between Commonwealth agencies and State/Territory government or private sector bodies. The Tribunals have no purchaser/provider arrangements.

The MRT and RRT have a service delivery agreement with the Administrative Appeals Tribunal (the AAT) for the AAT to provide accommodation, registry and support services in Brisbane, Adelaide and Perth. The Tribunals have Members based in each of those locations.

## DISCRETIONARY GRANTS

All agencies are required to report on discretionary grants. Discretionary grants are payments where discretion is used to determine whether or not a particular body receives a grant. The Tribunals did not provide or receive any discretionary grants during 2008–09.

## ADVERTISING AND MARKET RESEARCH

All agencies are required to report on advertising and market research. During 2008–09, the Tribunals spent \$6,958 (inclusive of GST) on advertising services as set out in Table 5.7. The Tribunals did not engage any market research services.

Table 5.7 – Advertising services

Vendor	Amount	Description
HMA Blaze Pty Ltd	\$6,958	Employment advertising
<b>Total</b>	<b>\$6,958</b>	

## CORRECTION OF MATERIAL ERRORS IN PREVIOUS ANNUAL REPORT

No material errors have been identified in last year's Annual Report.

PART 6

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# Financial Statements





## INDEPENDENT AUDITOR'S REPORT

To the Minister for Immigration and Citizenship

### Scope

I have audited the accompanying financial statements of the Migration Review Tribunal and Refugee Review Tribunal (MRT-RRT) for the year ended 30 June 2009, which comprise: a Statement by the Principal Member and Chief Financial Officer; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Administered Items, and Notes to the Financial Statements.

### *The Responsibility of the Principal Member for the Financial Statements*

The MRT-RRT's Principal Member is responsible for the preparation and fair presentation of the financial statements in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including Australian Accounting Standards (which include Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with Australian National Audit Office Auditing Standards, which incorporate Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the MRT-RRT's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the MRT-RRT's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Principal Member, as well as evaluating the overall presentation of the financial statements.

PO Box A456 Sydney South NSW 1235  
130 Elizabeth Street  
SYDNEY NSW  
Phone (02) 9367 7100 Fax (02) 9367 7102

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

***Independence***

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

**Auditor's Opinion**

In my opinion, the financial statements of the Migration Review Tribunal and Refugee Review Tribunal;

- (a) have been prepared in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Migration Review Tribunal and Refugee Review Tribunal's financial position as at 30 June 2009 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



P Hinchey  
Senior Director  
Delegate of the Auditor-General

Sydney  
9 September 2009

STATEMENT BY THE PRINCIPAL MEMBER AND THE CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2009 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

Signed 

Denis O'Brien  
Principal Member

9 September 2009

Signed 

John Lynch  
Chief Financial Officer

9 September 2009

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## Income Statement

for the year ended 30 June 2009

	Notes	2009 \$'000	2008 \$'000
<b>INCOME</b>			
<b>Revenue</b>			
Revenue from Government	3A	<u>38,266</u>	<u>37,815</u>
<b>Total revenue</b>		<u><b>38,266</b></u>	<u><b>37,815</b></u>
<b>Gains</b>			
Other gains	3B	<u>56</u>	<u>56</u>
<b>Total gains</b>		<u><b>56</b></u>	<u><b>56</b></u>
<b>Total Income</b>		<u><b>38,322</b></u>	<u><b>37,871</b></u>
<b>EXPENSES</b>			
Employee benefits	4A	<b>30,474</b>	29,823
Suppliers	4B	<b>8,088</b>	8,473
Depreciation and amortisation	4C	<b>1,348</b>	1,687
Finance costs	4D	<b>140</b>	167
Write-down and impairment of assets	4E	-	235
<b>Total Expenses</b>		<u><b>40,050</b></u>	<u><b>40,385</b></u>
<b>Surplus (Deficit) attributable to the Australian Government</b>		<u><b>(1,728)</b></u>	<u><b>(2,514)</b></u>

The above statement should be read in conjunction with the accompanying notes.



## Balance Sheet

as at 30 June 2009

	Notes	2009 \$'000	2008 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	5A	103	188
Trade and other receivables	5B	14,238	13,588
<b>Total financial assets</b>		<b>14,341</b>	<b>13,776</b>
<b>Non-Financial Assets</b>			
Land and buildings	6A,E	1,965	2,396
Infrastructure, plant and equipment	6B,E	545	757
Intangibles	6C,F	2,921	2,977
Other non-financial assets	6D	294	238
<b>Total non-financial assets</b>		<b>5,725</b>	<b>6,368</b>
<b>Total Assets</b>		<b>20,066</b>	<b>20,144</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	7A	777	673
Other payables	7B	3,849	2,324
<b>Total payables</b>		<b>4,626</b>	<b>2,997</b>
<b>Interest Bearing Liabilities</b>			
Leases	8	2,382	2,830
<b>Total interest bearing liabilities</b>		<b>2,382</b>	<b>2,830</b>
<b>Provisions</b>			
Employee provisions	9	5,799	5,330
<b>Total provisions</b>		<b>5,799</b>	<b>5,330</b>
<b>Total Liabilities</b>		<b>12,807</b>	<b>11,157</b>
<b>Net Assets</b>		<b>7,259</b>	<b>8,987</b>
<b>EQUITY</b>			
Contributed equity		10,876	10,876
Reserves		384	384
Retained surplus (accumulated deficit)		(4,001)	(2,273)
<b>Total Equity</b>		<b>7,259</b>	<b>8,987</b>
<b>Current Assets</b>		<b>14,635</b>	14,014
<b>Non-Current Assets</b>		<b>5,431</b>	6,130
<b>Current Liabilities</b>		<b>9,424</b>	7,365
<b>Non-Current Liabilities</b>		<b>3,383</b>	3,792

The above statement should be read in conjunction with the accompanying notes.



for the year ended 30 June 2009

	Retained Surplus		Asset Revaluation Reserves		Contributed Equity/Capital		Total Equity	
	2009	2008	2009	2008	2009	2008	2009	2008
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Opening balance</b>		241		384	<b>10,876</b>	10,876	<b>8,987</b>	11,501
Balance carried forward from previous period								
<b>Income and expenses</b>								
Income and expenses recognised Directly in Equity								
<b>Sub-total income and expenses recognised Directly in Equity</b>								
Surplus (Deficit) for the period								
<b>Total income and expenses</b>	<b>(1,728)</b>	(2,514)					<b>(1,728)</b>	(2,514)
<b>Contributions by Owners</b>								
Restructuring								
<b>Sub-total transactions with owners</b>								
<b>Closing balance at 30 June</b>	<b>(4,001)</b>	(2,273)	<b>384</b>	384	<b>10,876</b>	10,876	<b>7,259</b>	8,987

The above statement should be read in conjunction with the accompanying notes.

# Cash Flow Statement

for the year ended 30 June 2009

	2009	2008
	Notes	\$'000
<b>OPERATING ACTIVITIES</b>		
<b>Cash received</b>		
Appropriations	39,791	37,639
Other cash received	<u>1</u>	<u>1</u>
<b>Total cash received</b>	<b><u>39,792</u></b>	<b><u>37,640</u></b>
<b>Cash used</b>		
Employees	30,005	29,247
Suppliers	7,770	9,958
Net GST paid	74	22
Cash transferred to/(from) the Official Public Account	<u>791</u>	<u>(3,861)</u>
<b>Total cash used</b>	<b><u>38,640</u></b>	<b><u>35,366</u></b>
<b>Net cash flows from or (used by) operating activities</b>	10 <b><u>1,152</u></b>	<b><u>2,274</u></b>
<b>INVESTING ACTIVITIES</b>		
<b>Cash used</b>		
Purchase of property, plant and equipment	<u>649</u>	<u>1,689</u>
<b>Total cash used</b>	<b><u>649</u></b>	<b><u>1,689</u></b>
<b>Net cash flows from or (used by) investing activities</b>	<b><u>(649)</u></b>	<b><u>(1,689)</u></b>
<b>FINANCING ACTIVITIES</b>		
<b>Cash used</b>		
Repayment of lease incentive	<u>588</u>	<u>588</u>
<b>Total cash used</b>	<b><u>588</u></b>	<b><u>588</u></b>
<b>Net cash flows from or (used by) financing activities</b>	<b><u>(588)</u></b>	<b><u>(588)</u></b>
<b>Net increase or (decrease) in cash held</b>	<b><u>(85)</u></b>	<b><u>(3)</u></b>
Cash and cash equivalents at the beginning of the reporting period	<u>188</u>	<u>191</u>
<b>Cash and cash equivalents at the end of the reporting period</b>	5A <b><u>103</u></b>	<b><u>188</u></b>

The above statement should be read in conjunction with the accompanying notes.

## Schedule of Commitments

as at 30 June 2009

	2009 \$'000	2008 \$'000
<b>BY TYPE</b>		
<b>Commitments Receivable</b>		
GST recoverable on commitments	<u>(2,360)</u>	<u>(2,683)</u>
<b>Total Commitments Receivable</b>	<u>(2,360)</u>	<u>(2,683)</u>
<b>Other commitments</b>		
Operating leases	<u>25,965</u>	<u>29,515</u>
<b>Total other commitments</b>	<u>25,965</u>	<u>29,515</u>
<b>Net commitments by type</b>	<u>23,605</u>	<u>26,832</u>
<b>BY MATURITY</b>		
<b>Other commitments receivable</b>		
One year or less	(436)	(412)
From one to five years	(1,924)	(2,037)
Over five years	-	(234)
<b>Total other commitments</b>	<u>(2,360)</u>	<u>(2,683)</u>
<b>Commitments payable</b>		
<b>Operating lease commitments</b>		
One year or less	4,804	4,531
From one to five years	21,161	22,402
Over five years	-	2,582
<b>Total operating lease commitments</b>	<u>25,965</u>	<u>29,515</u>
<b>Net Commitments by Maturity</b>	<u>23,605</u>	<u>26,832</u>

NB: Commitments are GST inclusive where relevant.

On 1 September 2003, the two tribunals re-located in new premises in Melbourne with a lease for a period of 10 years. The commitment at 30 June 2009 is \$7.8m.

On 1 May 2005, the two tribunals re-located in new premises in Sydney with a lease for a period of 10 years. The commitment at 30 June 2009 is \$18.1m.

Operating leases included are effectively non-cancellable and comprise:

<i>Nature of lease</i>	<i>General description of leasing</i>
Leases for office accommodation	Lease payments are subject to annual increase in accordance with the terms of the lease agreements.
Agreements for the provision of motor vehicles to senior executive officers	No contingent rentals exist. There are no renewal or purchase options available to the Tribunal.

## Schedule of Contingencies

*as at 30 June 2009*

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	2009	2008
	\$'000	\$'000
<b>Contingent Assets</b>		
Balance from previous period	-	-
New	-	-
<b>Total Contingent Assets</b>	-	-
<b>Contingent Liabilities</b>		
Balance from previous period	-	-
New	-	-
<b>Total Contingent Liabilities</b>	-	-
<b>Net Contingent Assets (Liabilities)</b>	-	-

The above schedule should be read in conjunction with the accompanying notes.

## Schedule of Administered Items

	Notes	2009 \$'000	2008 \$'000
<b>Income administered on behalf of Government</b>			
<i>for the year ended 30 June 2009</i>			
<b>Revenue</b>			
Other revenue	15	12,066	10,244
<b>Total non-taxation revenue</b>		<u>12,066</u>	<u>10,244</u>
<b>Total revenues administered on behalf of Government</b>		<u>12,066</u>	<u>10,244</u>
<b>Expenses administered on behalf of Government</b>			
<i>for the year ended 30 June 2009</i>			
Write-down and impairment of assets	16A	2,068	1,970
Other expenses	16B	4,405	3,756
<b>Total expenses administered on behalf of Government</b>		<u>6,473</u>	<u>5,726</u>

This schedule should be read in conjunction with the accompanying notes.

## Schedule of Administered Items

	Notes	2009 \$'000	2008 \$'000
<b>Assets administered on behalf of Government</b>			
<i>as at 30 June 2009</i>			
<b>Financial assets</b>			
Cash and cash equivalents	17A	54	26
Receivables	17B	469	236
<b>Total financial assets</b>		<u>523</u>	<u>262</u>
<b>Total assets administered on behalf of Government</b>		<u>523</u>	<u>262</u>
<b>Liabilities administered on behalf of Government</b>			
<i>as at 30 June 2009</i>			
<b>Payables</b>			
Other payables	18	-	-
<b>Total payables</b>		<u>-</u>	<u>-</u>
<b>Total liabilities administered on behalf of Government</b>		<u>-</u>	<u>-</u>
<b>Total net assets administered on behalf of Government</b>	19	<u>523</u>	<u>262</u>

This schedule should be read in conjunction with the accompanying notes.

## Schedule of Administered Items

	Notes	2009 \$'000	2008 \$'000
<b>Administered Cash Flows</b>			
<i>for the year ended 30 June 2009</i>			
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Fees		9,735	8,249
<b>Total cash received</b>		<u>9,735</u>	<u>8,249</u>
<b>Cash used</b>			
Other		4,405	3,756
<b>Total cash used</b>		<u>4,405</u>	<u>3,756</u>
<b>Net cash flows from or (used by) operating activities</b>		<u>5,330</u>	<u>4,493</u>
<b>Net Increase (Decrease) in Cash Held</b>		<u>5,330</u>	<u>4,493</u>
Cash and cash equivalents at the beginning of the reporting period		26	16
Cash from Official Public Account for:			
- Appropriations		4,404	3,756
		<u>4,430</u>	<u>3,772</u>
Cash to Official Public Account for:			
- Appropriations		9,706	8,239
		<u>9,706</u>	<u>8,239</u>
<b>Cash and cash equivalents at the end of the reporting period</b>	17A	<u>54</u>	<u>26</u>

This schedule should be read in conjunction with the accompanying notes.

## Schedule of Administered Items

	2009 \$'000	2008 \$'000
<b>Administered commitments</b>		
<i>as at 30 June 2009</i>	-	-
There are no administered commitments at 30 June 2009 (Nil: 2008)		

## Schedule of Administered Items

	2009 \$'000	2008 \$'000
<b>Administered Contingencies</b>		
<i>as at 30 June 2009</i>	-	-
There are no administered contingencies at 30 June 2009 (Nil: 2008)		

# Notes to and forming part of the financial statements

## Note 1: Summary of Significant Accounting Policies

### 1.1 Objectives of the MRT-RRT

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) are statutory bodies established under the *Migration Act 1958*.

The Financial Management and Accountability Regulations have been amended with effect from 1 July 2006 to establish a single prescribed agency, the 'Migration Review Tribunal and Refugee Review Tribunal' (MRT-RRT) for the purposes of the *Financial Management and Accountability Act 1997* (the FMA Act).

The MRT-RRT has one outcome:

Outcome 1: To provide correct and preferable decisions for visa applicants and sponsors through independent, fair, just, economical, informal and quick merits reviews of migration and refugee decisions.

The MRT-RRT activities contributing toward these outcomes are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the MRT-RRT in its own right. Administered activities involve the management or oversight by the MRT-RRT, on behalf of the Government, of items controlled or incurred by the Government.

Departmental activities are identified under Output 1.

The continued existence of the MRT-RRT in its present form and with its present programs is dependent on the provisions of the Migration Act, Government policy and on continuing appropriations by Parliament for the MRT-RRT's administration and programs.

### 1.2 Basis of Preparation of the Financial Report

The Financial Statements and notes are required by section 49 of the *Financial Management and Accountability Act 1997* and are a General Purpose Financial Report.

The Financial Statements and notes have been prepared in accordance with:

- Finance Minister's Orders (or FMOs) for reporting periods ending on or after 1 July 2008; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with the historical cost convention, except for certain assets at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an Accounting Standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to the MRT-RRT or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets that are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies.

Unless alternative treatment is specifically required by an accounting standard, revenues and expenses are recognised in the Income Statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.



Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for departmental items, except where otherwise stated at Note 1.19.

### **1.3 Significant Accounting Judgements and Estimates**

In the process of applying the accounting policies listed in this note, the MRT-RRT has made the following judgements that have the most significant impact on the amounts recorded in the financial statements:

- the fair value of buildings and plant and equipment has been taken to be the market value as determined by an independent valuer.

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

### **1.4 Changes in Australian Accounting Standards**

#### **Adoption of New Australian Accounting Standard Requirements**

No accounting standard has been adopted earlier than the application date as stated in the standard. There are no new accounting standards, amendments to standards and interpretations issued by the Australian Accounting Standards Board that are applicable to the current period, have had a material financial impact on the MRT-RRT.

#### **Future Australian Accounting Standard Requirements**

No new standards, amendments to standards and interpretations that have been issued by the Australian Accounting Standards Board that are applicable to future periods, are expected to have a material financial impact on the MRT-RRT.

### **1.5 Revenue**

#### **Revenue from Government**

Amounts appropriated for departmental appropriations for the year (adjusted for any additions and reductions) are recognised as revenue when the MRT-RRT gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

#### **Resources Received Free of Charge**

Resources received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

# Notes to and forming part of the financial statements

## **Other Types of Revenue**

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the seller retains no managerial involvement nor effective control over the goods;
- the revenue and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the MRT-RRT.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits with the transaction will flow to the MRT-RRT.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is no longer probable.

## **1.6 Gains**

### **Other Resources Received Free of Charge**

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature.

### **Sale of Assets**

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

## **1.7 Transactions with the Government as Owner**

### **Equity injections**

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in Contributed Equity in that year.

### **Restructuring of Administrative Arrangements**

Net assets received from or relinquished to another Australian Government Agency or Authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

## 1.8 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

### **Leave**

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the MRT-RRT is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the MRT-RRT's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

### **Superannuation**

Most staff and members of the MRT-RRT are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), Australian Government Employees Superannuation Trust (AGEST) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes. The PSSap is a defined contribution scheme. AGEST is an industry super fund.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The MRT-RRT makes employer contributions to the employee superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the MRT-RRT's employees. The MRT-RRT accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

## 1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

# Notes to and forming part of the financial statements

Operating lease payments are expensed on a straight line basis which is representative of the pattern of benefits derived from the leased assets.

## **1.10 Borrowing Costs**

All borrowing costs are expensed as incurred.

## **1.11 Cash**

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts. Cash is recognised at its nominal amount.

## **1.12 Financial assets**

The MRT-RRT classifies its financial assets in the following category:

- 'Loans and Receivables'.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

### Loans and receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets.

### Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

## **1.13 Financial Liabilities**

Financial liabilities are classified as other financial liabilities and are recognised and derecognised upon 'trade date'.

### Other financial liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

### Supplier and other payables

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

### 1.14 Contingent Liabilities and Contingent Assets

Contingent Liabilities and Contingent Assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

### 1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

### 1.16 Property, Plant and Equipment

#### **Asset Recognition Threshold**

Purchases of property, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

#### **Revaluations**

Fair values for each class of asset are determined as shown below:

Asset Class	Fair Value Measured at:
Leasehold Improvements	Depreciated replacement cost
Plant and Equipment	Market Value

Following initial recognition at cost, property, plant and equipment are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through operating result. Revaluation decrements for a class of assets are recognised directly through operating result except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

# Notes to and forming part of the financial statements

## **Depreciation**

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the MRT-RRT using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	<u>2009</u>	<u>2008</u>
Leasehold improvements	<b>Lease term</b>	Lease term
Plant and Equipment	<b>3 to 10 years</b>	3 to 5 years

## **Impairment**

All assets were assessed for impairment at 30 June 2009. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the MRT-RRT were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

### **1.17 Intangibles**

The MRT-RRT's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the MRT-RRT's software are 3 to 8 years (2007-08: 3 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2009.

### **1.18 Taxation**

The MRT-RRT is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

### **1.19 Reporting of Administered Activities**

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related Notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for Departmental items, including the application of Australian Accounting Standards.

### **Administered Cash Transfers to and from the Official Public Account**

Revenue collected by the MRT-RRT for use by the Government rather than the MRT-RRT is Administered Revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the MRT-RRT on behalf of the Government and reported as such in the Administered Cash Flows in the Schedule of Administered Items and in the Administered Reconciliation Table in Note 19. The Schedule of Administered Items largely reflects the Government's transactions, through the MRT-RRT, with parties outside the Government.

#### **Revenue**

All administered revenues are revenues relating to the course of ordinary activities performed by the MRT-RRT on behalf of the Australian Government.

Revenue is generated from fees charged for MRT applications when lodged and RRT applications once the decision has been made (post-decision fee). Administered fee revenue is recognised when invoiced (RRT fees) or received (MRT fees).

#### **Loans and Receivables**

Where loans and receivables are not subject to concessional treatment, they are carried at amortised cost using the effective interest method. Gains and losses due to impairment, derecognition and amortisation are recognised through surplus and deficit.

## Notes to and forming part of the financial statements

### Note 2: Events after the Balance Sheet Date

There has not been any event occurring after balance date that has not been brought to account in the 2009 Financial Report.

The MRT-RRT is currently negotiating a funding agreement for appropriation with the Department of Finance and Deregulation. The outcome of this may impact on prior years' appropriation.

### Note 3: Income

	2009	2008
<i>Revenue</i>	\$'000	\$'000

#### **Note 3A: Revenue from Government**

Appropriations:		
Departmental outputs	38,266	37,815
<b>Total revenue from Government</b>	<b>38,266</b>	<b>37,815</b>

#### **Note 3B: Other gains**

Resources received free of charge	55	55
Other	1	1
<b>Total other gains</b>	<b>56</b>	<b>56</b>



**Note 4: Expenses**

	<b>2009</b>	2008
	<b>\$'000</b>	\$'000
<b>Note 4A: Employee benefits</b>		
Wages and salaries	<b>23,112</b>	22,133
Superannuation:		
Defined benefit plans	<b>3,045</b>	3,129
Defined contribution plans	<b>729</b>	550
Leave and other entitlements	<b>3,588</b>	3,993
Separation and redundancies	<b>-</b>	18
<b>Total employee benefits</b>	<b><u>30,474</u></b>	<u>29,823</u>
<b>Note 4B: Suppliers</b>		
Provision of goods – external parties	<b>497</b>	574
Rendering of services – related entities	<b>1,404</b>	1,080
Rendering of services – external parties	<b>3,337</b>	3,686
Operating lease rentals:		
Minimum lease payments	<b>2,636</b>	2,535
Workers compensation premiums	<b>214</b>	598
<b>Total supplier expenses</b>	<b><u>8,088</u></b>	<u>8,473</u>
<b>Note 4C: Depreciation and amortisation</b>		
Depreciation:		
Infrastructure, plant and equipment	<b>233</b>	283
Buildings	<b>462</b>	397
<b>Total depreciation</b>	<b><u>695</u></b>	<u>680</u>
Intangibles:		
Computer Software	<b>653</b>	1,007
<b>Total amortisation</b>	<b><u>653</u></b>	<u>1,007</u>
<b>Total depreciation and amortisation</b>	<b><u>1,348</u></b>	<u>1,687</u>
<b>Note 4D: Finance costs</b>		
Finance leases	<b>140</b>	167
<b>Total finance costs</b>	<b><u>140</u></b>	<u>167</u>
<b>Note 4E: Write-down and impairment of assets</b>		
Asset Write-Downs from		
Revaluation of plant and equipment	<b>-</b>	235
<b>Total write-down and impairment of assets</b>	<b><u>-</u></b>	<u>235</u>

## Notes to and forming part of the financial statements

### Note 5: Financial Assets

	2009 \$'000	2008 \$'000
<b>Note 5A: Cash and cash equivalents</b>		
Cash on hand or on deposit	<u>103</u>	<u>188</u>
<b>Total cash and cash equivalents</b>	<u><u>103</u></u>	<u><u>188</u></u>
<b>Note 5B: Trade and other receivables</b>		
Appropriations receivable:		
for existing outputs	<u>14,092</u>	<u>13,301</u>
<b>Total appropriations receivable</b>	<u><u>14,092</u></u>	<u><u>13,301</u></u>
GST receivable from the Australian Taxation Office	<u>130</u>	<u>204</u>
Other:		
Other receivables	<u>16</u>	<u>83</u>
<b>Total other receivables</b>	<u><u>146</u></u>	<u><u>287</u></u>
<b>Total trade and other receivables (gross)</b>	<u><u>14,238</u></u>	<u><u>13,588</u></u>
Less Allowance for doubtful debts:		
Other	<u>-</u>	<u>-</u>
<b>Total trade and other receivables (net)</b>	<u><u>14,238</u></u>	<u><u>13,588</u></u>
Receivables are represented by:		
Current	<u>14,238</u>	<u>13,588</u>
<b>Total trade and other receivables (net)</b>	<u><u>14,238</u></u>	<u><u>13,588</u></u>
Receivables are aged as follows:		
Not overdue	<u>14,238</u>	<u>13,588</u>
<b>Total receivables (gross)</b>	<u><u>14,238</u></u>	<u><u>13,588</u></u>

**Note 6: Non-Financial Assets**

	<b>2009</b>	2008
	<b>\$'000</b>	\$'000

**Note 6A: Land and buildings**

Leasehold improvements		
– fair value	<b>4,007</b>	3,976
– accumulated depreciation	<b>(2,042)</b>	(1,580)
<b>Total leasehold improvements</b>	<b><u>1,965</u></b>	<u>2,396</u>
<b>Total land and buildings (non-current)</b>	<b><u><u>1,965</u></u></b>	<u><u>2,396</u></u>

\$1,965K (2008: \$2,396K) of total leasehold improvements refers to fitout, which may not be disposed of without prior ministerial approval.

No indicators of impairment were found for land and buildings.

**Note 6B: Infrastructure, plant and equipment**

Infrastructure, plant and equipment:		
– gross carrying value (at fair value)	<b>778</b>	757
– accumulated depreciation	<b>(233)</b>	-
<b>Total infrastructure, plant and equipment (non-current)</b>	<b><u><u>545</u></u></b>	<u><u>757</u></u>

All revaluations are conducted in accordance with the revaluation policy stated at Note 1. In 2007-08, an independent valuer, Australian Valuation Office, conducted the revaluation of plant and equipment. The revaluation of plant and equipment, resulting in a decrement of \$235K, was expensed. A revaluation of leasehold improvements was conducted in 2007.

No indicators of impairment were found for infrastructure, plant and equipment.

**Note 6C: Intangibles**

Computer software at cost:		
Externally developed	<b>776</b>	592
Internally developed – in use	<b>4,651</b>	4,238
<b>Total Computer Software</b>	<b><u>5,427</u></b>	<u>4,830</u>
Accumulated amortisation	<b>(2,506)</b>	(1,853)
<b>Total intangibles (non-current)</b>	<b><u><u>2,921</u></u></b>	<u><u>2,977</u></u>

No indicators of impairment were found for intangible assets.

**Note 6D: Other non-financial assets**

Prepayments	<b>294</b>	238
<b>Total other non-financial assets</b>	<b><u>294</u></b>	<u>238</u>

All other non-financial assets are current assets.

No indicators of impairment were found for other non-financial assets.

# Notes to and forming part of the financial statements

## Note 6: Non-Financial Assets (cont)

### Note 6E: Analysis of property, plant and

#### Reconciliation of the opening and closing balances of property, plant and equipment (2008-09)

	Buildings \$'000	Other IP & E \$'000	Total \$'000
<b>As at 1 July 2008</b>			
Gross book value	3,976	757	4,733
Accumulated depreciation/amortisation and impairment	(1,580)	-	(1,580)
<b>Net book value 1 July 2008</b>	<b>2,396</b>	<b>757</b>	<b>3,153</b>
Additions:			
by purchase	31	21	52
Depreciation/amortisation expense	(462)	(233)	(695)
Disposals:			
Other disposals	-	-	-
<b>Net book value 30 June 2009</b>	<b>1,965</b>	<b>545</b>	<b>2,510</b>
<b>Net book value as of 30 June 2009 represented</b>			
Gross book value	4,007	778	4,785
Accumulated depreciation/amortisation and impairment	(2,042)	(233)	(2,275)
	<u>1,965</u>	<u>545</u>	<u>2,510</u>

#### Reconciliation of the opening and closing balances of property, plant and equipment (2007-08)

	Buildings \$'000	Other IP & E \$'000	Total \$'000
<b>As at 1 July 2007</b>			
Gross book value	3,592	3,457	7,049
Accumulated depreciation/amortisation and impairment	(1,183)	(2,422)	(3,605)
<b>Net book value 1 July 2007</b>	<b>2,409</b>	<b>1,035</b>	<b>3,444</b>
Additions:			
by purchase	384	240	624
Depreciation/amortisation expense	(397)	(283)	(680)
Revaluations	-	(235)	(235)
<b>Net book value 30 June 2008</b>	<b>2,396</b>	<b>757</b>	<b>3,153</b>
<b>Net book value as of 30 June 2008 represented</b>			
Gross book value	3,976	757	4,733
Accumulated depreciation/amortisation and impairment	(1,580)	-	(1,580)
	<u>2,396</u>	<u>757</u>	<u>3,153</u>

**Note 6: Non-Financial Assets (cont)****Note 6F: Intangibles****Reconciliation of the opening and closing balances of intangibles (2008-09).**

Item	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2008</b>			
Gross book value	4,238	592	4,830
Accumulated depreciation/amortisation and impairment	(1,408)	(445)	(1,853)
<b>Net book value 1 July 2008</b>	<b>2,830</b>	<b>147</b>	<b>2,977</b>
Additions:			
by purchase or internally developed	413	184	597
Amortisation	(533)	(120)	(653)
Disposals:			
Other disposals	-	-	-
<b>Net book value 30 June 2009</b>	<b>2,710</b>	<b>211</b>	<b>2,921</b>

**Net book value as of 30 June 2009****represented by:**

Gross book value	4,651	776	5,427
Accumulated depreciation/amortisation and impairment	(1,941)	(565)	(2,506)
	<u>2,710</u>	<u>211</u>	<u>2,921</u>

**Reconciliation of the opening and closing balances of intangibles (2007-08).**

Item	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2007</b>			
Gross book value	3,173	592	3,765
Accumulated depreciation/amortisation and impairment	(558)	(288)	(846)
<b>Net book value 1 July 2007</b>	<b>2,615</b>	<b>304</b>	<b>2,919</b>
Additions:			
by purchase or internally developed	1,065	-	1,065
Amortisation	(850)	(157)	(1,007)
Disposals:			
Other disposals	-	-	-
<b>Net book value 30 June 2008</b>	<b>2,830</b>	<b>147</b>	<b>2,977</b>

**Net book value as of 30 June 2008****represented by:**

Gross book value	4,238	592	4,830
Accumulated depreciation/amortisation and impairment	(1,408)	(445)	(1,853)
	<u>2,830</u>	<u>147</u>	<u>2,977</u>

## Notes to and forming part of the financial statements

### Note 7: Payables

	2009 \$'000	2008 \$'000
<b>Note 7A: Suppliers</b>		
Trade creditors	777	673
<b>Total supplier payables</b>	<u>777</u>	<u>673</u>
Supplier payables are represented by:		
Current	777	673
Non-current	-	-
<b>Total supplier payables</b>	<u>777</u>	<u>673</u>

Settlement is usually made in 30 days.

### Note 7B: Other Payables

Other - Appropriation owing to Government	3,849	2,324
<b>Total Other Payables</b>	<u>3,849</u>	<u>2,324</u>

### Note 8: Interest bearing liabilities

	2009 \$'000	2008 \$'000
<b>Note 8: Leases</b>		
Finance leases	2,382	2,830
<b>Total finance leases</b>	<u>2,382</u>	<u>2,830</u>
Payable:		
Within one year		
Minimum lease payments	611	610
Deduct: future finance charges	(133)	(163)
In one to five years		
Minimum lease payments	2,096	2,657
Deduct: future finance charges	(192)	(326)
In more than five years		
Minimum lease payments	-	52
Deduct: future finance charges	-	-
<b>Finance leases recognised on the balance sheet</b>	<u>2,382</u>	<u>2,830</u>

A finance lease exists in relation to the fitout of the Melbourne office. The lease is non-cancellable and for a fixed term of 10 years commencing 1 September 2003. The interest rate in the lease is 9.31%. There are no contingent rentals.

## Note 9: Provisions

	2009 \$'000	2008 \$'000
<b>Note 9: Employee provisions</b>		
Salaries and wages	620	408
Leave	4,289	4,263
Superannuation	890	659
<b>Total employee provisions</b>	<b>5,799</b>	<b>5,330</b>
Employee provisions are represented by:		
Current	4,321	3,921
Non-current	1,478	1,409
<b>Total employee provisions</b>	<b>5,799</b>	<b>5,330</b>

The classification of current includes amounts for which there is not an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date are \$2,750K (2008: \$2,631K), and in excess of one year \$3,049K (2008: \$2,699K)

## Note 10: Cash flow reconciliation

	2009 \$'000	2008 \$'000
<b>Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement</b>		
<b>Report cash and cash equivalents as per:</b>		
Cash Flow Statement	103	188
Balance Sheet	103	188
Difference	-	-
<b>Reconciliation of operating result to net cash from operating</b>		
Operating result	(1,728)	(2,514)
Depreciation /amortisation	1,348	1,687
Net write down of non-financial assets	-	235
(Increase) / decrease in net receivables	(650)	3,824
(Increase) / decrease in prepayments	(56)	(150)
Increase / (decrease) in employee provisions	469	576
Increase / (decrease) in interest bearing liabilities	140	167
Increase / (decrease) in supplier payables	104	(1,375)
Increase / (decrease) in other payables	1,525	(176)
<b>Net cash from / (used by) operating activities</b>	<b>1,152</b>	<b>2,274</b>

# Notes to and forming part of the financial statements

## Note 11: Contingent Liabilities and Assets

### Quantifiable Contingencies

There are no contingent liabilities and assets as at 30 June 2009.

### Unquantifiable Contingencies

At 30 June 2009, the MRT-RRT had no legal claims against it.

## Note 12: Senior Executive Remuneration

	2009	2008
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:		
\$175 000 to \$189 999	-	2
\$190 000 to \$204 999	1	1
\$220 000 to \$234 999	1	-
\$250 000 to \$264 999	1	-
\$265 000 to \$279 999	-	1
\$295 000 to \$309 999	-	1
\$370 000 to \$384 999	<u>1</u>	<u>-</u>
<b>Total</b>	<b><u>4</u></b>	<b><u>5</u></b>

The aggregate amount of total remuneration of senior executives shown above.	<b>\$1,040,853</b>	\$1,129,224
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The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	-	\$99,697
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## Note 13: Remuneration of Auditors

	2009 \$'000	2008 \$'000
Financial statement audit services are provided free of charge to the agency.		
The fair value of the services provided was:	<u>55</u>	<u>55</u>
	<b><u>55</u></b>	<b><u>55</u></b>

No other services were provided by the Auditor-General.



**Note 14: Financial Instruments**

	<b>2009</b>	2008
	<b>\$'000</b>	\$'000
<b><u>14A Categories of financial instruments</u></b>		
<b>Financial Assets</b>		
Cash	<u>103</u>	188
	<u>103</u>	<u>188</u>
Loans and receivables financial assets		
Receivables for goods and services	<u>14,238</u>	13,588
	<u>14,238</u>	<u>13,588</u>
<b>Carrying amount of financial assets</b>	<b><u>14,341</u></b>	<b><u>13,776</u></b>
<b>Financial Liabilities</b>		
At amortised cost		
Finance lease liabilities	<b>2,382</b>	2,830
Other liabilities		
- Suppliers	<b>777</b>	673
- Other	<u>3,849</u>	2,324
	<u>4,626</u>	<u>2,997</u>
<b>Carrying amount of financial liabilities</b>	<b><u>7,008</u></b>	<b><u>5,827</u></b>

	<b>2009</b>	2008
	<b>\$'000</b>	\$'000
<b><u>14B Net income and expense from financial liabilities</u></b>		
<b>Financial liabilities - at amortised cost</b>		
Interest expense	<u>140</u>	167
<b>Net gain/(loss) financial liabilities - at amortised cost</b>	<u>140</u>	167
	<u>140</u>	<u>167</u>
<b>Net gain/(loss) from financial liabilities</b>	<b><u>140</u></b>	<b><u>167</u></b>

## Notes to and forming part of the financial statements

### Note 14: Financial Instruments (cont)

#### 14C Fair value of financial instruments

	Carrying amount 2009 \$'000	Fair value 2009 \$'000	Carrying amount 2008 \$'000	Fair value 2008 \$'000
<b>FINANCIAL ASSETS</b>				
Cash at Bank	103	103	188	188
Receivables for goods and services	14,238	14,238	13,588	13,588
<b>Total</b>	<b>14,341</b>	<b>14,341</b>	13,776	13,776
<b>FINANCIAL LIABILITIES</b>				
Finance lease	2,382	2,301	2,830	2,697
Other - Suppliers	777	777	673	673
- Other	3,849	3,849	2,324	2,324
<b>Total</b>	<b>7,008</b>	<b>6,927</b>	5,827	5,694

#### Valuation Method used for determining the fair value of financial instruments

The following table identifies for those assets and liabilities carried at fair value (above) whether fair value was obtained by reference to market prices or by a valuation technique that employs observable market transactions, or one that uses non-observable market inputs to determine a fair value.

	Valuation technique utilising			
	Market values \$'000	Market inputs \$'000	Non-market inputs \$'000	Total \$'000
<b>Financial assets at fair value</b>				
Cash at Bank	103	-	-	103
Receivables for goods and services	14,238	-	-	14,238
<b>Financial assets at fair value</b>	<b>14,341</b>	-	-	<b>14,341</b>
<b>Financial liabilities at fair value</b>				
Finance lease	2,301	-	-	2,301
Other - Suppliers	777	-	-	777
- Other	3,849	-	-	3,849
<b>Financial liabilities at fair value</b>	<b>6,927</b>	-	-	<b>6,927</b>

## **Note 14: Financial Instruments (cont)**

### **14D Credit risk**

The MRT-RRT's maximum exposure to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Balance Sheet.

The MRT-RRT has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

This note also applies to MRT-RRT's administered financial instruments and is therefore not reproduced at Note 21.

### **14E Liquidity risk**

The MRT-RRT financial liabilities are payables, loans from government and finance leases. The exposure to liquidity risk is based on the notion that the Agency will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and mechanisms available to the MRT-RRT (e.g. Advance to the Finance Minister) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations.

### **14F Market risk**

The MRT-RRT holds a fixed lease at 9.31% for leasehold property and is not exposed to market risks. The MRT-RRT is not exposed to 'Currency risk' or 'Other price risk'.

## Notes to and forming part of the financial statements

### Notes to the Schedule of Administered Items

#### Note 15: Income Administered on Behalf of Government

	2009 \$'000	2008 \$'000
<b><u>Revenue</u></b>		
<b>Non-taxation revenue</b>		
<b>Note 15: Other revenue</b>		
Other - MRT Application fees	9,260	7,757
Other - RRT Post Decision fees	<u>2,806</u>	<u>2,487</u>
<b>Total other revenue</b>	<b><u>12,066</u></b>	<b><u>10,244</u></b>

#### Note 16: Expenses Administered on Behalf of Government

	2009 \$'000	2008 \$'000
<b><u>Expenses</u></b>		
<b>Note 16A: Write-down and impairment of assets</b>		
Asset Write-Downs from provision for bad debts - RRT post decision fees	<u>2,068</u>	<u>1,970</u>
<b>Total write-down and impairment of assets</b>	<b><u>2,068</u></b>	<b><u>1,970</u></b>
<b>Note 16B: Other expenses</b>		
Other - Refund of fees	4,405	3,756
CN - Other Expense	-	-
<b>Total other expenses</b>	<b><u>4,405</u></b>	<b><u>3,756</u></b>

## Note 17: Assets Administered on Behalf of Government

	2009	2008
	\$'000	\$'000
<b><u>Financial Assets</u></b>		
<b>Note 17A: Cash and cash equivalents</b>		
Cash on hand or on deposits	54	26
<b>Total cash and cash equivalents</b>	<b>54</b>	<b>26</b>
<b>Note 17B: Receivables</b>		
Other receivables:		
Fees	1,125	543
<b>Total receivables</b>	<b>1,125</b>	<b>543</b>
Less: Allowance for doubtful debts:		
Other receivables	656	307
<b>Total receivables (net)</b>	<b>469</b>	<b>236</b>
Receivables are aged as follows:		
Not overdue	188	46
Overdue by:		
Less than 30 days	193	320
30 to 60 days	218	162
61 to 90 days	216	4
More than 90 days	310	11
<b>Total receivables (gross)</b>	<b>1,125</b>	<b>543</b>
The allowance for doubtful debts is aged as		
Not overdue	4	-
Overdue by:		
Less than 30 days	16	197
30 to 60 days	143	103
61 to 90 days	192	1
More than 90 days	301	6
<b>Total allowance for doubtful debts</b>	<b>656</b>	<b>307</b>

Goods and services receivables are with entities external to the Australian Government. Credit terms are net 7 days (2008: 30 days).

### Reconciliation of the allowance for doubtful debts:

Movements

	Other receivables 2009 \$'000	Other receivables 2008 \$'000
Opening balance	307	307
Amounts written off	2,068	1,970
Amounts recovered and reversed	(1,719)	(1,970)
<b>Closing balance</b>	<b>656</b>	<b>307</b>

## Notes to and forming part of the financial statements

### Note 18: Liabilities administered on behalf of Government

	2009 \$'000	2008 \$'000
<b><i>Payables</i></b>		
<b>Note 18: Other payables</b>		
Other	-	-
<b>Total other payables</b>	<u>-</u>	<u>-</u>

### Note 19: Administered Reconciliation Table

	2009 \$'000	2008 \$'000
<b>Opening administered assets less administered liabilities as at 1 July</b>	<b>262</b>	<b>228</b>
Plus: Administered income	<b>12,066</b>	10,244
Less: Administered expenses	<b>( 6,473)</b>	( 5,726)
Administered transfers to/from Australian Government:		
Transfers to Official Public Account	<u><b>( 5,332)</b></u>	<u>( 4,484)</u>
<b>Closing administered assets less administered liabilities as at 30 June</b>	<u><b>523</b></u>	<u>262</u>

### Note 20: Administered Contingent Assets and Liabilities

#### **Unquantifiable Administered Assets and Contingencies**

At 30 June 2009, the MRT-RRT had no contingent assets.

At 30 June 2009, the MRT-RRT had no legal claims against it.

**Note 21: Administered Financial Instruments****21A Fair value of financial instruments**

	<b>Carrying amount 2009 \$'000</b>	<b>Fair value 2009 \$'000</b>	Carrying amount 2008 \$'000	Fair value 2008 \$'000
<b>FINANCIAL ASSETS</b>				
Cash	<b>54</b>	<b>54</b>	26	26
Fees Receivable (net)	<b>469</b>	<b>469</b>	236	236
<b>Total</b>	<b>523</b>	<b>523</b>	262	262
<b>FINANCIAL LIABILITIES</b>				
Other	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	-	-

**21B Credit risk**

The MRT-RRT is not exposed to credit risk at reporting date in relation to each class of recognised financial assets.

**21C Liquidity risk**

The MRT-RRT has no financial liabilities and is not exposed to liquidity risk.

**21D Market risk**

The MRT-RRT is not exposed to market risk.

## Notes to and forming part of the financial statements

### Note 22: Appropriations

#### Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations

Particulars	Departmental Outputs	
	2009	2008
	\$'000	\$'000
Balance brought forward from previous period	11,165	14,853
Appropriation Act:		
Appropriation Act (No.1) 2008-09	39,791	40,313
Appropriation Act (No.3) 2008-09	(2,278)	(2,674)
Adjustment to appropriation	734	176
Reductions of appropriations (Appropriation Act section 9)		
Administered appropriation lapsed (Appropriation Act section 8)	-	-
Advance to the Finance Minister (Appropriation Act section 11)	-	-
Comcover receipts (Appropriation Act section 12)	-	-
FMA Act:		
Refunds credited (FMA section 30)	-	-
Appropriations to take account of recoverable GST (FMA section 31)	(74)	(22)
Annotations to 'net appropriations' (FMA section 31)	1	1
Adjustment of appropriations on change of entity function (FMA section 32)	-	-
Total appropriation available for payments	49,339	52,647
Cash payments made during the year (GST inclusive)	38,993	41,482
Appropriations credited to Special Accounts (excluding GST)	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	10,346	11,165
<b>Represented by</b>		
Cash at bank and on hand	103	188
Departmental appropriations receivable	14,092	13,301
Departmental appropriations to be returned to Official Public Account	(3,849)	(2,324)
<b>Total as at 30 June</b>	<b>10,346</b>	<b>11,165</b>

Departmental and non-operating appropriations do not lapse at financial year end.



**Note 23: Compensation and Debt Relief**

	<b>2009</b>	2008
	<b>\$</b>	\$
<b>Administered</b>		
No 'Act of Grace' expense was incurred during the reporting period (2008: one).	-	1,400
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> . (2008: No waivers)	-	-
338 waivers of amounts owing to the Australian Government were made pursuant to Regulation 4.13(4) of the Migration Regulations 1994. (2008: 353 waivers)	<b>473,200</b>	494,200

# Notes to and forming part of the financial statements

## Note 24: Reporting of Outcomes

### Note 24A: Net Cost of Outcome Delivery

	Outcome 1	
	2009	2008
	\$'000	\$'000
<b>Expenses</b>		
Administered	6,473	5,726
Departmental	40,050	40,385
<b>Total expenses</b>	<b>46,523</b>	<b>46,111</b>
<b>Costs recovered from provision of goods and services to the non government sector</b>		
Administered	12,066	10,244
Departmental	-	-
<b>Total costs recovered</b>	<b>12,066</b>	<b>10,244</b>
<b>Other external revenues</b>		
Administered	-	-
Departmental	-	-
<b>Total other external revenues</b>	<b>-</b>	<b>-</b>
<b>Net cost/(contribution) of outcome</b>	<b>34,457</b>	<b>35,867</b>

### Note 24B: Major Classes of Departmental Revenues and Expenses by Output

Outcome 1	Outcome 1 Total	
	2009	2008
	\$'000	\$'000
<b>Departmental expenses</b>		
Employees	30,474	29,823
Suppliers	8,088	8,473
Depreciation and Amortisation	1,348	1,687
Other Expenses	140	402
<b>Total departmental expenses</b>	<b>40,050</b>	<b>40,385</b>
<b>Funded by:</b>		
Revenues from Government	38,266	38,686
<b>Total departmental revenues</b>	<b>38,266</b>	<b>38,686</b>

### Note 24C: Major Classes of Administered Revenues and Expenses by Outcomes

	Outcome 1	
	2009	2008
	\$'000	\$'000
<b>Administered Income</b>		
Other non-taxation revenue	12,066	10,244
<b>Total administered income</b>	<b>12,066</b>	<b>10,244</b>
<b>Administered Expenses</b>		
Write-down and impairment of assets	2,068	1,970
Other expenses - refund of application fees	4,405	3,756
<b>Total Administered Expenses</b>	<b>6,473</b>	<b>5,726</b>

Outcome 1 is described in Note 1.1.

APPENDIX 1

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# Membership



## Appendix 1 – Membership

The Tribunals' Members make decisions on applications for review. The Members are appointed under the *Migration Act 1958* by the Governor-General for fixed terms on a full-time or part-time basis. The Remuneration Tribunal determines the remuneration arrangements for Members.

While there are no mandatory qualifications for the appointment of Members, persons appointed as Members to the Tribunals have typically worked in a profession or have had extensive experience at senior levels in the private or public sectors. Member biographies are available on the Tribunal website.

A list of Members and their appointment periods as at 31 August 2009 is set out below.

Member	Office	Appointed	Current appointment expires	Gender	Location
Mr Denis O'Brien	Principal Member	3 Sep 2007	30 Jun 2012	M	Sydney
Ms Linda Kirk	Senior Member	1 Jan 2009	31 Dec 2013	F	Melbourne
Ms Amanda MacDonald	Senior Member	1 Dec 2000	31 Dec 2013	F	Sydney
Mr Peter Murphy	Senior Member	1 Jan 2009	31 Dec 2013	M	Melbourne
Dr Irene O'Connell	Senior Member	28 Aug 2000	31 Dec 2013	F	Sydney
Mr Giles Short	Senior Member	28 Jul 1997	31 Dec 2013	M	Sydney
Dr Jennifer Beard	Full-time Member	1 Jul 2009	30 Jun 2014	F	Melbourne
Ms Danica Buljan	Full-time Member	1 Oct 2001	30 Jun 2010	F	Melbourne
Mr Tony Caravella	Full-time Member	1 Jul 2009	30 Jun 2014	M	Perth
Mr John Cipolla	Full-time Member	1 Dec 2000	30 Jun 2010	M	Sydney
Mr Richard Derewlany	Full-time Member	1 Oct 2001	30 Jun 2010	M	Sydney
Ms Dione Dimitriadis	Full-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Ms Namoi Dougall	Full-time Member	12 Jul 1999	30 Jun 2010	F	Sydney

Mr Paul Fisher	Full-time Member	1 Jul 2006	30 Jun 2014	M	Melbourne
Ms Maria Rosa Gagliardi	Full-time Member	31 Jul 2006	30 Jun 2014	F	Melbourne
Mr George Haddad	Full-time Member	1 Jul 2006	30 Jun 2014	M	Melbourne
Mr Ismail Hasan	Full-time Member	1 Jul 2009	30 Jun 2014	M	Sydney
Mr Brook Hely	Full-time Member	1 Jul 2009	30 Jun 2014	M	Melbourne
Ms Margret Holmes	Full-time Member	1 Jul 2009	30 Jun 2014	F	Melbourne
Mr Dominic Lennon	Full-time Member	14 Jul 2003	30 Jun 2014	M	Melbourne
Ms Philippa McIntosh	Full-time Member	15 Sep 1993	30 Jun 2010	F	Sydney
Mr David Mitchell	Full-time Member	7 Jul 1999	30 Jun 2010	M	Melbourne
Ms Louise Nicholls	Full-time Member	1 Oct 2001	30 Jun 2010	F	Sydney
Ms Kira Raif	Full-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Mr Shahyar Roushan	Full-time Member	1 Oct 2001	30 Jun 2010	M	Sydney
Mr James Silva	Full-time Member	14 Jul 2003	30 Jun 2014	M	Sydney
Mr Donald Smyth	Full-time Member	14 Jul 2003	30 Jun 2014	M	Brisbane
Ms Linda Symons	Full-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Mrs Mary Urquhart	Full-time Member	1 Jul 2006	30 Jun 2014	F	Melbourne
Mr Robert Wilson	Full-time Member	1 Jul 2002	30 Jun 2010	M	Sydney
Mr John Atkins	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Ms Diane Barnettson	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Ms Wendy Boddison	Part-time Member	28 Jul 1997	30 Jun 2010	F	Melbourne

Ms Nicole Burns	Part-time Member	1 Jul 2007	30 Jun 2010	F	Melbourne
Ms Mary Cameron	Part-time Member	1 Jul 2006	30 Jun 2014	F	Melbourne
Ms Catherine Carney	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Ms Jennifer Ciantar	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Timothy Connellan	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Mrs Bronwyn Connolly	Part-time Member	1 Jul 2007	30 Jun 2010	F	Sydney
Mr David Connolly AM	Part-time Member	1 Jul 2002	30 Jun 2010	M	Sydney
Mr Michael Cooke	Part-time Member	13 Jun 2000	30 Jun 2010	M	Sydney
Ms Angela Cranston	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Glen Cranwell	Part-time Member	1 Jul 2009	30 Jun 2014	M	Brisbane
Mrs Bernadette Cremean	Part-time Member	1 Jul 2007	30 Jun 2010	F	Melbourne
Dr Susan Crosdale	Part-time Member	1 Jul 2007	30 Jun 2010	F	Sydney
Ms Gabrielle Cullen	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Mr Ted Delofski	Part-time Member	1 Oct 2001	30 Jun 2010	M	Sydney
Mr David Dobell	Part-time Member	1 Jul 2006	30 Jun 2014	M	Sydney
Mr Jonathon Duignan	Part-time Member	8 Jul 2001	30 Jun 2010	M	Sydney
Ms Suseela Durvasula	Part-time Member	1 Oct 2001	30 Jun 2010	F	Sydney
Ms Jennifer Ellis	Part-time Member	15 Jun 1999	30 Jun 2010	F	Melbourne
Ms Mary-Anne Ford	Part-time Member	1 Jul 2007	30 Jun 2010	F	Sydney
Ms Bronwyn Forsyth	Part-time Member	25 Sep 2006	30 Jun 2014	F	Sydney

Ms Mila Foster	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Adolfo Gentile	Part-time Member	28 Jul 1997	30 Jun 2010	M	Melbourne
Dr Alan Gregory AM	Part-time Member	12 Jul 1999	30 Jun 2010	M	Melbourne
Ms Genevieve Hamilton	Part-time Member	28 Aug 2000	30 Jun 2010	F	Melbourne
Mr Luke Hardy	Part-time Member	15 Sep 1993	30 Jun 2010	M	Sydney
Ms Kerry-Anne Hartman	Part-time Member	28 Jul 1997	30 Jun 2010	F	Sydney
Ms Megan Hodgkinson	Part-time Member	23 Mar 2000	30 Jun 2010	F	Melbourne
Ms Diane Hubble	Part-time Member	1 Jul 2006	30 Jun 2014	F	Melbourne
Mr Rodney Inder	Part-time Member	1 Oct 2001	30 Jun 2010	M	Sydney
Mr Andrew Jacovides	Part-time Member	15 Sep 1993	30 Jun 2010	M	Sydney
Ms Henrike (Ricky) Johnston	Part-time Member	12 Jul 1999	30 Jun 2010	F	Brisbane
Ms Deborah Jordan	Part-time Member	1 Jul 2007	30 Jun 2010	F	Melbourne
Ms Suhad Kamand	Part-time Member	1 Jul 2009	30 Jun 2014	F	Sydney
Ms Kay Kirmos	Part-time Member	14 Jul 2003	30 Jun 2014	F	Melbourne
Ms Suzanne Leal	Part-time Member	1 Oct 2001	30 Jun 2010	F	Sydney
Mr Gary Ledson	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Ms Patricia Leehy	Part-time Member	28 Jul 1997	30 Jun 2010	F	Sydney
Ms Christine Long	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Bruce MacCarthy	Part-time Member	1 Jul 2009	30 Jun 2014	M	Sydney

Ms Jane Marquard	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Ms Rosemary Mathlin	Part-time Member	1 Jul 1993	30 Jun 2010	F	Sydney
Ms Lilly Mojsin	Part-time Member	28 Jul 1997	30 Jun 2010	F	Sydney
Ms Deborah Morgan	Part-time Member	13 Jun 2000	30 Jun 2010	F	Adelaide
Ms Mara Moustafine	Part-time Member	1 Jul 2009	30 Jun 2014	F	Sydney
Mrs Sydelle Muling	Part-time Member	14 Jul 2003	30 Jun 2014	F	Melbourne
Mr Andrew Mullin	Part-time Member	14 Jul 2003	30 Jun 2014	M	Sydney
Ms Ann O'Toole	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Christopher Packer	Part-time Member	1 Oct 2001	30 Jun 2010	M	Sydney
Ms Susan Pinto	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Ms Pauline Pope	Part-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Mr Noel Pullen	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Mr Gregory Robinson	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Ms Louise Spieler	Part-time Member	14 Jul 2003	30 Jun 2014	F	Melbourne
Ms Pamela Summers	Part-time Member	1 Jul 2009	30 Jun 2014	F	Sydney
Ms Karen Synon	Part-time Member	1 Oct 2001	30 Jun 2010	F	Melbourne
Dr David Thomas	Part-time Member	12 Jul 1999	30 Jun 2010	M	Melbourne
Mr Peter Tyler	Part-time Member	1 Jul 2007	30 Jun 2010	M	Melbourne
Ms Lisa Ward	Part-time Member	1 Oct 2001	30 Jun 2010	F	Perth
Ms Phillipa Wearne	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney



Ms Belinda Wells	Part-time Member	1 Jul 2009	30 Jun 2014	F	Adelaide
Ms Carolyn Wilson	Part-time Member	1 Jul 2009	30 Jun 2014	F	Adelaide
Mr David Young	Part-time Member	14 Jul 2003	30 Jun 2014	M	Melbourne



## APPENDIX 2

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# Freedom of Information



## Appendix 2 – Freedom of Information

### INTRODUCTION

This statement is published to meet the requirements of section 8 of the *Freedom of Information Act 1982* (the FOI Act). Section 8 requires each Australian Government agency to publish information about the way it is organised, and its functions, powers, and arrangements for public participation in the work of the agency. Agencies are also required to publish the categories of documents held and how members of the public can gain access to such documents.

This statement is correct as at 30 June 2009 and should be read in conjunction with the more detailed information in the rest of this Annual Report.

### ESTABLISHMENT

The Tribunals are established under the *Migration Act 1958*. The MRT commenced on 1 June 1999 and the RRT commenced on 1 July 1993.

### ORGANISATION

The organisational structure of the Tribunals is described in Parts 3 and Part 5 of this Report.

### FUNCTIONS

The Tribunals conduct independent final merits reviews of visa and visa-related decisions made under the Migration Act and Migration Regulations. The Tribunals are required to provide a mechanism of review that is fair, just, economical, informal and quick.

### POWERS

The Tribunals have the power to affirm, vary or set aside a decision under review, to remit (return) a matter to the Department for reconsideration in accordance with permissible directions, or to substitute a new decision. They have powers to conduct investigations, to summon witnesses and documents and to take evidence on oath or affirmation.

### ARRANGEMENTS FOR OUTSIDE PARTICIPATION

Decisions are made by the MRT or the RRT as formally constituted under the Migration Act for a particular case.

Review applicants are entitled to give written arguments and written statements relating to the facts and issues arising in their review applications, and may appear before the MRT or the RRT to present arguments and give oral evidence. The Secretary of the Department is entitled to give the Tribunals written arguments relating to the issues arising in a review application.

The MRT-RRT Community Liaison Meetings provide a forum for the Tribunals to meet, exchange information with and consult interested stakeholders. Representatives who attend the meetings come from migration and refugee advocacy groups, human rights bodies and other government agencies. There is an exchange of information and consultation on the Tribunals' processes, caseloads, and relevant legislative and other developments.

The Tribunals hold regular liaison meetings with the Department to discuss caseload trends and general business issues.

## CATEGORIES OF DOCUMENTS

The Tribunals maintain the following categories of documents:

- case files and Departmental files;
- case records;
- decision records;
- statistics;
- application and other forms;
- procedures;
- legal advices;
- audio recordings of proceedings;
- reference and research materials; and
- administrative and policy files.

The Tribunals do not have any documents that are available for purchase by the public.

## FACILITIES FOR ACCESS TO INFORMATION

The Tribunals provide access to documents under the Migration Act or under the FOI Act by supervised access to the original documents and/or by providing copies of documents. Access is available at each of the Tribunals' registries.

The Tribunals maintain an internet website which provides electronic access to certain statistical information, policies and procedures, application and other forms and reference materials.

## ACCESS TO DOCUMENTS UNDER THE MIGRATION ACT

Section 362A of the Migration Act provides that MRT applicants and their representatives are entitled to have access to any written material, or a copy of any written material, given or produced to the MRT for the purposes of the review. This right of access means that most requests for access received by the MRT are dealt with outside the FOI Act.

Applicants can obtain access to documents held by the MRT relating to their review application by making a written request using form MR16 Request for Access to Documents available from Tribunal registries or [www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au). No fee applies.

## ACCESS TO DOCUMENTS UNDER THE FOI ACT

Any person may make a request under the FOI Act for access to documents held by the Tribunals. The request must be made in writing and set out sufficient details to identify the information sought. The MR3 Freedom of Information form for seeking access to documents is available from the Tribunals' registries or the Tribunal website. People applying for access are asked to provide an address in Australia to which the requested information can be sent and to provide a day-time phone number in case there is a need to seek further information.

An application fee of \$30 may be payable. The Tribunals' policy in relation to the application fee is set out on the MR3 Freedom of Information form. The Tribunals will not normally require payment of the \$30 application fee in relation to a request by a person for access to information or documents about their own case. However, the Tribunals reserve the right to do so where there are repeat requests. A Tribunal Officer will advise whether a fee is required after the application is received.

The Tribunals also have a policy in relation to the imposition of charges for processing an FOI request (also set out on the MR3 Freedom of Information form). Charges may apply for processing a request other than a request by a person for information about their own case, where the response will require the photocopying of 50 or more pages, or take 3 or more hours of staff time to process. Charges may also apply if multiple requests are made for documents already provided under the FOI Act. If charges are going to be imposed on processing an FOI request, a Tribunal Officer will contact the person making the request.

During 2008–09, the MRT received 1,455 requests for access under section 362A of the Migration Act, and finalised 1,369 requests.

During 2008–09, the Tribunals received 720 requests for access under the FOI Act, and finalised 724 requests.

## INITIAL CONTACT FOR INQUIRIES

Requests for access to documents under section 362A of the Migration Act should be addressed to the registry dealing with the case.

Initial inquiries concerning access to documents or other matters relating to FOI may be made at any registry. An FOI request can be made at any registry.

Addresses and contact information are provided on page 2 of this Report.

APPENDIX 3

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# Additional staffing statistics



## Appendix 3 – Additional staffing statistics

The following membership and staffing statistics are provided in addition to those set out in Part 5 of the Report.

### Ongoing and non-ongoing staff

	30 June 2009			30 June 2008		
	Women	Men	Total	Women	Men	Total
Ongoing full-time	133	88	221	148	90	238
Ongoing part-time	30	6	36	26	6	32
Non-ongoing full-time	6	4	10	5	6	11
Non-ongoing part-time	0	0	0	1	0	1
Casual	1	0	1	1	0	1
<b>Total</b>	<b>170</b>	<b>98</b>	<b>268</b>	<b>181</b>	<b>102</b>	<b>283</b>

	30 June 2007		
	Women	Men	Total
Ongoing full-time	128	83	211
Ongoing part-time	25	8	33
Non-ongoing full-time	13	8	21
Non-ongoing part-time	1	1	2
Casual	4	1	5
<b>Total</b>	<b>171</b>	<b>101</b>	<b>272</b>

### Members and staff by location 30 June 2009

	Sydney	Melbourne	Brisbane	Adelaide	Perth	Total
Members	54	34	2	1	1	92
Staff	185	83	0	0	0	268
<b>Total</b>	<b>239</b>	<b>117</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>360</b>

### Members and staff by age 30 June 2009

Age	Staff	Members
Less than 25	3	0
25 to 34	79	1
35 to 44	76	20
45 to 54	71	38
55 to 64	31	28
Over 65	8	5



## APPENDIX 4

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# Disability action plan



# Appendix 4 – Disability action plan

Purchaser role	Performance indicator	Performance measure	Performance 2008–09	Goals for 2009–10	Actions for 2009–10
	<p>1. Publicly available information on agreed purchasing specifications are available in accessible formats* for people with disabilities.</p> <p>* Accessible electronic formats include ASCII (or .txt) files and html for the web. Non electronic accessible formats include Braille, audio cassette, large print and easy English. Other ways of making information accessible include video captioning and AUSLAN interpreters.</p>	<p>Percentage of publicly available purchasing specifications requested and provided in:</p> <ul style="list-style-type: none"> <li>• accessible electronic formats; and</li> <li>• accessible formats other than electronic.</li> </ul> <p>Average time taken to provide accessible material in:</p> <ul style="list-style-type: none"> <li>• electronic formats; and</li> <li>• formats other than electronic.</li> </ul>	<p>All requests for alternative formats were met.</p>	<p>Seek to meet any requests for information in accessible formats.</p>	<p>Seek to meet any requests for information in accessible formats.</p>
	<p>2. Processes for purchasing goods or services with a direct impact* on the lives of people with disabilities are developed in consultation with people with disabilities.</p> <p>* Direct impact means those goods and services which will have an explicit consequence, effect or influence on people with disabilities. It includes the purchase of mainstream goods and services as well as specialist disability services.</p>	<p>Percentage of processes for purchasing goods or services that directly impact on the lives of people with disabilities that are developed in consultation with people with disabilities.</p>	<p>Purchasing for an individual with a disability is done in consultation with that individual.</p>	<p>Maintain processes.</p>	<p>Maintain processes.</p>

<p>3. Purchasing specifications* and contract requirements for the purchase of goods and services are consistent with the requirements of the <i>Disability Discrimination Act 1992</i>.</p> <p>* Purchasing agreements can include contracts, memoranda of understanding and service level agreements.</p>	<p>Percentage of purchasing specifications for goods and services that specify that tender organisations must comply with the Disability Discrimination Act.</p> <p>Percentage of contracts for the purchase of goods and services that require the contractor to comply with the Disability Discrimination Act.</p>	<p>All requests for tender and draft contracts issued included a clause requiring compliance with the DD Act.</p>	<p>Include specifications and requirements in memoranda of understanding and service level agreements.</p> <p>Seek to include specifications and requirements in memoranda of understanding and service level agreements as they are reviewed or renewed.</p>
<p>4. Publicly available performance reporting against the purchase contract specifications requested in accessible formats for people with disabilities is provided.</p>	<p>Percentage of publicly available performance reports against the contract purchasing specification requested and provided in :</p> <ul style="list-style-type: none"> <li>• accessible electronic formats; and</li> <li>• accessible formats other than electronic.</li> </ul> <p>Average time taken to provide accessible material in:</p> <ul style="list-style-type: none"> <li>• electronic formats; and</li> <li>• formats other than electronic.</li> </ul>	<p>All requests for alternative formats were met.</p>	<p>Meet all requests for alternative formats.</p> <p>Continue to meet all requests for alternative formats.</p>

## Provider role

Performance indicator	Performance measure	Performance 2008–09	Goals for 2009–10	Actions for 2009–10
1. Established mechanisms for quality improvement and assurance.	Evidence of quality improvement and assurance systems in operation.	No established mechanisms for quality improvement and assurance which specifically address accessibility for people with disabilities.	Consider development of mechanisms for quality improvement and assurance.	Consider development of mechanisms for quality improvement and assurance.
2. An established service charter that specifies the roles of the Tribunals and applicants and service standards which address accessibility for people with disabilities.	Established service charter that adequately reflects the needs of people with disabilities in operation.	The Service Charter advises of facilities which are available for people with disabilities.	Maintain Service Charter and apply service standards.	Maintain Service Charter and apply service standards.
3. Complaints / grievance mechanisms, including access to external mechanisms, in place to address concerns raised about performance.	Established complaints / grievance mechanisms, including access to external mechanisms, in operation.	No complaints about disability related issues were received.	Maintain 2008–09 record of no complaints.	Continue to provide complaint/ grievance mechanism.
4. Premises and facilities are accessible and useable by people with a disability.	Degree to which premises and facilities are accessible and useable by people with a disability.	Buildings provide level street access and are close to transport links. The general fit out and disabled facilities are consistent with relevant laws and building codes.	Maintain existing premises and facilities.	Maintain existing premises and facilities.

APPENDIX 5

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# Compliance index



## Appendix 5 – Compliance index

Agencies prepare Annual Reports to Parliament under requirements approved by the Joint Committee of Public Accounts and Audit. Detailed below are the page numbers relating to each of the Annual Report requirements.

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# Glossary of terms and abbreviations



## Glossary of terms and abbreviations

<b>AASB</b>	Australian Accounting Standards Board.
<b>AAT</b>	The Administrative Appeals Tribunal is a statutory body that provides independent merits review of a range of government decisions.
<b>Access to documents</b>	The Tribunals allow access to documents they hold in accordance with the Migration Act and the FOI Act.
<b>Act, the</b>	The <i>Migration Act 1958</i> is the principal legislation which establishes the Tribunals and sets out their functions, powers and procedures. The Act is the legislative basis for all decisions reviewable by the Tribunals.
<b>AEIFRS</b>	The Australian Equivalents to International Financial Reporting Standards.
<b>affirm</b>	To ratify the decision under review – the original decision remains unchanged and in force.
<b>AIAL</b>	Australian Institute of Administrative Law.
<b>ANAO</b>	The Australian National Audit Office is a specialist public sector practice providing a full range of audit services to the Parliament and public sector agencies and statutory bodies.
<b>ANU</b>	The Australian National University.
<b>applicant</b>	The applicant for review.
<b>APEC</b>	Asia-Pacific Economic Cooperation.
<b>appropriations</b>	Amounts authorised by Parliament to be drawn from the Consolidated Revenue Fund or Loan Fund for a particular purpose, or the amount so authorised. Appropriations are contained in specific legislation – notably, but not exclusively, the Appropriation Acts.
<b>APS</b>	The Australian Public Service.
<b>APS employee</b>	A person engaged under section 22, or a person who is engaged as an APS employee under section 72, of the <i>Public Service Act 1999</i> .
<b>ARC</b>	The Administrative Review Council.
<b>asylum seeker</b>	An asylum seeker is a person who has left their country of origin, has applied for recognition as a refugee in another country and is awaiting a decision on their application.
<b>ATO</b>	Australian Taxation Office.
<b>AusAID</b>	The Australian Agency for International Development.
<b>AustLII</b>	The Australasian Legal Information Institute publishes a website that provides free internet access to Australian legal materials, including published MRT and RRT decisions.
<b>authorised recipient</b>	A person authorised by the applicant to do things on behalf of the applicant that consist of, or include, receiving documents in connection with a review.

<b>AWA</b>	Australian Workplace Agreement.
<b>bridging visa</b>	A bridging visa is a temporary visa generally granted to eligible non-citizens to enable them to remain lawfully in Australia for one of a number of specified reasons, the most common one being while they are awaiting the outcome of another, substantive, visa application.
<b>case</b>	It is the Tribunals' practice to count multiple applications for review as a single case where the legislation provides that the applications for review can be handled together, usually where members of a family unit have applied for the grant of visas at the same time.
<b>CaseMate</b>	CaseMate is the Tribunals' case management system. It replaced the separate MRT and RRT case management systems in April 2006. It is a customised database that contains, in electronic form, information on individual cases.
<b>CDS</b>	The Commonwealth Disability Strategy recognises that the Australian Government has an impact on the lives of people with disabilities through its many programs, services and facilities.
<b>CEO</b>	The Chief Executive Officer is the Principal Member, who is responsible for the operations and administration of the Tribunals.
<b>Chief Financial Officer</b>	The Chief Financial Officer is the executive responsible for both the strategic and operational aspects of financial planning, management and record-keeping in APS departments and agencies. The Registrar is the Chief Financial Officer of the Tribunals.
<b>COAT</b>	The Council of Australasian Tribunals.
<b>Comcare</b>	A statutory authority responsible for workplace safety, rehabilitation and compensation.
<b>Commonwealth Ombudsman</b>	Professor John McMillan is the Commonwealth Ombudsman. His office considers and investigates complaints about Australian Government departments and agencies, including the Tribunals.
<b>competitive tendering and contracting</b>	The process of contracting out the delivery of government activities previously performed by an agency to another organisation. The activity is submitted to competitive tender, and the preferred provider of the activity is selected from the range of bidders by evaluating offers against predetermined selection criteria.
<b>Conduct of hearings</b>	Principal Member Direction 3/2007: Conduct of hearings provides guidance to Members of the Tribunals about the provision of information to applicants during hearings of the Tribunals.
<b>constitution</b>	Constitution is the formal process where a case is allocated to a Member for the purposes of a particular review. Once a Member is constituted as the Tribunal for the purposes of a particular review, that Member is responsible for the decision-making processes and the decision of the Tribunal for that particular review.

<b>consultancy</b>	One particular type of service delivered under a contract for services. A consultant is an entity – whether an individual, a partnership or a corporation engaged to provide professional, independent and expert advice or services.
<b>corporate governance</b>	The process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.
<b>CPA</b>	The Commonwealth Public Account.
<b>CSS</b>	The Commonwealth Superannuation Scheme.
<b>current assets</b>	Cash or other assets that would, in the ordinary course of operations, be readily consumed or convertible to cash within 12 months after the end of the financial year being reported.
<b>current liabilities</b>	Liabilities that would, in the ordinary course of operations, be due and payable within 12 months after the end of the financial year under review.
<b>DIAC</b>	The Department of Immigration and Citizenship (DIAC). Officers of DIAC hold delegations to make the primary decisions reviewable by the Tribunals.
<b>decision statement</b>	The formal document which sets out the Tribunal decision and reasons in writing for a particular review.
<b>Deputy Principal Member</b>	The Deputy Principal Member assists the Principal Member in relation to the operations of the RRT.
<b>Deputy Registrar</b>	The Deputy Registrar of the Tribunals assists the Registrar.
<b>Department, the</b>	The Department of Immigration and Citizenship (the Department or DIAC).
<b>DFAT</b>	The Department of Foreign Affairs and Trade.
<b>District Registrar</b>	District Registrars assist the Registrar. A District Registrar is responsible for day to day operations and management of a Tribunal registry.
<b>EL</b>	Executive level officer of the APS.
<b>executive officer</b>	The executive officer is the Principal Member. The Principal Member is responsible for the overall operation and administration of the Tribunals.
<b>expenditure</b>	The total or gross amount of money spent by the Government on any or all of its activities.
<b>FBT</b>	Fringe Benefits Tax.
<b>FCA</b>	The Federal Court of Australia.
<b>FC AFC</b>	The Full Court of the Federal Court of Australia.
<b>Finance</b>	The Department of Finance and Deregulation.
<b>financial results</b>	The results shown in the financial statements of an agency.

<b>FMA</b>	Financial Management and Accountability.
<b>FMA Act</b>	The <i>Financial Management and Accountability Act 1997</i> is the principal legislation governing the collection, payment and reporting of public moneys, the audit of the Commonwealth Public Account and the protection and recovery of public property. FMA Regulations and Orders are made pursuant to the FMA Act.
<b>FMCA</b>	The Federal Magistrates Court of Australia.
<b>FMO</b>	Finance Minister's Orders.
<b>FOI</b>	Freedom of Information.
<b>FOI Act</b>	The <i>Freedom of Information Act 1982</i> (the FOI Act) creates a legally enforceable right of public access to documents in the possession of agencies.
<b>former visa holder</b>	A person who previously held a visa. For example a person who has had his or her visa cancelled.
<b>GST</b>	Goods and Services Tax (GST) is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia.
<b>Guidance on the Assessment of Credibility</b>	This paper provides an overview of general principles concerning the assessment of credibility of applicants and witnesses giving evidence before the MRT and the RRT. It also contains information about the practices that may be observed by the Tribunals when undertaking an assessment of credibility.
<b>Guide to Refugee Law in Australia</b>	The <i>Guide to Refugee Law in Australia</i> was developed in 1996 and is maintained by the Legal Services Section as a reference tool for Members and staff of the RRT. It contains an analysis of the legal issues relevant to the determination of refugee status in Australia and is regularly updated to reflect developments in the law.
<b>Guiding Principles for Quality Decision Making</b>	This paper was developed by the Principal Member in a workshop session with Tribunal Members at the 2008 National Members Conference. It sets out guiding principles for quality decision making in the Tribunals.
<b>HCA</b>	The High Court of Australia.
<b>hearing</b>	An appearance by a person before either the MRT or the RRT. The appearance may be in person, or by video or telephone link.
<b>HREOC</b>	The Human Rights and Equal Opportunity Commission.
<b>IARC</b>	The Immigration Advice and Rights Centre.
<b>IARLJ</b>	The International Association of Refugee Law Judges.
<b>IASB</b>	International Accounting Standards Board.
<b>IFRS</b>	International Financial Reporting Standards.
<b>IGC</b>	Intergovernmental Committee.
<b>IT</b>	Information technology.

<b>IT&amp;C</b>	Information technology and communications.
<b>IRT</b>	The Immigration Review Tribunal. The IRT operated between 1989 and 1999. It was replaced by the MRT.
<b>Management Board</b>	The Management Board (the Board) is a body that manages the strategic operations of the Tribunals. It consists of the Principal Member, the Deputy Principal Member of the RRT, the Registrar and Senior Members.
<b>jurisdiction</b>	Jurisdiction defines the scope of the Tribunals' power to review decisions.
<b>Legal Services Directions</b>	Issued by the Attorney-General under the Judiciary Act 1903, the Legal Services Directions require Chief Executives of agencies to ensure that their agencies' legal services purchasing, including expenditure, is appropriately recorded and monitored and that, by 30 October each year, the agency makes publicly available records of the legal services expenditure for the previous financial year.
<b>MARA</b>	The Migration Agents Registration Authority undertakes the role of regulator to the migration advice industry. It is responsible for registration, complaints, professional standards, education and training for migration agents.
<b>Member</b>	The Tribunals comprise of Members. Members are constituted as the MRT or the RRT for the purposes of a particular review and are responsible for the decision-making processes and the decision of the MRT or the RRT for that particular review.
<b>merits review</b>	Merits review is the administrative reconsideration of the subject matter of the decision under review.
<b>MIA</b>	The Migration Institute of Australia is the professional association for Australian migration service providers worldwide. It represents registered migration agents who provide professional migration services to families, businesses and industries throughout Australia.
<b>MIAC</b>	The acronym MIAC is used to identify the Minister for Immigration and Citizenship in abbreviated court citations.
<b>migration agent</b>	A migration agent is someone who uses knowledge of migration procedures to offer advice or assistance to a person wishing to obtain a visa to enter or remain in Australia. They may be a lawyer or work for a voluntary or private organisation or company. A migration agent operating in Australia is required by law to be registered with the MARA.
<b>Minister, the</b>	The Minister for Immigration and Citizenship.
<b>MOU</b>	Memorandum of Understanding.
<b>MRT</b>	The Migration Review Tribunal.
<b>NAATI</b>	National Accreditation Authority for Translators and Interpreters.
<b>NGO</b>	Non-government organisation.

<b>non-ongoing APS employee</b>	An APS employee who is not an ongoing APS employee. A temporary employee engaged for a specified term or the duration of a specified task. Non-ongoing employees may be engaged on a full-time or part-time basis.
<b>notification</b>	The act of formally making known or giving notices.
<b>OHS</b>	Occupational health and safety.
<b>ongoing APS employee</b>	A person engaged as an ongoing APS employee as mentioned in paragraph 22(2)(a) of the Public Service Act 1999. A person employed on a continuing basis.
<b>OPA</b>	Official Public Account.
<b>operations</b>	Functions, services and processes performed in pursuing the objectives or discharging the functions of an agency.
<b>outcomes</b>	The results, impacts or consequence of actions by Government on the Australian community.
<b>outputs</b>	The goods or services produced by agencies on behalf of Government for external organisations or individuals. Outputs include goods and services produced for other areas of Government external to an agency.
<b>PAES</b>	Portfolio Additional Estimates Statements.
<b>PBS</b>	Portfolio Budget Statements.
<b>performance pay</b>	Also known as performance-linked bonuses and usually taking the form of a one-off payment in recognition of performance. Retention and sign-on payments are not considered to be performance pay, and nor is performance-linked advancement which includes advancement to higher pay points which then becomes the employee's nominal salary.
<b>PMD</b>	Principal Member Direction.
<b>PRC</b>	The People's Republic of China.
<b>primary decision</b>	A primary decision is the decision subject to review by either the MRT or the RRT.
<b>Principal Member</b>	The Principal Member is the executive officer of the Tribunals and is responsible for the Tribunals' overall operations and administration; ensuring that their operations are fair, just, economical, informal and quick as practicable; allocating work, determining guidelines and issuing written directions.
<b>Principal Registry</b>	The Principal Registry is the Tribunals' national office. The Tribunals' executive functions are performed at the Principal Registry.
<b>Privacy Act</b>	The <i>Privacy Act 1988</i> provides protection for personal information.
<b>protection visas</b>	Protection visas are a class of visas a criterion for which the applicant for the visa is a non-citizen in Australia to whom Australia has protection obligations under the Refugees Convention or a non-citizen in Australia who is the spouse or a dependant of a non-citizen who holds a protection visa.

<b>PSS</b>	Public Sector Superannuation Scheme.
<b>purchaser/ provider arrangements</b>	Arrangements under which the outputs of one agency are purchased by another agency to contribute to outcomes. Purchaser/provider arrangements can occur between Australian Government agencies or between Australian Government agencies and State/Territory government agencies or private sector bodies.
<b>RACS</b>	The Refugee Advice and Casework Service.
<b>refoulement</b>	The return by a state, in any manner whatsoever, of an individual to the territory of another state in which he or she may be persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.
<b>refugee sur place</b>	A person who was not a refugee when she left her country, but who becomes a refugee at a later date, is called a refugee sur place. A person may become a refugee sur place due to circumstances arising in her country of origin during her absence or as a result of her own actions, such as associating with refugees already recognised, or expressing her political views in her country of residence.
<b>Refugees Convention</b>	Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 as amended by the Protocol Relating to the Status of Refugees done at New York on 31 January 1967.
<b>Registrar</b>	The Registrar of the Tribunals assists the Principal Member with the administrative management of the Tribunals.
<b>Registry</b>	A registry is a Tribunal office.
<b>Regulations, the</b>	The Migration Regulations 1994, unless otherwise indicated.
<b>remit</b>	To send the matter back for reconsideration. A Tribunal may remit a decision to DIAC when it decides that a visa applicant has satisfied the criteria which the primary decision-maker found were not satisfied, or that the visa applicant is a refugee.
<b>representative</b>	A representative is someone who can forward written submissions and written evidence to the Tribunals, contact the Tribunals on the applicant's behalf, and accompany the applicant to any meeting or hearing arranged by the Tribunals. With very limited exceptions, a representative must be a registered migration agent.
<b>review applicant</b>	A review applicant is a person who has made an application for review to either of the Tribunals.
<b>review application</b>	A review application is an application for review that has been made to either of the Tribunals.
<b>reviewable decision</b>	A reviewable decision is a decision that can be reviewed by either the MRT or the RRT. Reviewable decisions are defined in the Act and the Regulations.
<b>RRT</b>	The Refugee Review Tribunal.
<b>RSD</b>	Refugee status determination.
<b>RSRC</b>	The Refugee Status Review Committee.



<b>Senior Management Group</b>	The Senior Management Group (SMG) comprises the Registrar, the Deputy Registrar, District Registrars and Directors. This group meets at least once a month and deals with Tribunal-wide management and planning issues.
<b>Senior Member</b>	Senior Members provide guidance to and are responsible for Members within each of the registries.
<b>service charters</b>	It is Government policy that departments/agencies which provide services directly to the public have service charters in place. A service charter is a public statement about the service that a department/agency will provide and what customers can expect from the department/agency.
<b>SES</b>	Senior Executive Service of the APS.
<b>set aside</b>	To revoke the decision under review – the original decision is deemed not to have been made. A Tribunal sets aside a decision when it decides that the primary decision should be changed. When a Tribunal sets aside a primary decision it may substitute a new decision in place of the primary decision.
<b>source country</b>	The country of nationality or citizenship of a visa applicant.
<b>SSAT</b>	The Social Security Appeals Tribunal.
<b>statutory objective</b>	The Tribunals' statutory objective is to provide a mechanism of review that is fair, just, economical, informal and quick. The MRT and the RRT's statutory objectives are set out in sections 353 and 420 respectively of the Act.
<b>Tribunal</b>	The Migration Review Tribunal (the MRT) or the Refugee Review Tribunal (the RRT).
<b>Tribunals</b>	The Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT), unless otherwise indicated.
<b>Tribunals' Plan</b>	The Tribunals' Plan 2007–2010 replaces the MRT-RRT Corporate Plan 2005–07. It is a high level document setting out the Tribunals' key strategic aims and priorities and core values.
<b>UNHCR</b>	The United Nations High Commissioner for Refugees.
<b>VRB</b>	The Veterans' Review Board.
<b>visa applicant</b>	A visa applicant is a person who has made a visa application.
<b>workplace diversity</b>	Managing workplace diversity well requires the creation of an inclusive environment that values and utilises the contributions of people of different backgrounds, experiences and perspectives.



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