



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

Migration Review Tribunal Refugee Review Tribunal

ANNUAL REPORT
2009–2010

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



**Migration Review Tribunal
Refugee Review Tribunal**

**ANNUAL REPORT
2009–2010**

Migration Review Tribunal and Refugee Review Tribunal Annual Report 2009–2010

Published by the Migration Review Tribunal and the Refugee Review Tribunal.

Design, artwork and printing by ZOO Advertising.

Cover image: “two sides of every story”.

Contact officer for this report

For all enquiries contact Hilary Lovibond, Deputy Registrar (A/g), Migration Review Tribunal and Refugee Review Tribunal, GPO Box 1333, Sydney NSW 2001; or by telephoning (02) 9276 5060 or faxing (02) 9276 5099.

© Commonwealth of Australia 2010

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney General’s Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>.

ISSN 1833–8518 (Print)

Contact details

The tribunals have registries in Sydney and Melbourne, open from 8.30am to 5pm on working days. The Principal Registry address is GPO Box 1333, Sydney NSW 2001.

NEW SOUTH WALES

Street address

Level 11, 83 Clarence Street,
Sydney NSW 2000

Telephone: (02) 9276 5000

Fax: (02) 9276 5599

Postal address

GPO Box 1333 Sydney NSW 2001

VICTORIA

Street address

Level 12, 460 Lonsdale Street,
Melbourne VIC 3000

Telephone: (03) 8600 5900

Fax: (03) 8600 5801

Postal address

PO Box 14158 Melbourne VIC 8001

Applications for review may also be lodged at the Administrative Appeals Tribunal registries in Adelaide, Brisbane and Perth:

ADELAIDE

11th Floor, Chesser House, 91 Grenfell Street,
Adelaide SA 5000

BRISBANE

Level 4, Harry Gibbs Commonwealth
Law Courts Building, 119 North Quay,
Brisbane QLD 4000

PERTH

Level 5, 111 St Georges Terrace, Perth
WA 6000

NATIONAL TELEPHONE ENQUIRY NUMBER

For further information contact the tribunals on their information line 1300 361 969. Local call charges apply from anywhere within Australia. Not available from mobile telephones.

TRANSLATING AND INTERPRETING SERVICE

To inquire about interpreting services for non-English speakers telephone 131 450 from anywhere in Australia 24 hours a day, 7 days a week.

Website

www.mrt-rrt.gov.au

E-mail

enquiries@mrt-rrt.gov.au

ABN

50 760 799 564



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

22 October 2010

The Hon Chris Bowen MP
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 2010.

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 2010.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Denis O'Brien', written over a horizontal line.

Denis O'Brien
Principal Member

Contents

Contact information	2
Letter to Minister	3
The tribunals at a glance	7
Part 1 – Principal Member’s report	9
Part 2 – The role of the tribunals	13
Merits review	14
Matters reviewed by the MRT	15
Matters reviewed by the RRT	15
Applying for review	16
The conduct of reviews	17
Information available to assist applicants	18
Decisions	19
Vision, purpose and values	19
Membership as at 1 July 2010	20
Staff organisational chart	21
Part 3 – Performance report	24
Performance framework	24
Financial performance	26
Overview of caseload	26
Lodgements	27
Statistics	28
Conduct of reviews	35
Interpreters at hearings	35
Outcomes of review	36
Timeliness	37
Judicial review	37
Social justice and equity	44
Complaints	47
Migration Agents	49
Community and interagency liaison	49
Major reviews	50
Significant changes in the nature of functions or services	50
Developments since the end of the year	50
Case studies	51

Part 4 – Management and accountability	59
Senior management	60
Corporate and operational plans	61
Ethical standards	62
Risk management	62
External scrutiny	63
Human resources	67
Members	68
Member professional development and performance	69
Staff	70
Workforce planning	72
Learning and development	72
Executive remuneration	73
Certified Agreement	73
Occupational health and safety	74
Workplace diversity	76
Disability strategy	77
Ecologically sustainable development and environmental performance	78
Purchasing	78
Assets management	79
Consultancy services	79
Purchaser/provider arrangements	80
Discretionary grants	80
Advertising and market research	80
Correction of material errors in previous Annual Report	80
Part 5 – Financial statements	81
Auditor’s report and opinion	82
Statement on financial statements	84
Table of contents to financial statements	85
Financial statements	86
Appendix 1 – Membership	119
Appendix 2 – Freedom of Information	125
Appendix 3 – Additional staffing statistics	129
Appendix 4 – Disability Action Plan	131
Appendix 5 – List of requirements	135
Glossary of terms and abbreviations	139
Index	149

List of figures and tables

Part 3 – Performance report

Table 3.1 – Performance information and results	25
Table 3.2 – Price of outputs	26
Caseload statistics	
Caseload overview	28
Lodgements	29
Cases on hand	31
Timeliness of reviews	32
Outcomes of review	33
Table 3.3 – Judicial review applications and outcomes as at 31 August 2010	38
Table 3.4 – Report against service standards	44
Table 3.5 – Complaints	48
Table 3.6 – Complaints to the Commonwealth Ombudsman	49

Part 4 – Management and accountability

Table 4.1 – Implementation of ANAO recommendations	65
Table 4.2 – Membership as at 30 June 2010	68
Table 4.3 – Membership as at 1 July 2010	69
Table 4.4 – Staff as at 30 June 2010	71
Table 4.5 – Salary range pay points as at 30 June 2010	73
Table 4.6 – Consultancy services let during 2009–10, of \$10,000 or more	79
Table 4.7 – Annual expenditure on consultancy contracts	80
Table 4.8 – Advertising services	80

The tribunals at a glance

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) 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 Rhys Jones (Acting)

	MRT	RRT	MRT and RRT
Established	1999	1993	
Cases lodged	8,332	2,271	10,603
Cases decided	7,580	2,157	9,737
Cases on hand	7,048	738	7,786
% of primary decisions set aside	45%	24%	40%
% of primary decisions affirmed	36%	71%	44%
% of cases withdrawn or otherwise resolved	19%	5%	16%
Average time taken to decide a case (weeks)	40	14	
% of decided cases where applicant represented	69%	55%	66%
Hearings arranged	6,569	2,954	9,523
% of decided cases where hearing held	56%	75%	60%
% of hearings where interpreter was required	61%	86%	67%
Languages and dialects			90
% of decisions taken to judicial review	3%	24%	
% of decisions set aside on judicial review	34%	10%	
Members			94
Staff			272
Cost			\$40.2m

Unless otherwise indicated, all information as at 30 June 2010 for the 2009–10 financial year.

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.

PART 1

Principal Member's report

Part 1 – Principal Member’s report



It gives me great pleasure to provide this report on the tribunals’ operations in a challenging year which was marked by increased application rates, shifts within our caseload and significant member and staff movement. 2009–10 has also seen the combined tribunals decide the largest number of cases since 2005–06; provide more and better information about our operations; and initiate enhanced arrangements for engagement with our stakeholders.

During the year the tribunals’ long-serving Registrar, John Lynch, left us. After moving in April on secondment to the Department of Immigration and Citizenship, he accepted a transfer to the Department in August. John was appointed as Registrar of the MRT and Registrar of the RRT in 2002, and,

with the then Principal Member, led the two tribunals through their administrative amalgamation. Throughout, John was focused on the quality of service and the good reputation of the tribunals and I can say from the feedback I receive that our decisions, our policies and the openness in which we operate are held in higher regard by our clients and stakeholders than at any time in the past. John’s departure is a great loss to the tribunals.

In April of this year, Ms Amanda MacDonald was appointed as the Deputy Principal Member of the MRT and the RRT. This is the first time that the tribunals have had a Deputy Principal Member across both tribunals. Ms MacDonald has a range of responsibilities, particularly in relation to the professionalism of the membership and community liaison activities.

The tribunals’ overall caseload increased in 2009–10, with a 12% increase in MRT lodgements more than compensating for the 11% decrease in RRT lodgements. With 9,737 cases finalised, the tribunals decided 18% more cases than were decided in 2008–09. However, this impressive result was offset by an increase in lodgements, with a total of 10,603 applications received for the year. Further strong growth is anticipated this year, with both MRT and RRT lodgements trending upwards over the last 3–4 months. Reducing the growth in the MRT backlog continues to be a key challenge.

Reflecting developments in migration legislation and policy, there were significant changes in the makeup of MRT lodgements. There was a large growth in student refusal and student cancellation cases, which increased by 180% and 75% respectively from 2008–09 levels, and a 37% decline in skilled cases.

There were also some notable changes in the representation of source countries within the RRT caseload. A large increase in Fijian lodgements moved Fiji to second ranking by source country, accounting for 11% of all RRT lodgements for the year, compared with its ninth ranking in 2008–09. China (PRC), with 33% of lodgements, remains the largest RRT caseload.

To respond to the increasing volume and shifting composition of the tribunals' caseload we have developed strategies, underpinned by extensive analysis of the caseload, to allocate cases to members in a way that makes the most efficient and effective use of member resources. In 2009–10 the target was to allocate 10,000 cases for the year and, in the end, 9,428 cases were allocated to members. This result was affected by the need to reallocate cases from 21 members who were not reappointed for a further term.

Following wide consultation with all staff and members and externally with members of the Community Liaison Groups on the proposed 2010–11 caseload and constitution direction, I issued a new Direction relating to the constitution of cases. *PMD1/2010 Caseload and Constitution* sets out case priorities, time standards and allocation and decision targets.

Caseload management has been a focus of attention and on Friday 23 July 2010 all members and senior managers attended a workshop in Sydney on *Managing our Caseload into the Future*. The primary aims of the workshop were to provide an opportunity to share and develop ideas about effective case management and to discuss the caseload and constitution arrangements set out in the new caseload and constitution direction. It was a very successful day with a focus on the need to deal with a growth in cases on hand and improve decision output and timeliness.

A very pleasing development during 2009–10 has been the large decline in the number and percentage of tribunal decisions taken to judicial review. Judicial review applications were lodged in relation to 750, or 7.7%, of tribunal decisions made in 2009–10 compared to 1,089, or 13.2%, of decisions made in 2008–09. A further very positive feature of judicial review outcomes for the year was the marked drop in the proportion of tribunal decisions set aside by the courts. On the RRT, 10.4% of the 508 judicial review applications lodged against decisions made during the year resulted in the tribunal decision being set aside, down from 14.1% and 15.5% respectively in the two previous years. On the MRT, 33.9% of the 242 judicial review applications lodged against decisions made during the year resulted in the tribunal decision being set aside. However, many of these were consent remittals as a result of changes in the law due to the High Court's decision in *Berenguel v MIAC* [2010] HCA8 and the Federal Court judgments in *Hossain & Mo* [2010] FCA 161/ [2010] FCA 162.

In June 2010 the Governor-General appointed 43 members to the tribunals for 5 years with effect from 1 July 2010. Eight full-time and 17 part-time members were appointed for a further term, and 8 full-time and 10 part-time Members were new appointments. An induction program was conducted for new members over 5 days in July 2010.

I believe it is important to seek the views and consider the needs of our stakeholders and this year the tribunals have placed renewed emphasis on engaging with our stakeholders and providing information about our operations. The initiatives

undertaken include development of a Stakeholder Engagement Plan, expanding our program of community liaison meetings to cover Brisbane, Perth and Adelaide in addition to Melbourne and Sydney, providing improved information on our website in the form of an “information for representatives” page and consulting extensively on the development of key policy and procedural documents.

Alongside this enhanced community engagement, I am pleased to report that the tribunals have further increased the proportion of decisions published to more than 40% across both tribunals and have also initiated publication of country advice products used by members to assist their decision making. Country advice products published on the tribunals’ website include general and specific country information and research responses to questions from members.

In a measure to enhance the accountability of the tribunals’ operations and their corporate governance, the tribunals have for the first time appointed an independent chair to the Audit and Risk Management Committee. Mr Jim Mitchell, a former NSW Deputy Auditor-General, has taken up this position and will guide the Committee in ensuring critical oversight of audit and risk matters.

As I have observed in previous reports, it is my view that the operations of the tribunals and the experience of clients in negotiating the review process could be enhanced if certain legislative changes were made. I am pleased that the policy platform of the incoming Government includes a commitment to review the merits and judicial review architecture under the Migration Act.

In closing, I would like to thank the members and staff of the tribunals for their contribution to the very positive outcomes achieved this year. Their dedication, diligence and concern for the needs of our clients have enabled the tribunals to maintain high standards of service while meeting the changing demands of our environment.

Denis O’Brien

Principal Member



PART 2

The role of the tribunals

Part 2 – 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 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 MRT-RRT 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.

Personal profile – Mosharef Chowdhury

I migrated to Sydney from Dhaka on 17 June 1994 with my wife, our little six year old daughter and 14 month old boy who cried on the plane all the way from Singapore to Sydney. I migrated to Australia with a great dream and expectations for a better life. Prior to our arrival in Australia, I worked as an Agricultural Extension Officer in the Department of Agriculture Extension in Bangladesh.

Settling in Australia was not an easy matter for us. We missed our families, friends and the comforts and luxuries of our life in Bangladesh. The Australian economy had gone through a severe recession at the time of our arrival, so it was hard for me to get a job. I decided to pursue further study. I was awarded a scholarship for a Master of Science program with the Sydney University, at the Orange Campus. My degree was converted to a PhD at a later time. My youngest son was born in November 1998 while we were living in Orange. We loved the clean environment and the friendly country people, but after four and half years we moved back to Sydney. After settling in Sydney, my wife and I started to look for jobs. My daughter and elder son started school and we gradually became used to life in Sydney.

Both of us started our first jobs as customer service officers in Coles Express. Later my wife got a job in New South Wales Department of Health and I started my job with the Tribunal in November 2003. In my current position in the NSW Registry, I observe legislative requirements and follow tribunal procedures and policy to provide a high standard of service to clients. Although this allows me to assist in meeting clients' needs, after about 7 years with the tribunals, I feel there is still long way to achieve my dream of a career.

We all enjoy a peaceful, secure and harmonious social life and the pristine environment of Australia. Australia is our home and my children don't even feel that we came from a different culture and environment.

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. 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 includes:

- Principal Member Directions on the conduct of reviews, putting information orally to applicants, management of detention cases and caseload and constitution arrangements
- the *Guide to Refugee Law in Australia* prepared by the tribunals' Legal Services Section
- guidelines on the assessment of credibility, vulnerable persons, expert opinion evidence, quality decision making, the use of interpreters, gender considerations and referrals of cases for Ministerial intervention consideration
- *Précis* – a bulletin produced 11 times per year, which summarises selected tribunal decisions, court judgments, country advice and selected statistics
- country advice information on more than 75 countries
- forms, brochures and factsheets
- statistics on caseloads and the timeliness of reviews
- a processing times calculator
- the tribunals' Service Charter
- a webpage specifically aimed at the needs of representatives
- a daily schedule for MRT and RRT hearings

Tribunal decisions are available on the AustLII website at 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 needs 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 20. A staff organisational chart is at page 21. An overview of information about the tribunals is set out in 'The tribunals at a glance' at page 7.



Membership as at 1 July 2010

Denis O'Brien MRT and RRT PRINCIPAL MEMBER

Amanda MacDonald MRT and RRT DEPUTY PRINCIPAL MEMBER

Linda Kirk
MRT and RRT
Senior Member
Vic

Peter Murphy
MRT and RRT
Senior Member
Vic

Kira Raif
MRT and RRT
A/g Senior Member
NSW

Irene O'Connell
MRT and RRT
Senior Member
NSW

Giles Short
MRT and RRT
Senior Member
NSW

Full-time Members
Tony Catavella
Paul Fisher
Margret Holmes
David Mitchell
Charles Powles
Mary Urquhart

Part-time Members
Wendy Boddison
Mary Cameron
Jennifer Ellis
Brook Hely
Deborah Jordan
Gary Ledson
Sydelle Muling
Alison Murphy
Karen Synon
Lisa Ward
Vanessa Moss

Full-time Members
Jennifer Beard
Danica Buljan
Patrick Francis
Rosa Gagliardi
George Haddad
Dominic Lennon
Adam Moore

Part-time Members
Melissa Bray
Nicole Burns
Tim Connellan
Megan Deane
Diane Hubble
Anthony Krohn
Peter Tyler
Belinda Wells
Carolyn Wilson
David Young

Full-time Members
John Cipolla
Denise Connolly
Suseela Durvasula
Ismail Hasan
Simon Jeans
Linda Symons
Robert Wilson

Part-time Members
Diane Barnetson
Catherine Carney-
Osborn
Jonathon Duignan
Bronwyn Forsyth
Rowena Irish
Suhad Kamand
Suzanne Leal
Jane Marquard
Ann O'Toole
Phillippa Wearne

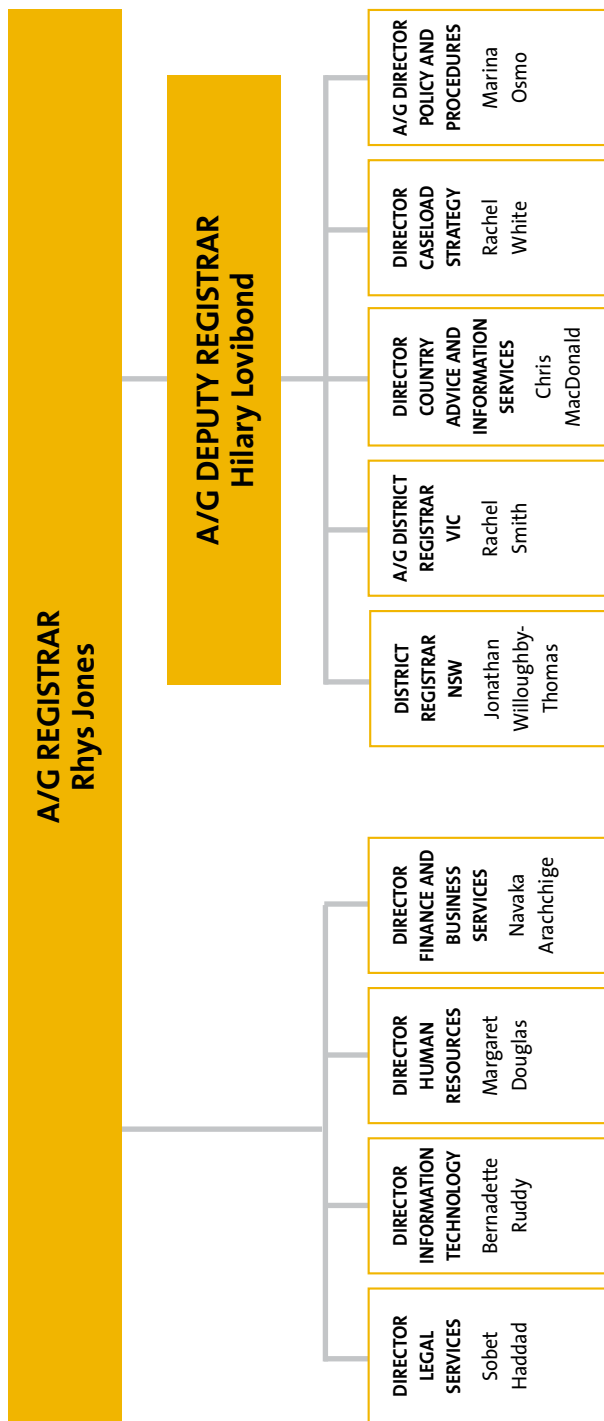
Full-time Members
Richard Detewlany
Dione Dimitriadis
Michelle Grau
Louise Nicholls
Donald Smyth

Part-time Members
Jennifer Ciantar
Clyde Cosentino
Glen Cranwell
Gabrielle Cullen
David Dobell
Jennifer Eutick
Kay Kirmos
Christine Long
Andrew Mullin
Mara Moustafine
Susan Pinto
Pauline Pope

Full-time Members
Paul Millar
Shahyar Roushan
James Silva
Andrew Rozdilsky

Part-time Members
Christine Cody
Angela Cranston
Ted Delofski
Sally Hunt
Andrew Jacobides
Patricia Leehy
Bruce MacCarthy
Philippa McIntosh
Rosemary Mathlin
Pamela Summers
Mila Foster

Staff organisational chart





PART 3

Performance report

Part 3 – 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 9,737 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 2009–10, the key outcome agreed with Government was:

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 had one program contributing to this outcome, which was:

Final independent merits review of decisions concerning refugee status and the refusal or cancellation of migration and refugee visas.

Table 3.1 summarises the tribunals' performance against the program deliverables and key performance indicators that were set out in the 2009–10 portfolio budget statements.

Table 3.1 – Performance information and results

Measure	Result
DELIVERABLES	
7,700 MRT cases	The tribunals decided 7,580 MRT cases, which represented an increase of 31% when compared to 2008–09.
3,050 RRT cases	The tribunals decided 2,157 RRT cases, which represented a decrease of 12% when compared to 2008–09.
KEY PERFORMANCE INDICATORS	
Less than 5% of tribunal decisions set aside by judicial review.	242 or 3% of MRT decisions and 508 or 24% of RRT decisions made in 2009–10 were appealed to the courts. 56 of 165 MRT judicial review matters and 31 of 299 RRT judicial review matters resolved were remitted to the MRT or RRT for reconsideration. At the time of this Report, less than 1% of tribunal decisions made in 2009–10 had been set aside by judicial review.
70% of cases decided within time standards.	89% of bridging visas (detention cases) were decided within 7 working days; 69% of RRT cases were decided within 90 calendar days; 52% of general MRT cases were decided within 350 days; and 76% of MRT visa cancellations were decided within 150 calendar days.
Less than 5 complaints per 1,000 cases decided.	The tribunals received 22 complaints, less than 3 complaints per 1,000 cases decided. 18 complaints were in relation to the MRT, and 4 were in relation to the RRT. 18 of the complaints were member related, 3 were staff related and 1 complaint related to an interpreter engaged by the tribunals.
40% of decisions published.	The tribunals published 46% of all decisions. 44% of MRT decisions were published. 54% of RRT decisions were published.

The tribunals have implemented a number of strategies to respond to a growth in the MRT caseload. These strategies include improved case management training for members; increasing the opportunities for members to specialise, recognising that appropriate specialisation can improve the timeliness, quality and consistency of decision-making; increased use of batching cases with like issues to enhance efficiency; and more regular feedback on performance for members, including closer monitoring of and reporting on older cases.

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 7,700 MRT cases and 3,050 RRT cases in 2009–10. The tribunals decided 7,580 MRT cases and 2,157 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 \$40.2m and expenditure totalled \$44.8m, resulting in a net loss of \$4.6m.

Table 3.2 sets out the budgeted and actual costs to Government in 2009–10, and the budgeted costs for 2010–11.

Table 3.2 – Price of outputs

	Budget 2010–11 \$'000	Actual 2009–10 \$'000	Budget 2009–10 \$'000
PRICE OF OUTPUTS INDEPENDENT MERITS REVIEW			
Revenue from Government (total available annual appropriation)	43,298	40,062	41,014
Revenue from other sources	56	110	60
TOTAL PRICE OF OUTPUTS	43,354	40,172	41,074
Average staffing levels*	320	316	315

* 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 2009–10, which are set out in Part 5, have been audited by the Australian National Audit Office and received an unqualified audit opinion.

OVERVIEW OF CASELOAD

The tribunals received 10,603 cases during the year and decided 9,737 cases.

The MRT received 8,332 cases, decided 7,580 cases and had 7,048 active cases at the end of the year.

The RRT received 2,271 cases and decided 2,157 cases, and had 738 active cases at the end of the year.

Statistical tables and charts covering the MRT and RRT caseloads are set out on pages 28–34.

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. Only a small proportion of primary decisions made by the Department come to the MRT.

In 2009–10, the MRT had very large increases in the student refusal and student cancellation categories, as well as moderate increases in the family and visitor categories.

Approximately 30% of visa refusal applications 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 for a close relative to be identified in the application, 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. Over 3,000 protection visa applications were initially refused by the Department this year. All protection visa applicants within Australia have a right to apply for review if a protection visa is refused.

While lodgements to the RRT were made by applicants from over 80 countries, the majority were from the Asian region. 64% of the RRT's lodgements involved nationals of 5 countries, the People's Republic of China, Fiji, Malaysia, India 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 three times the number of applications received from the next largest source country, Fiji.

Applicants to both tribunals tend to be located in the larger metropolitan areas. 49% of all applicants resided in New South Wales, mostly in the Sydney region. Approximately 25% of applicants resided in Victoria, 11% in Queensland, 9% in Western Australia, 3% in South Australia, 2% in the Australian Capital Territory and Northern Territory combined and less than 1% in Tasmania.

Cases involving applicants held in immigration detention 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

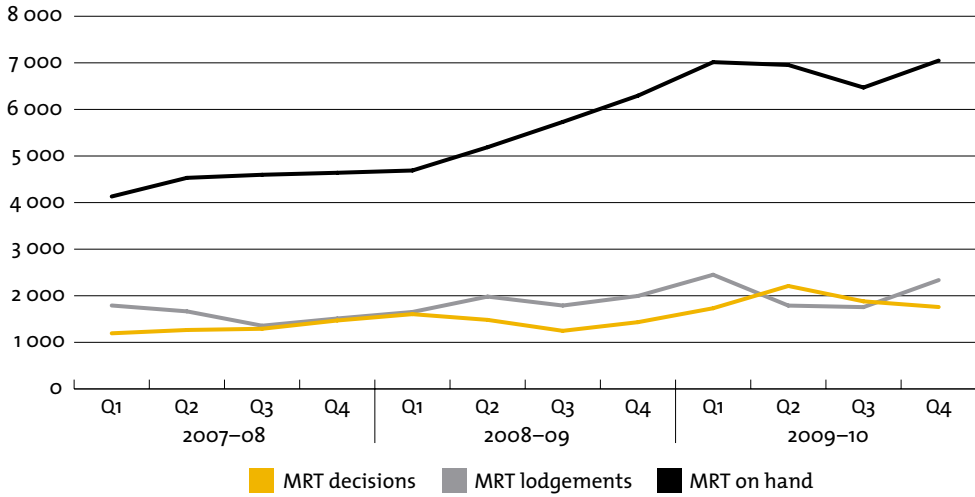
	2009–10	2008–09	2007–08
MIGRATION REVIEW TRIBUNAL			
On hand at start of year	6,295	4,640	3,534
Lodged	8,332	7,422	6,325
Decided	7,580	5,767	5,219
On hand at end of year	7,048	6,295	4,640
REFUGEE REVIEW TRIBUNAL			
On hand at start of year	624	548	582
Lodged	2,271	2,538	2,284
Decided	2,157	2,462	2,318
On hand at end of year	738	624	548



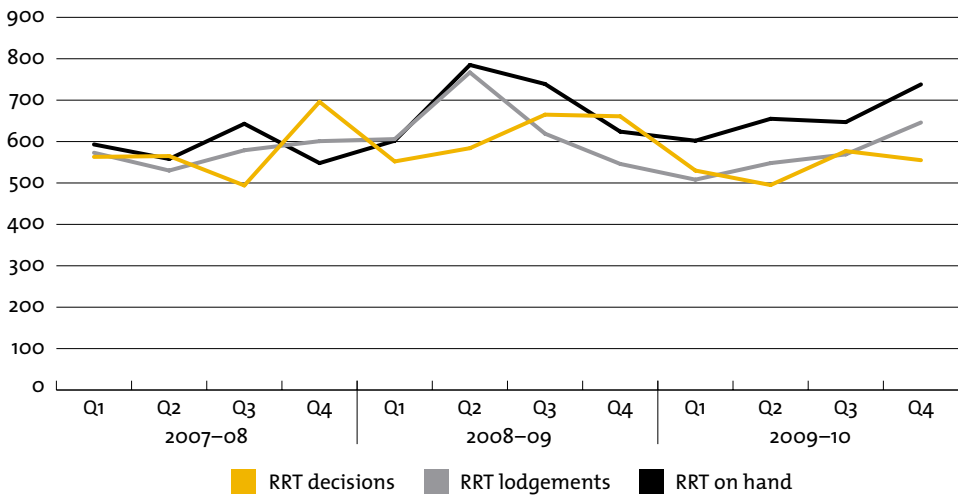
Lodgements

	2009–10	2008–09	2007–08	% change 2008–09 to 2009–10
MIGRATION REVIEW TRIBUNAL				
Visa refusal – Bridging	139	139	177	–
Visa refusal – Visitor	690	562	389	+23%
Visa refusal – Student	1,937	691	781	+180%
Visa refusal – Temporary business	567	684	626	–17%
Visa refusal – Permanent business	285	314	182	–9%
Visa refusal – Skilled	1,182	1,889	933	–37%
Visa refusal – Partner	1,157	1,372	1,474	–16%
Visa refusal – Family	739	536	537	+38
Cancellation – Student	875	501	653	+75%
Sponsor approval refusal	187	209	113	–11%
Other	574	525	460	+9%
Total MRT	8,332	7,422	6,325	+12%
REFUGEE REVIEW TRIBUNAL				
China (PRC)	751	999	890	–25%
Fiji	243	59	38	+312%
Malaysia	201	165	126	+22%
India	138	287	215	–52%
Indonesia	115	115	164	–
Lebanon	84	80	51	+5%
Sri Lanka	54	77	47	–30%
Pakistan	53	58	67	–9%
Egypt	52	39	18	+33%
Zimbabwe	52	40	31	+30%
Other	528	619	637	–15%
Total RRT	2,271	2,538	2,284	–11%
Total MRT and RRT	10,603	9,960	8,609	+6%

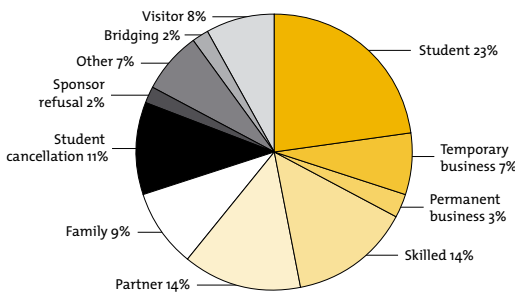
MRT lodgements, decisions and cases on hand



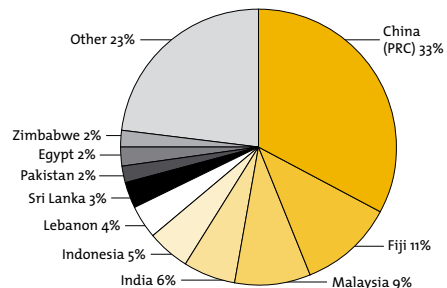
RRT lodgements, decisions and cases on hand



MRT lodgements by case type



RRT lodgements by country of reference



Cases on hand

	2009–10	2008–09	2007–08
MIGRATION REVIEW TRIBUNAL			
Visa refusal – Bridging	12	24	18
Visa refusal – Visitor	189	178	254
Visa refusal – Student	1,898	699	571
Visa refusal – Temporary business	645	649	525
Visa refusal – Permanent business	328	322	173
Visa refusal – Skilled	1,034	1,746	815
Visa refusal – Partner	1,320	1,431	1,279
Visa refusal – Family	632	439	460
Cancellation – Student	289	224	135
Sponsor approval refusal	247	214	100
Other	454	369	310
Total MRT	7,048	6,295	4,640
REFUGEE REVIEW TRIBUNAL			
China (PRC)	219	229	215
Fiji	130	14	9
Malaysia	32	27	28
India	39	70	48
Indonesia	10	17	31
Lebanon	19	15	14
Sri Lanka	18	32	13
Pakistan	16	15	11
Egypt	18	10	6
Zimbabwe	23	26	8
Other	199	169	165
Total RRT	738	624	548
Total MRT and RRT	7,786	6,919	5,188

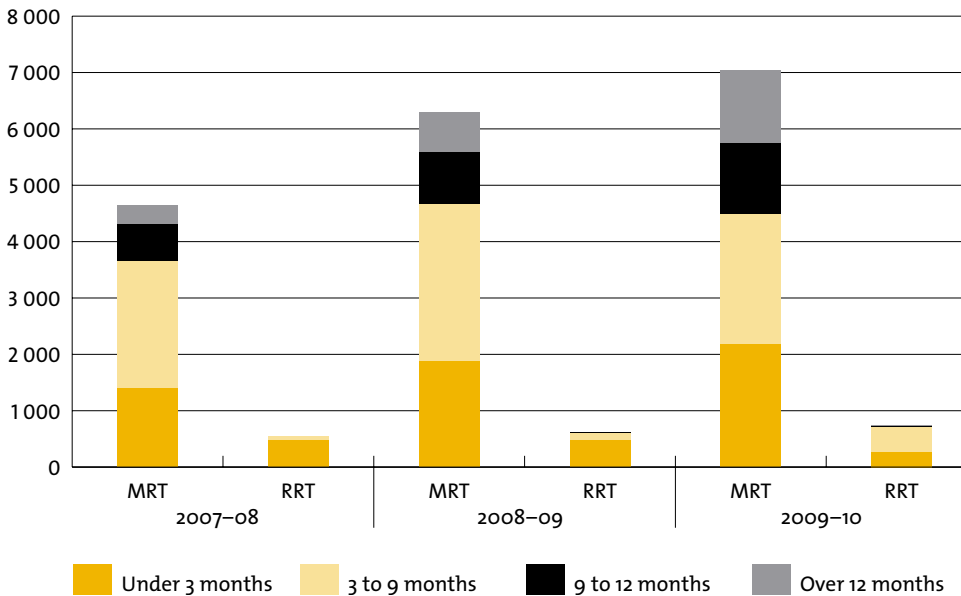
Timeliness of reviews

	2009–10	2008–09	2007–08
AVERAGE TIME TAKEN IN CALENDAR DAYS			
Bridging (detention) cases (MRT)	7	7	7
Visa cancellations (MRT)	123	114	136
All other MRT cases	311	293	284
Protection visa cases	99	86	85
PERCENTAGE DECIDED WITHIN TIME STANDARDS*			
Bridging (detention) cases (MRT) – 7 working days	89%	88%	93%
Visa cancellations (MRT) – 150 calendar days	76%	79%	66%
All other MRT cases – 350 calendar days†	52%	50%	41%
Protection visa cases – 90 calendar days	69%	73%	70%

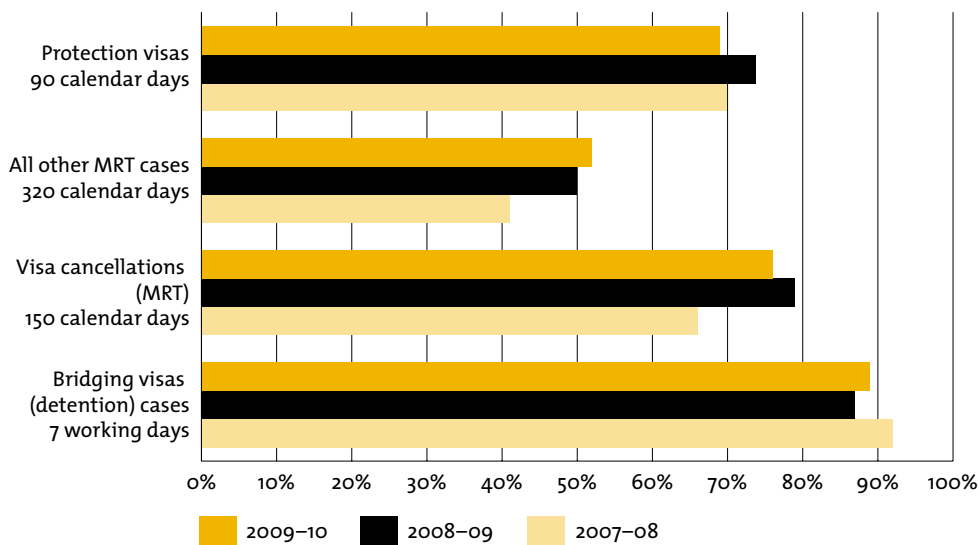
* Time standards as set out in the Migration Act and Migration Regulations or in the 2009–10 Portfolio Budget Statement. For MRT cases, time taken is calculated from date of lodgement. For RRT cases, time taken is calculated from the date the Department's documents are provided to the RRT. The average time from lodgement of an application for review to receipt of the Department's documents was 19 days for MRT cases and 6 days for RRT cases.

† In 2008–09, the applicable time standard was 320 days. In 2007–08, the applicable time standard was 250 days. Figures shown are against the time standard which applied in the relevant financial year.

Number and age of cases on hand



Percentage of cases decided within time standards



In 2008-09, the applicable time standard was 320 days. In 2007-08, the applicable time standard was 250 days. Figures shown are against the time standard which applied in the relevant financial year.

Outcomes of review

	2009-10	2008-09	2007-08
MIGRATION REVIEW TRIBUNAL			
Primary decision set aside or remitted	3,429	2,783	2,611
Primary decision affirmed	2,700	2,005	1,875
Application withdrawn by applicant	796	495	369
No jurisdiction to review*	655	484	364
Total	7,580	5,767	5,219
REFUGEE REVIEW TRIBUNAL			
Primary decision set aside or remitted	514	468	422
Primary decision affirmed	1,540	1,787	1,661
Application withdrawn by applicant	21	29	33
No jurisdiction to review*	82	178	202
Total	2,157	2,462	2,318

* 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

	2009–10		2008–09		2007–08	
	Cases	% set aside	Cases	% set aside	Cases	% set aside
MIGRATION REVIEW TRIBUNAL						
Visa refusal – Bridging	151	15%	133	12%	169	25%
Visa refusal – Visitor	679	58%	637	59%	294	48%
Visa refusal – Student	738	42%	564	37%	459	49%
Visa refusal – Temporary business	571	30%	560	37%	294	37%
Visa refusal – Permanent business	278	46%	165	42%	131	47%
Visa refusal – Skilled	1,895	42%	958	51%	577	53%
Visa refusal – Partner	1,268	66%	1,221	67%	1,468	62%
Visa refusal – Family	546	42%	557	45%	517	43%
Cancellation – Student	811	41%	412	40%	853	51%
Sponsor approval refusal	161	21%	96	27%	55	36%
Other	482	38%	464	35%	402	32%
Total MRT	7,580	45%	5,767	48%	5,219	50%
REFUGEE REVIEW TRIBUNAL						
China (PRC)	761	27%	986	21%	866	22%
Fiji	127	15%	54	13%	41	12%
Malaysia	196	3%	166	7%	112	1%
India	169	6%	265	4%	300	5%
Indonesia	122	7%	129	8%	154	3%
Lebanon	80	26%	79	32%	50	24%
Sri Lanka	68	32%	58	38%	55	31%
Pakistan	52	42%	54	17%	70	24%
Egypt	44	52%	35	31%	17	24%
Zimbabwe	55	58%	22	55%	31	58%
Other	483	30%	614	23%	622	22%
Total RRT	2,157	24%	2,462	19%	2,318	18%
Total MRT and RRT	9,737	40%	8,229	40%	7,537	40%

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 69% of MRT cases decided and in 55% of RRT cases decided.

In the 7,580 MRT cases decided, hearings were arranged in 5,154 cases, and held in 4,244 or 56% of the cases decided. In the 2,157 RRT cases decided, hearings were arranged in 2,070 cases, and held in 1,617 or 75% 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 8% of MRT cases (including in 15% of skilled visa refusal cases) and in less than 0.1% of RRT cases.

Most hearings are held in person. Video links were used in 18% of hearings. The average duration of MRT hearings was 74 minutes, and the average duration of RRT hearings was 131 minutes. Two or more hearings were held in 14% of RRT cases and in 3% of MRT cases.

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 2009–10, the tribunals arranged 9,523 hearings. Interpreters were required for 61% of MRT hearings and for 86% of RRT hearings, across approximately 90 languages and dialects.

The tribunals have an Interpreter Advisory Group (IAG) which has the primary objective of ensuring 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 on best practice in working with interpreters, 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 five registry officers.

OUTCOMES OF REVIEW

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

The MRT set aside or remitted the primary decision in 45% of cases decided and affirmed the primary decision in 36% of cases decided. The remaining 19% 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 24% of cases decided and affirmed the primary decision in 71% of cases decided. The remaining 5% 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 on the information available 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 the majority of cases.

Applicants for review typically address the issues identified by 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 additional information before the tribunal, and there may be court judgments or legislative changes which affect the outcome of the review.

Applicants were represented in 66% 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 47% compared with 28% for unrepresented applicants. The difference was most notable for RRT cases where the set aside rate was 34% for represented applicants and 11% 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 almost 90% of applicants who have a representative. For the MRT, there was also an appreciable difference in outcome for unrepresented applicants. The set aside rate was 50% for represented applicants and 35% 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 46% 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 326 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 to resolve cases quickly. Members actively manage their caseloads from the time of allocation until decision. Members are expected to identify quickly 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 reviewed by Senior Members to assist in minimising unnecessary delays.

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. During 2009–10, cases on hand increased by 12%. The tribunals have responded by enhancing business intelligence to enable increased batching of cases to improve efficiency, and increasing the days worked by part-time members. Member appointment processes in 2009 and 2010 resulted in the number of full-time members increasing from 6 to 30, and this has effectively increased member resources even though the overall number has not increased.

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, 69% of RRT cases were decided within 90 days. The average time to decision was 99 days. The reasons why cases exceeded 90 days included compliance with statutory procedural requirements (58% of cases), further investigations, submission of further material after the hearing, 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 Constitution. 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.

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 2009–10 the number and percentage of decisions taken to judicial review decreased in comparison with previous years. Table 3.3 sets out judicial review applications and outcomes in relation to the tribunal decisions made over the last 3 years.

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 32% of RRT cases reconsidered, the tribunal makes a decision favourable to the applicant.

Table 3.3 – Judicial review applications and outcomes as at 31 August 2010

	MRT			RRT		
	2009–10	2008–09	2007–08	2009–10	2008–09	2007–08
Tribunal decisions	7,580	5,767	5,217	2,157	2,462	2,318
Court applications	242	243	244	508	847	1,090
% of Tribunal decisions	3.2%	4.4%	4.7%	23.6%	34.4%	47.0%
Applications resolved	165	236	241	299	817	1,090
– decision upheld or otherwise resolved	109	162	150	268	702	921
– set aside by consent or judgment	56	74	91	31	115	169
– set aside decisions as % of judicial applications resolved	33.9%	31.6%	37.8%	10.4%	14.1%	15.5%
– set aside decisions as % of MRT/RRT decisions made	0.7%	1.3%	1.7%	1.4%	4.7%	7.3%

Note: The table above shows the number of Tribunal decisions made during the reporting period that have been the subject of a judicial review application. The table also includes the judicial review outcome for those cases.

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.

Summaries of some significant judicial decisions since 1 July 2009 are 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.

As there are restrictions on identifying applicants for protection visas, letter codes or reference numbers are used by the courts in these cases. 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" is used to identify the Minister in the abbreviated citations provided.

RRT – DUTY TO INQUIRE

The visa applicant applied for a protection visa on the basis that he feared persecution in Bangladesh by reason of his conversion to the Ahmadiyya faith.

In support of his claim to have converted, he supplied certificates, each of which included the address and telephone number of its author. The RRT made an inquiry of the Ahmadiyya Muslim Association of Australia (the Association) as to whether the visa applicant was known to the Ahmadiyya Muslim Jamaat in Bangladesh (AMJ). The Association advised that the AMJ had informed it that the visa applicant's name was not in their records and that both certificates were fake and forged. The RRT invited the visa applicant to comment on that information pursuant to section 424A of the *Migration Act 1958*. In reply, the visa applicant maintained that he was an Ahmadi, however, he could not otherwise prove that to be so. The RRT affirmed the decision not to grant the visa. On appeal, the High Court overturned the decision of the Full Court of the Federal Court that had found that the RRT had unreasonably failed to make further inquiries of the authors of the certificates or the Association. The High Court held there was no factual basis for the conclusion that the failure to inquire constituted a failure to undertake the statutory duty of review or that it was otherwise unreasonable. The Court did indicate however that a failure to make inquiries could, in limited circumstances, constitute jurisdictional error, for example, for failing to conduct a review. [*MIAC v SZIAI & Anor* [2009] HCA 39]

RRT – INVITING COMMENT ON ADVERSE INFORMATION

The visa applicant applied for a protection visa on the basis of his claimed involvement with Falun Gong. The RRT affirmed the decision to refuse to grant the protection visa. It rejected the visa applicant's claim that he was a Falun Gong practitioner, based on inconsistencies in his evidence. Prior to the hearing, a tribunal officer recorded a file note of a telephone conversation with a representative from a local Falun Dafa organisation, who confirmed some aspects, but not others, of the visa applicant's claims. The RRT did not make any findings in relation to the file note. The Federal Magistrates Court on review found the RRT breached section 424A of the Migration Act by not giving the applicant an opportunity to comment on the file note. On appeal, the High Court rejected this approach, finding that the operation of section 424A depends on the RRT's "consideration", that is, its opinion, that certain information would be the reason or part of the reason for affirming the decision under review. There was no evidence or necessary inference in this case that the RRT "considered" or had any opinion about the file note. [*MIAC v SZLFX & Anor* [2009] HCA 31]

RRT – COMPLIANCE WITH STATUTORY PROCEDURAL REQUIREMENTS

The visa applicants, a family, applied for protection visas on the basis of the father's claim to be a refugee. Their application was refused by a delegate of the Minister, and they sought review of that decision by the RRT. In their application for review, the daughter was nominated by the family, in accordance with section 441G of the Migration Act, as the person authorised to receive communications from the RRT (the authorised recipient). The RRT subsequently sent an invitation to attend a hearing to the visa applicants, addressed to the father and not the authorised recipient. The visa applicants responded to the invitation and each attended the hearing. On appeal, the High Court overturned the decision of the Federal Court that had found that by sending the invitation to the father, and not the authorised recipient, the tribunal had failed to comply with the Act and such failure was a

jurisdictional error. The High Court held that despite the detailed prescription of the legislative regime and the use of imperative language, it was an error to conclude that sections 441G and 441A were inviolable restraints conditioning the RRT's jurisdiction to conduct and decide a review. They were procedural steps designed to ensure that an applicant for review was able to properly advance his or her case at the hearing; a failure to comply with them requires consideration of whether, in the events that occurred, the applicant was denied natural justice. In the present case, there was no denial of natural justice. [*MIAC v SZIZO* [2009] HCA 37]

RRT – CONDUCT IN AUSTRALIA OF PROTECTION VISA APPLICANTS

The visa applicants applied for protection visas on the basis of their claimed involvement with Falun Gong. A delegate of the Minister refused the applications and those decisions were subsequently affirmed by the RRT. In each case, the RRT determined that under subsection 91R(3) of the Migration Act, it should disregard the visa applicants Falun Gong related activities in Australia when determining whether each applicant had a well founded fear of persecution as such actions were for the purpose of strengthening their claim to be a refugee. The High Court overturned a decision of the Full Court of the Federal Court that found the RRT had erred by taking into account, adversely to the visa applicants, and contrary to subsection 91R(3) of the Act, conduct in which they had engaged in Australia. The High Court held that subsection 91R(3) does not require conduct falling within the terms of that provision to be disregarded for all purposes. The conduct, and its motivation, may be taken into account if it would not strengthen the claim to be a refugee. [*MIAC v SZJGV*; *MIAC v SZJXO* [2009] HCA 40]

MRT – ENGLISH LANGUAGE REQUIREMENTS FOR SKILLED VISAS

Mr Berenguel applied for Skilled (Residence) (Class VB) visa in April 2008. On his application form he indicated that he had booked an International English Language Testing System (IELTS) test. After the application had been lodged, he sat the test and achieved a score sufficient to meet the standard of “competent English”. A delegate of the Minister subsequently refused to grant the visa on the basis that Mr Berenguel did not meet clause 885.213 of Schedule 2 to the Migration Regulations 1994 which appeared under the heading ‘Criteria to be satisfied at time of application’ and required visa applicants to have ‘vocational English’ or ‘competent English’ as defined in regulations 1.15B and 1.15C. Those regulations require a person to have achieved a specified score, in a test conducted not more than 2 years before the day on which the application was lodged. The delegate found that as the IELTS test result was achieved in a test conducted after the application was made, he did not meet the requirement of having the requisite level of English at time of application. The High Court set aside the delegate’s decision finding that the criterion that “the applicant has competent English”, even if appearing under heading as a “time of application” criterion, can be met if the visa applicant sits a test *after* the date of application and provides evidence to the Minister or the tribunal of a satisfactory test score. [*Berenguel v MIAC* [2010] HCA 8]

Mr Grant applied for a temporary skilled visa. He sought to satisfy the English language proficiency requirement in subclause 485.215(c) of Schedule 2 to the Migration Regulations 1994 on the basis that he had arranged and undergone an

English language test before he applied for the visa in which he did not achieve the necessary test score. After lodging the visa application, Mr Grant made arrangements to undergo a further test, in which he subsequently achieved the necessary test score. The MRT found that Mr Grant did not satisfy clause 485.215, as he neither demonstrated the necessary English language proficiency at the time the application was made, nor had he made arrangements at that time to undergo a test. On appeal, the Federal Court overturned the Federal Magistrates Court orders that had set aside the MRT decision. The Federal Court held Mr Grant did not satisfy clause 485.215(c) because he had not "made arrangements to undergo" a relevant language test. Rather he had taken the language test but not achieved the necessary standard of English as required by clause 485.215(b). The fact that he subsequently proved that he had competent English by the taking of a test at a later time was insufficient. [*MIAC v Grant* [2009] FCA 1059]

RRT – ILLOGICALITY AND IRRATIONALITY IN FACT FINDING

The visa applicant applied for a protection visa on the basis of his claimed homosexuality. He had travelled to and lived in the United Arab Emirates (UAE) and claimed to have had relationships with two other men. The RRT was not satisfied that he was a homosexual who feared persecution. It found that his return to Pakistan for three weeks in 2007 and his failure to seek asylum when he briefly visited the United Kingdom in 2006 were inconsistent with a fear of persecution. On appeal, the High Court set aside the decision of the Federal Court that had found that the RRT's reasoning was illogical and irrational. The High Court held that whilst illogicality or irrationality in jurisdictional fact finding can be a jurisdictional error, the RRT's decision was not illogical or irrational. The Court held that if reasonable minds might differ in respect of the conclusions to be drawn from probative evidence, a decision cannot be said to be illogical or irrational or unreasonable, simply because one conclusion has been preferred to another possible conclusion. [*MIAC v SZMDS* [2010] HCA 16]

MRT – PROPER CONSTRUCTION OF CONDITION 8202

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 Full Court of the Federal Court upheld the Federal Magistrates Court decision at first instance finding that, after 1 July 2007, it is the certification by the education provider which constitutes non-conformity with the condition. [*Maan v MIAC* [2009] FCAFC 150]

MRT – AUTOMATIC CANCELLATION OF STUDENT VISAS

Mr Mo and Mr Hossain had been granted student visas to undertake study in Australia. During the course of their studies, their education providers issued both visa holders with a notice under section 20 of the *Education for Overseas Students Act 2007* (ESOS Act). The notice informed the students that they had been certified as not achieving satisfactory course progress/attendance for condition 8202(3) of the

Migration Regulations 1994, and that they had 28 days in which to attend a specified Department of Immigration office for the purpose of making any submissions about the breach of condition 8202. Neither responded to the notice, and their visas were automatically cancelled by operation of section 137J of the Migration Act. Mr Mo and Mr Hossain unsuccessfully sought revocation of the automatic visa cancellation. On appeal, the Federal Court held that as the Education Services for Overseas Students Regulations 2001 (ESOS Regulations) did not prescribe a student visa condition for s.20(1) of the ESOS Act at the relevant time, the notices sent to Mr Mo and Mr Hossain were ineffective for the purpose of section 20 of the ESOS Act and section 137J of the Migration Act. It followed that s.137J did not operate to automatically cancel the visas. [*Hossain v MIAC* [2010] FCA 161; *Mo v MIAC* [2010] FCA 162]

MRT – DOMESTIC VIOLENCE

Ms Mulyana entered Australia on a temporary spouse visa, having applied for a permanent Partner visa. Unknown to her, within days after her arrival her sponsoring husband informed the Department of Immigration that their relationship was not continuing. Shortly thereafter, the parties travelled to India and Ms Mulyana was abandoned by the sponsor. She gave evidence that when she returned to Australia her husband was violent. She subsequently obtained an intervention order against him. The MRT found that Ms Mulyana had suffered domestic violence at the hands of her husband on her most recent return to Australia, but that such violence had occurred after the cessation of the spousal relationship. As it found that paragraph 100.221(4)(c) of Schedule 2 to the Migration Regulations impliedly required the violence to have occurred during the currency of the relationship, it concluded that Ms Mulyana did not meet the criteria for the grant of the visa. On appeal, the Full Court of the Federal Court held that for the domestic violence provisions in paragraph 100.221(4)(c) it matters not when the violence occurred, whether before or after cessation of the spousal relationship, provided it was ‘domestic violence’ as defined. [*Mulyana v MIAC* [2010] FCAFC 24]

MRT – NOTIFICATION OF PRIMARY DECISIONS

Mr Abdul Manaf’s application for a temporary business visa was refused by a delegate of the Minister in August 2007. Notification of that decision was sent by registered post to an address for correspondence provided by Mr Abdul Manaf at the time of visa application. He subsequently advised the Department of Immigration and Citizenship of a change of address. Shortly thereafter, a further letter enclosing the first notification letter was sent to Mr Abdul Manaf. However, the second notification letter was incorrectly sent to an address that did not exist. Mr Abdul Manaf later applied for review. The MRT found that it did not have jurisdiction to review the decision because the application had not been made within time. It found that valid notification of the delegate’s decision had occurred with the first notification in August 2007, and that the review application was not made within the prescribed 21 days. On appeal, the Federal Court overturned the Federal Magistrates Court decision that had found the second notification invalidated the first notification. The Federal Court held that a valid notification of a decision exhausts the Minister’s obligation under section 66 of the Migration Act

and any further ‘notifications’ are of no legal consequence. [*MIAC v Abdul Manaf* [2009] FCA 963]

Mr Hasan’s application for a skilled visa was refused by a delegate of the Minister in October 2008 and notice of that decision was sent to Mr Hasan by email. The decision notification letter advised that “the enclosed brochure ... provides more information about the review processes and where applications for review can be lodged”. The letter itself included the addresses of the New South Wales and Victorian registries of the MRT as places where applications for review could be lodged. The relevant brochure identified the New South Wales and Victorian registries of the MRT as well as registries of the Administrative Appeals Tribunal in Queensland, South Australia and Western Australia but was not in fact enclosed with the letter. Mr Hasan lodged a review application in March 2009, some five months after receipt of the delegate’s decision. In finding the review application was lodged outside the prescribed time period, the MRT was satisfied that the decision notification letter complied with the requirements of section 66 of the Migration Act, including by stating where an application for review could be made. On appeal, the Federal Court held that subparagraph 66(2)(d)(iv) requires the decision notification to include every place at which an application for review may be lodged. Furthermore, the period for giving an application to the MRT will only commence to run when the Minister notifies a person in accordance with subparagraph 66(2)(d)(iv). [*Hasan v MIAC* [2010] FCA 375] More recently the Full Court of the Federal Court has concluded that the Act does not require notification of all possible places of lodgement to all potential applicants for review regardless of where they reside. Consideration must be given to the extent and consequences of not listing all possible places of lodgement. Also, lodging a review application prior to the prescribed period commencing did not necessarily result in an invalid review application. [*SZOFE v MIAC* [2010] FCAFC 79]

RRT – POWER TO OBTAIN INFORMATION

The visa applicant’s application for a protection visa was refused by a delegate of the Minister, and he subsequently sought review of that decision by the RRT. The RRT sent a letter to the visa applicant acknowledging receipt of the application. The acknowledgment letter stated, “you should ... immediately send us any documents, information or other evidence you want the Tribunal to consider.” The Federal Magistrates Court set aside the subsequent RRT decision concluding that the acknowledgment letter was an invitation to provide additional information pursuant to section 424 of the Migration Act and, as it did not comply with the requirement in subsection 424B(2) to specify the prescribed period in which to provide the information, the RRT breached section 424. On appeal, the Federal Court found the Federal Magistrate erred in characterising the acknowledgment letter as an invitation under section 424(2). The RRT had other powers under which to say what it did in the acknowledgment letter (sections 415(1) and 424(1)) and the exercise of that power did not contravene any provision of the Act [*MIAC v SZNAV* [2009] FCAFC 109].

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. A review of the Service Charter will be finalised in the latter half of 2010. In reviewing the Service Charter, the tribunals have undertaken extensive stakeholder consultation.

Table 3.4 sets out the tribunals' performance during the year against service standards contained in the Service Charter.

Table 3.4 – Report against service standards

Service standard	Report against standard for 2009–10	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 attended by all staff in both registries. The course focussed on providing positive service outcomes for clients.	Achieved
2. Use language that is clear and easily understood	Clear English is used in correspondence and forms. Staff use professional interpreters 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 69% of hearings held (61% MRT and 86% RRT) in 2009–10. The tribunals employ staff from diverse backgrounds who speak more than 30 languages. Staff use professional interpreters 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 2009–10, an acknowledgement letter was sent within 2 working days of lodgement in more than 98% 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

Service standard	Report against standard for 2009–10	Outcome
6. Help you to understand our procedures	The tribunals provide applicants with information about tribunal procedures at several stages during the review process. The tribunals' website includes a significant amount of information, including forms and factsheets. Case officers are available in the NSW and Victorian registries to explain procedures over the counter or the telephone. The tribunals provide an email enquiries address applicants can use to seek general information about procedures.	Achieved
7. Provide information about where you can get advice and assistance	The tribunals' 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 69% of hearings (61% MRT and 86% RRT) in 2009–10.	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). 893 fee waiver applications were considered, with the \$1,400 application fee waived in 496 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 tribunals' website. The tribunals' Management Board receives reports each month on the numbers of priority cases constituted to Members.	Achieved

Service standard	Report against standard for 2009–10	Outcome
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. The tribunals have published an online processing times calculator allowing applicants to get an estimate of the processing time for their application.	Achieved
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 tribunals' 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 Service Charter is available on the 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 new 'Information for Representatives' webpage is specifically aimed at supporting representatives, bringing together most often used resources and information. A new Frequently Asked Questions page answers representatives' most commonly asked questions.

The tribunals value our relations with stakeholders in the community and hold regular community liaison meetings. Our Stakeholder Engagement Plan 2010–11 sets out how we seek to involve stakeholders and to understand stakeholders' perspectives.

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 4.

COMPLAINTS

As outlined 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 tribunals' website.

A person who is dissatisfied with how the tribunals 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 tribunals' 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 2009–10 were responded to within 20 working days.

Table 3.5 sets out the number of complaints finalised over the last 3 years.



Table 3.5 – Complaints

	2009–10	2008–09	2007–08
MIGRATION REVIEW TRIBUNAL			
Complaints resolved	18	21	19
Cases decided	7,580	5,767	5,219
Complaints per 1,000 cases	2.4	3.6	3.6
REFUGEE REVIEW TRIBUNAL			
Complaints resolved	4	10	9
Cases decided	2,157	2,462	2,318
Complaints per 1,000 cases	1.9	4	3.9

The majority of complaints related to the conduct of the review process. Others were about the timeliness of the review or the decision. Following investigation, the tribunals formed the view that 27% of the complaints made during the year related to matters that could have been handled more appropriately. The tribunals respond to specific issues raised in complaints and also consider changes to procedures and training and development needs. Set out below are summaries of 5 of the complaints upheld in 2009–10:

Case 1 – The applicant claimed that it had been two years since the application was lodged and almost one year since the hearing was conducted and that the member had not yet made a decision, which was an unreasonably long time. The delay was acknowledged and the member gave an undertaking to make a decision or write to the applicant before the end of the month.

Case 2 – The applicant claimed that during the hearing, the member said that if he was thinking of making an unfavourable decision, he would give the applicant an opportunity to comment on the reasons for that decision. The member made an unfavourable decision without giving the applicant an opportunity to comment. An apology was given to the applicant and the member’s decision vacated.

Case 3 – The applicant claimed that there had been a significant delay in determining whether amendments in relation to the health criteria were applicable to the secondary review applicant. The member made a decision that the public interest criterion was applicable to the secondary review applicant.

Case 4 – The applicant felt the member demonstrated bias and the member’s manner was aggressive, adversarial and intimidating. An apology was made regarding the member’s conduct and the case was reconstituted to a different member.

Case 5 – The interpreter raised concerns regarding the member’s treatment of her during a hearing. An apology was made.

Table 3.6 sets out the complaints made to the Commonwealth Ombudsman over the last 3 years and the outcomes of the complaints resolved.

Table 3.6 – Complaints to the Commonwealth Ombudsman

	2009–10	2008–09	2007–08
New complaints	19	28	31
Complaints resolved	18	32	28
Administrative deficiency found	0	1	2

MIGRATION AGENTS

More than 66% of applicants were represented in relation to their review application. With limited exceptions, a person acting as a representative is required to be a registered migration agent. Registered migration agents are required to conduct themselves in accordance with a code of conduct. The tribunals referred 6 matters to the Office of the Migration Agents Registration Authority (OMARA) during 2009–10 relating to the conduct of migration agents. OMARA is responsible for the registration of migration agents, monitoring the conduct of registered migration agents and investigating complaints and taking appropriate disciplinary action against registered migration agents who breach the code of conduct or behave in an unprofessional or unethical way.

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 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, the tribunals' Stakeholder Engagement Plan was developed in May 2010 and is available on the tribunals' website. The Stakeholder Engagement Plan sets out how the tribunals will engage with stakeholders and the engagement activities planned for 2010–11 and beyond.

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 Memorandum of Understanding with the Department reflects the statutory and operational relationships between the agencies and is available on the tribunals' website.

In August 2009, the Principal Member delivered a speech on controlling migration litigation to the National Administrative Law Forum, Canberra (now published in AIAL Forum, No. 63 (September 2010)). In February 2010, tribunal members attended the Australian Chapter Regional Conference of the IARLJ. The Principal Member delivered a speech on Credibility, Bad Faith Claims and s.91R(3) at this conference.

MAJOR REVIEWS

There were no major reviews in 2009–10.

SIGNIFICANT CHANGES IN THE NATURE OF FUNCTIONS OR SERVICES

Significant reforms are being made to the *Freedom of Information Act 1982* with the passage of the *Australian Information Commissioner Act 2010* and the *Freedom of Information Amendment (Reform) Act 2010*. The first tranche of reforms come into force on 1 November 2010. The tribunals have developed an implementation plan for the reforms which will shape the way the tribunals process requests and affect the kinds of information the tribunals publish.

DEVELOPMENTS SINCE THE END OF THE YEAR

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



Case studies

The following case studies provide an insight into the range of matters which come before the tribunals.

MRT – ORPHAN RELATIVE – UNDER 18 AT TIME OF APPLICATION – SET ASIDE

The visa applicant was a citizen of Afghanistan residing in Pakistan. He claimed that his date of birth was 1 January 1990, and that he was 17 years old at the time of application. He claimed that his parents had died and that, apart from the sponsor, he did not know the location of any of his siblings. The sponsor, who is the visa applicant's brother, was born in 1975 and arrived in Australia by boat in 2000.

The delegate refused the application as he was not satisfied that the visa applicant was aged under 18 years of age at the time of application. He noted that in Afghanistan *tazkeras* (identity documents) are often issued based on the information provided by the person requesting the document, and he suggested that such documents should be supported by other evidence. The delegate also noted that the sponsor had previously given the visa applicant's date of birth as 1981, which would have made him almost 30 at the time of application.

On review, the tribunal took evidence from the sponsor, the visa applicant, and several witnesses. The review applicant submitted that, at his arrival interview at Port Headland, he had provided the Department with incorrect dates of birth for his family members as he did not know their dates of birth, and he was not permitted to write "unknown". The sponsor also provided a photograph of the visa applicant with their family taken in 2006, in which the visa applicant appeared to be roughly 15 or 16.

The MRT found the sponsor to be an honest and credible witness. The MRT had regard to the photograph provided, as well as independent country information which confirmed that age in Afghanistan is of little significance, and many people do not know their age. The MRT accepted that the visa applicant was the brother of the review applicant, and that he was under 18 years of age at the time of application.

MRT – PARTNER VISA – AFFIRMED

The visa applicant was born in Turkey and arrived in Australia in 2005 working as a cook on a ship. When the ship departed, he remained in Australia and sought assistance from acquaintances he had met at a Turkish restaurant while in Australia. The visa applicant claimed he stayed because Australia is "a much better and more beautiful country", and because of its human rights record. The applicant claimed that he subsequently met his sponsor and moved in with her and her son, and that they married in March 2006. The delegate refused the application as he was not satisfied that the parties had a mutual commitment to a shared life as husband and wife to the exclusion of all others or that the relationship between them was genuine and continuing. The applicant sought review of the delegate's decision and the tribunal affirmed the delegate's decision in August 2008. The applicant sought review of the tribunal's decision and in April 2009

the Federal Magistrates Court set aside the decision and remitted the matter to the tribunal.

Before the tribunal, differently constituted, inconsistencies in the applicant's and the sponsor's evidence included: the sponsor provided a different current address to the one given by the visa applicant; she provided a different wedding date; a different place where the wedding ceremony was conducted and a different celebration following the wedding; and she said that his father was alive and had sent gifts to her and her son. However, the applicant gave evidence that his father had died in 1989.

Based on these and many other inconsistencies in the evidence provided by the parties, the tribunal was not satisfied that the applicant lived or had lived with the sponsor and her son and, therefore, the tribunal was not satisfied that the applicant and sponsor were in a long standing relationship. Accordingly, the Tribunal found that the parties did not have a mutual commitment to a shared life as husband and wife to the exclusion of all others.

MRT – REMAINING RELATIVE – SET ASIDE

The applicant claimed that she was divorced and that apart from her two children, all of her family members were residents of Australia. The applicant submitted a copy of court documents relating to her divorce from her former husband, as well as evidence that a court had awarded custody of her two children to her, and had formally stated that she was able to take them out of Fiji. She claimed that her husband had become abusive, which led to her deciding to live alone with her two children on a property owned by her parents. A subsequent site visit led to Department of Immigration officers surmising that, based on information provided by her neighbours, the applicant was still living with her divorced spouse. The applicant claimed that her former husband did not reside at the property after the separation, though he had occasionally gone there to see his children, and that the neighbours had seen him visiting the premises and wrongly concluded that he was residing there.

The tribunal accepted the documents which were submitted in support of the applicant's claims, and noted that none of the neighbours mentioned in the Departmental report were named. It found that it was plausible that these neighbours merely assumed that the applicant's husband resided with her because they had seen him when he had visited the house to see his children. In these circumstances, the tribunal decided that it should not give greater weight to the report quoting three unnamed neighbours than to the written evidence submitted to the tribunal and the oral evidence of the applicant. The tribunal found that the applicant was not living with her former husband, and that she did not have a spouse within the meaning of the term given in the regulations at the time of application, and that she did not have a spouse at the time of decision. The tribunal accepted that the applicant's siblings and both of her parents were Australian citizens, and that her only other close relatives were her two children who were both dependent upon her and were wholly or substantially in her daily care and control. The tribunal found that the applicant had no near relatives other than near relatives who were usually resident in Australia and Australian citizens, and therefore, that the provisions for the grant of the visa were satisfied.

MRT – STUDENT – CANCELLATION – WORK RESTRICTIONS – AFFIRMED

The visa applicant was a Bangladeshi national who was granted a Subclass 572 Vocational Education and Training Sector visa in June 2006. In January 2010, the Department received an allegation that the applicant was working as a taxi driver for up to 70 hours per week. The applicant was interviewed by the Department and he stated that he earned \$1200-\$1600 working 20 hours per week. The Department issued a written notice of intention to consider cancellation of the applicant's visa, which stated that his logon/logoff times with the taxi company indicated that he had worked a total of 21 hours 25 minutes during a specified work period. As a result, he may have breached condition 8104 (maximum 20 hours work per week) of his student visa.

The applicant explained that he had exceeded the 20 hour limit in the specified week because he had picked up two passengers late in his shift. One of the passengers wanted to travel to one suburb and the second wished to travel to another, around 15 kilometres away. Although the second passenger refused to pay the taxi fare, he insisted that the applicant drive him home. As a result, the applicant arrived at the taxi station to log off from his shift almost an hour late and he did not receive a fare on his return journey to the taxi station.

At the tribunal hearing, the applicant conceded that he had worked in excess of 20 hours in the specified week. Accordingly, the tribunal found that he had not complied with condition 8104, which limits work to 20 hours in any one week, and was satisfied that a ground existed for cancellation of his Subclass 572 visa.

The tribunal noted the applicant's claimed obligation to only log off after handover had been completed in the interests of driver safety. In this context, the tribunal considered that the applicant's obligation to log on and off, and to complete a handover, could fairly be described as "work". As a result, the tribunal did not accept that the fact that the applicant did not receive a fare on his return journey to the taxi station, or that he did not have a passenger, changed the nature of the activity undertaken by him. The applicant indicated to the tribunal that he understood the requirements of condition 8104. Accordingly, given that it was up to the applicant which jobs he accepted as a taxi driver, the tribunal observed that he retained a measure of control over his work to achieve both compliance with condition 8104, and the relevant driver safety guidelines applicable to him as a taxi driver. The tribunal was satisfied that the applicant had not complied with condition 8104 and therefore, the tribunal affirmed the decision under review to cancel his visa.

MRT – STUDENT – REFUSAL – SET ASIDE

The applicant was a Nigerian male who arrived in Australia as the holder of a Subclass 442 (Occupational Trainee) visa in 2007. He said that he arrived in Australia in February 2007 and began studying at the Holy Spirit Seminary in Brisbane. He left that institution in December 2007 after he was asked to undergo a psychological assessment, which all students undergo to find out whether they are suitable for the priesthood. He stated that he had had a relationship with a woman in about May 2007 which lasted for about three to four months. He did not agree with the assessment that

found he was unsuitable; he thought that the assessors had not considered cultural issues and the totality of his personal development.

In February 2008, the applicant lodged an application for a Subclass 573 student visa. The delegate refused the application as the applicant failed to provide evidence of exceptional circumstances for the visa grant. Departmental policy states that exceptional reasons may include, but are not limited to, that the visa grant would improve *bilateral relations* or provide *significant economic benefits to Australia*.

The applicant was enrolled in a Bachelor of Theology at Sydney College of Divinity which was due to end in late 2011. He said that he hoped to complete his degree in theology and then study to become a priest in Australia. He stated that, as well as attending classes for his bachelor's degree in theology, he participated in church functions and was involved in volunteer work with St Vincent de Paul. He also claimed that as a priest he would be "of immense benefit to the church in Australia, because at the moment there is a shortage of priests, and lack of vocations towards the priesthood".

The tribunal took into account the fact that the applicant had been studying in Australia since his arrival in 2007 and noted that he had not failed any subjects and had satisfied all course requirements to date. The tribunal considered country information which indicated that there was a long-standing shortage of Catholic Priests in Australia and that this shortage was likely to continue in spite of a recent increase in the number of men entering seminaries and being ordained. The tribunal accepted that the applicant intended, if accepted, to enter a seminary and prepare for the priesthood. The tribunal accepted evidence provided by a priest which indicated his confidence in the applicant's ability to continue with his studies. The tribunal was, therefore, of the view that, should the applicant succeed in being ordained as a Catholic priest in Australia, that would benefit Australia. On this basis, the Tribunal found that exceptional reasons did exist for the grant of a Subclass 573 visa.

MRT – SKILLED – CHEF – SET ASIDE

The visa applicant applied for a Temporary Business Entry (Class UC) visa on the basis of his proposed employment in Australia as a chef. Australian Embassy staff conducted a site visit to the New Great Wall Hotel, Fuqing, China to interview the visa applicant and test his claims. Embassy staff confirmed that the visa applicant was on the kitchen staff of the Hotel but that he was not the chef in charge. Based on this information, the delegate refused to grant the visa as the delegate was not satisfied that the visa applicant had the employment background and personal attributes relevant to the nominated occupation. The review applicant (the visa applicant's sponsor and proposed employer) applied to the tribunal for review of this decision.

At the tribunal hearing, the review applicant claimed that, while the visa applicant was not the chef in charge of all kitchen staff at the hotel, he was a senior chef and was in charge of the kitchen responsible for the third floor of the Hotel's restaurant, which held up to 300 patrons during busy times. The visa applicant was also in charge of 10-20 kitchen staff. The review applicant stated that the visa applicant carried out the list of responsibilities in his current position as a chef, as set out by ASCO, including the preparation of menus (in consultation with the chef-in-charge), the supervision

and training of staff and the requisitioning (but not the actual purchase) of the food and ingredients required for the kitchen. The review applicant stated that, if the visa applicant was granted the visa, he would be a chef responsible for one of the review applicant's five restaurants.

The tribunal noted the Embassy staff's reservations relating to the applicant's relative seniority and responsibilities and whether these were consistent with the ASCO requirements for the position of chef. The tribunal took into account their report and conclusions, but also attached substantial weight to the review applicant's evidence, given his first hand knowledge and his commitment to appoint the visa applicant as a chef responsible for one of his five restaurants. Based on the evidence, the Tribunal was satisfied that the visa applicant had the skills necessary to perform the nominated occupation of Chef and the tribunal set aside the decision under review.

RRT – CHINA – UIGHUR – SET ASIDE

The applicant, a Chinese citizen of Uighur ethnicity, travelled to Australia on a student visa and applied for a protection visa shortly thereafter. She claimed she had been discriminated against and verbally abused at school because of her Uighur ethnicity, and that she and other Uighurs were forced to go to university in inner China in order to assist the cultural assimilation of the Uighur people. The applicant claimed her house was raided by Chinese authorities and that she was abused and accused of possessing separatist material such as CDs and books, and that she was subsequently detained for two weeks.

The applicant also claimed that there was widespread discrimination against Uighurs, and that many Uighurs were killed during the major protests in Urumqi in July 2009, including the son of her neighbour. She claimed that a few days after the protests, she was physically assaulted by a group of Han Chinese men who hit her and caused her nose to bleed. The applicant claimed that she had to pay a bribe to obtain her passport to come to Australia, and she was only allowed to leave because she was not listed as a political criminal. She claimed that if she was forced to return to China, she would be questioned and detained.

The RRT accepted the claims made by the applicant. It found that the incidents involving discrimination did not constitute persecution and it noted that the applicant had been able to undertake secondary and tertiary education in China. However, the tribunal found that the arrest, abusive questioning and detention of the applicant amounted to serious harm involving systematic and discriminatory conduct by state authorities, and that the attack on her by a group of Han Chinese men was a targeted discriminatory act of harm by members of the Han Chinese community. The tribunal therefore found that the various incidents of mistreatment cumulatively amounted to persecution for reasons of the applicant's Uighur ethnicity.

RRT – FIJI – NO CONVENTION GROUNDS – AFFIRMED

The applicant claimed that he was a civil servant working for the Fijian government and that he came to Australia to visit his wife. He claimed that he had been told that his employment had been terminated because he had not returned to Fiji on time and

that there would be no work if he went back. He claimed that because he worked as a civil servant there may be repercussions from the military on his return, and that others had been taken into custody and later released. The applicant claimed that some companions in Fiji had told him to be careful because others who came back had been “nabbed” and that if he was forced to return, he would be taken to the barracks where people are physically abused, interrogated and questioned.

In making its decision, the RRT accepted that the applicant may be unable to return to his former employment. However, it was of the view that this was because he had overstayed his authorised leave and not for any other reason proposed by the applicant. The tribunal also accepted that it might be difficult for the applicant to find other employment in the future due to the generally difficult situation in Fiji, the high cost of living and the reduced salaries, but it did not accept that these difficulties amounted to serious harm, nor that such harm was essentially and significantly for a convention reason.

The RRT noted that the applicant had not claimed to have ever engaged in any political activities, nor any activities that could be perceived as being political or against the regime, and it did not accept that he had any intention of doing so in the future. The tribunal was therefore not satisfied that there was a real chance that the applicant would be seriously harmed by the authorities either because of his travel to Australia, his past civil service position, or a combination of the two reasons.

RRT – LEBANESE – HOMOSEXUAL – SET ASIDE

The applicant was a Lebanese male from a “committed and conservative” Muslim family who worked as a “men’s barber” for seven years. He claimed he “suffered a lot”, because he lived in an “oppressive society that does not understand the meaning of homosexuality” and that even uttering the word (homosexuality), could result in one’s death. When the applicant came to Australia to visit his uncle for three months, he asked his uncle in an indirect way about “nightclubs for men”. He further claimed that one day, when the applicant’s aunt was washing his clothes, she found an “entry ticket” in his pocket and reported this to his uncle. He said “All hell broke loose” and his uncle told his father, then he threw him out of the house and threatened him. The applicant called an old friend he knew from Lebanon who took him to a police station for his “protection”. He claimed that he contacted his parents and they were very hostile toward him. He stated that if he were to go back to Lebanon, which his relatives wanted him to do, his family would “slit” his throat.

The RRT accepted that the applicant was a practising homosexual in Lebanon and was involved in a long-term same-sex relationship. It also accepted that members of his family are conservative and religious. The tribunal accepted that the applicant lived a clandestine life as a homosexual and was not able freely to practise or express his sexuality due to his fear of his family. Country information indicated that while Lebanon tends to be more accepting of homosexuals than other Arab countries and there have been improvements in the treatment of cases involving homosexuals by the police, discrimination and harassment persists. It noted that homosexuals in Lebanon are likely to face physical violence, rape, blackmail and verbal abuse in the street, and noted reports of homosexuals receiving death threats from members of their own families

and being forced to marry. Accordingly, the Tribunal was satisfied that there was a real chance that the applicant would face significant harassment, serious physical harm or imprisonment in Lebanon and that these acts could be committed by members of his family, the public or the authorities. The tribunal was satisfied that such treatment would amount to serious harm and that the harm he feared involved systematic and discriminatory conduct, in that it was deliberate or intentional and involves selective harassment for a Convention reason. The tribunal was not satisfied that the applicant could avoid the persecution he feared by internally relocating within Lebanon. The RRT was satisfied that the applicant was a person to whom Australia had protection obligations under the Refugees Convention.

RRT – SRI LANKA – TAMIL – AFFIRMED

The applicant was a Sri Lankan Tamil whose daughter was also included in her protection application. The applicant claimed that when she was young, the Sri Lankan Army had brought tanks and heavy artillery in front of her school. She said that in the 1980s, she and her father had been on a bus when they saw Sri Lankan Army soldiers shooting at people and that one of her relatives had been killed. In the mid-1980s, Sri Lankan Army soldiers had cordoned off their area and had blown up their relative's house and had shot and killed some people. The applicant also said that in the late 1980s, her father had died during shelling by the army and their house had been damaged. She said that her husband had been arrested by the army and tortured before being released. She confirmed that they had been living in another country since 2000 and that they had visited Sri Lanka on four occasions since then.

Having regard to the applicant's return to Sri Lanka on four occasions between 2000 and 2009 and to the fact that she did not apply for refugee status in the country she had been residing in, the tribunal did not accept that the applicant was telling the truth about the problems she claimed they had had when they were living in Colombo or at the airport on a return visit. The tribunal gave greater weight to the view it had formed of the applicant's credibility than to the evidence that when the applicant returned to Sri Lanka in 2006 she was arrested, detained and severely tortured because she was accused of being an LTTE supporter. The applicant claimed that she would have no protection there but the tribunal considered that if she was able to live in Colombo for many years at the height of the civil war, she could return to Colombo now that the war was over. The tribunal did not accept that there was a real chance that the applicant or her daughter would be abducted, raped, tortured or killed by elements of the Sri Lankan security forces or paramilitary groups if they were to return to Colombo now or in the reasonably foreseeable future.

The tribunal also did not accept that there was a real chance that the applicant or her daughter would be arrested, detained, mistreated or tortured for reasons of their race or because they were returning from abroad. Accordingly, the tribunal did not accept that either the applicant or her daughter had a well-founded fear of being persecuted for a Convention reason and it was not satisfied that either the applicant or her daughter was a person to whom Australia had protection obligations under the Refugees Convention.

RRT – ZIMBABWE – MIXED RACE – SET ASIDE

The primary applicant was a citizen of Zimbabwe and a single mother. The secondary applicant was her teenage son. The applicant travelled to Australia on a temporary visa as she wished to seek refuge in Australia for herself and her son from the political unrest and instability in Zimbabwe. She claimed that it had become unsafe in Zimbabwe for them as they had been continually harassed by the military for not supporting the ruling party. The delegate refused the visa application and the applicants applied for a review of the delegate's decision.

The primary applicant explained at a hearing that as a mixed race person, she is described in Zimbabwe as “coloured”. She said she grew up speaking English and is not conversant with the official languages of Shona and Ndebele which the black people speak. She stated that she was a member of the MDC party. However, for her own safety, she also had a ZANU-PF membership card. She described an incident when a group of militia broke into her house as a consequence of her failure to attend a particular ZANU-PF meeting. She also outlined several other instances of harassment and abuse she and her son had been subject to in recent years.

The RRT accepted that the primary applicant was a MDC supporter and it found her evidence about the break-in straightforward and consistent. It accepted that the incident occurred in the way she described and as a consequence of her non-attendance at a ZANU-PF rally. The RRT accepted that this incident constituted significant physical harassment and noted that the applicants' experience of abuse and harassment could cumulatively be said to amount to persecution involving systematic and discriminatory conduct.

The RRT referred to country information indicating that “coloured” people in Zimbabwe remain on the side-lines politically, socially and economically. It found that the essential and significant reason for the persecution the applicants suffered was race as “coloured” people or for their imputed political opinion. Accordingly, the tribunal was satisfied that the applicants were persons to whom Australia had protection obligations under the Refugees Convention.



PART 4

Management and accountability

Part 4 – 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.

Ms Amanda MacDonald was appointed as the Deputy Principal Member of the MRT and RRT from 1 April 2010. The Deputy Principal Member's responsibilities include conducting the members' professional development program and the tribunals' community liaison arrangements.

Senior Members of the tribunals provide leadership and guidance to members. The Senior Members are Ms Linda Kirk (Vic), Mr Peter Murphy (Vic), Dr Irene O'Connell (NSW), Mr Giles Short (NSW) and Mr John Cipolla (Acting) (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 Rhys Jones is the acting Registrar and Ms Hilary Lovibond is the acting Deputy Registrar.

As at 1 July 2010, the governance framework for the tribunals was as follows:

- A Management Board, consisting of the Principal Member, the Deputy Principal Member, 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, standing, Senior Member Peter Murphy, Principal Member Denis O'Brien, Senior Member Irene O'Connell, acting Registrar Rhys Jones, Senior Member Giles Short, and seated, Deputy Principal Member Amanda MacDonald, acting Senior Member Kira Raif and Senior Member Linda Kirk. Acting Senior Member John Cipolla was on leave at the time the photograph 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 independent, fair, just, economical, informal and quick reviews of migration and refugee decisions. The budget statements include performance indicators, and a report against them is set out in Part 3 of this Report.

The *Tribunals' Plan 2007–2010* states that we want to be known 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 tribunals' website.

The tribunals' caseload and constitution arrangements are set out annually in a Principal Member Direction. It 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 available on the tribunals' website.

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 tribunals' website.

RISK MANAGEMENT

The tribunals are committed to identifying and managing strategic and operational risks through strategic, business, internal audit, fraud control, security, procurement and project plans, and through guidelines, procedures and insurance arrangements. The tribunals conduct formal risk assessments as part of the development or review of plans and in relation to significant procurements or projects. The tribunals approach is guided by the Australia and New Zealand Risk Management Standard (AS/NZS 4360:2004) and risk management is a standing agenda item for monthly Management Board meetings. The tribunals' executive and senior members and managers are responsible for promoting risk management strategies and practices and for ensuring that all members and staff understand those strategies and practices and their responsibilities in relation to understanding, identifying and managing risk.

The tribunals have in place an audit and risk management framework including an Audit and Risk Management Committee (ARMC) comprising senior tribunal management, representatives from the Australian National Audit Office (ANAO) and representatives 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' audit and risk management framework has recently been strengthened by the appointment of an independent audit chair with extensive public sector audit experience.

During the year, the tribunals' Internal Auditors concluded a Fraud Risk Assessment resulting in the development of a Fraud Risk Management Action Plan and update of the Fraud Control Plan detailing the tribunals' strategic approach to fraud prevention, detection, investigation and prosecution in accordance with the Commonwealth Fraud Control Guidelines. Annual fraud data is also 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 2009–10, 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 2010

During the year, the Internal Auditors also completed a triennial Business Risk Assessment which included a review of the tribunals' business risk profile. This assessment forms the basis for the development of a new three year Internal Audit Plan (2010–2013).

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.

EXTERNAL SCRUTINY

The tribunals are subject to external scrutiny through the publication of decisions and country advice, judicial review by 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 including 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.

Whole of Government reforms

The tribunals undertook a range of activities in relation to whole of government reforms during the year. Extensive work was undertaken in relation to the Information and Communications Technology Review (the ICT review). The work included identifying savings proposals, developing reinvestment proposals, identifying quick green "wins" in areas such as energy use and meeting the detailed ICT reporting requirements. Preliminary work was also done in relation to the adoption of the P3M3™ methodology for assessing agency capability.

In relation to whole of government procurement arrangements, the tribunals:

- have joined the Microsoft Volume Sourcing Agreement;
- have procured replacement desktop computers through interim whole of government arrangements co-ordinated by the Australian Government Information Management Office and the Department of Defence;
- have taken the first steps towards participation in the internet gateway reduction process;
- are included in a cluster arrangement covering travel with the Department of Immigration and Citizenship; and
- are intending to utilise the telecommunications arrangements once the framework is settled.

Consistently with the new Commonwealth Property Management Guidelines, the tribunals have provided detailed data for the Australian Government Property Data Collection (PRODACC) and are developing a property management policy.

In May 2010 the Government announced that it accepted all of the recommendations in *Ahead of the Game: Blueprint for Reform of Australian Government Administration*. The *Blueprint* outlines a comprehensive reform agenda for the APS. Four broad areas are identified (meeting the needs of citizens, providing strong leadership and strategic direction, a highly capable workforce and operating efficiently and at a consistently high standard) with 28 specific recommendations.

External scrutiny

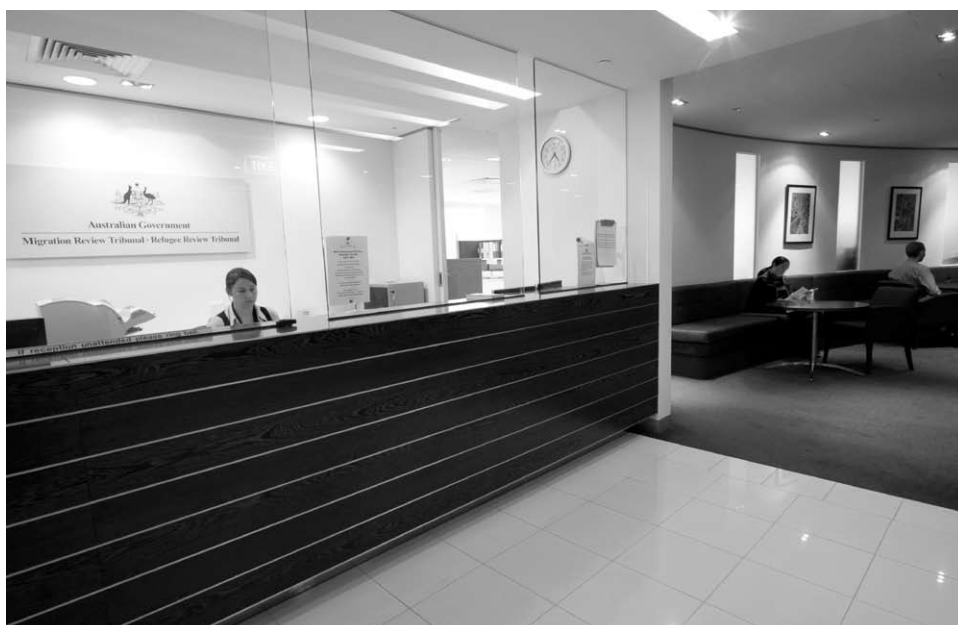
Between 2005 and 2007, the ANAO conducted a detailed performance audit on the management of the tribunals' operations. The report of the audit was tabled in Parliament on 14 June 2007 – Audit Report No.44 of 2006–07: Management of Tribunal Operations – Migration Review Tribunal and Refugee Review Tribunal. 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 4.1 sets out the progress made in relation to each recommendation.

Table 4.1 – 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"> • develop an annual operational plan which identifies priorities for major business activities and initiatives, and allocates responsibilities and specifies timeframes for their implementation; and • prepare an annual performance information framework which consolidates details of Tribunal performance information which is required to be collected and reported for accountability purposes. 	<p>The Tribunals’ Plan 2007–2010 was issued on 30 July 2007. A consultant has been engaged to assist the tribunals to review the plan by the end of 2010.</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>
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"> • 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 • 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. 	<p>The outcomes and outputs information set out in the Portfolio Budget Statements has been strengthened.</p> <p>The PBS statements include specific information in relation to quality indicators and the tribunals’ outputs. There are specific measures for case processing timeliness, complaints and judicial reviews of 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>

Item	Recommendation	Progress
R3	<p>The ANAO recommends that the tribunals strengthen external reporting through their Annual Reports by:</p> <ul style="list-style-type: none"> • addressing the impact of their outputs and their contribution to outcomes; and • including clear assessments of output performance, reporting performance results against PBS targets and providing more comprehensive analysis of factors affecting performance. 	<p>The ANAO's recommendations were taken into account in the design of the 2006–07 and subsequent 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"> • an overarching 'balanced scorecard' type management report which covers their full range of PBS performance indicators; and • common formats, across both tribunals and both Registries, for management reports on particular areas of tribunal performance. 	<p>The tribunals have subsequently decided not to adopt a 'balanced scorecard' type management report.</p> <p>There has been extensive modification of the performance information which is prepared for internal management reporting and an expansion of the performance information which is published by the tribunals monthly.</p> <p>Standard formats have been implemented for monthly management reports.</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"> • 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; • reviewing application forms to improve the quality of guidance to applicants and the user friendliness of their structure and format; • issuing more comprehensive guidance on complaints handling and providing members with more systematic complaints feedback; and • conducting regular surveys of the satisfaction of applicants and their representatives with tribunal service performance. 	<p>The tribunals have developed a Stakeholder Engagement Plan and extended community liaison arrangements. A Service Charter review commenced in mid-2010 and will be completed during 2010.</p> <p>Time targets are set out in the PBS statements and on the tribunal website. The tribunals have also published a processing time calculator on the tribunal website which allows a person to enter an application date and case type and to receive an estimate of when the case is likely to be decided.</p> <p>Drafts of new application forms have been developed and are undergoing revisions based on feedback from members and staff.</p> <p>The 2008 policy on complaints handling was revised and reissued during 2010.</p> <p>A series of surveys is planned for 2010–11.</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:

- values diversity and the contributions made by people;
- encourages ethical and good workplace behaviour;
- is productive, professional and delivers quality service;
- actively identifies and addresses health and safety issues; and
- supports 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

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.

Persons appointed as members have typically worked in a profession or have 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 59% of members are part-time.

Following a merits selection process Ms Amanda MacDonald was appointed as the Deputy Principal Member of the MRT and RRT for a term of 5 years commencing 1 April 2010. This appointment followed amendments to the Migration Act which established a position of Deputy Principal Member of the MRT. Previously, the Migration Act provided only for a Deputy Principal Member of the RRT.

The membership as at 30 June 2010 is set out in Table 4.2.

Table 4.2 – Membership as at 30 June 2010

	Women	Men	Total
Principal Member	–	1	1
Deputy Principal Member	1	–	1
Senior members	3*	2	5*
Full-time members	10	13	23
Part-time members	42	22	64
Total	56	38	94

* Ms Kira Raif counted as Senior Member (full-time member acting as Senior Member).

The appointments of 9 full-time members and 37 part-time members expired on 30 June 2010. A selection process was undertaken and 16 full-time members and 27 part-time members were appointed on 1 July 2010 for a term of 5 years. One part-time member resigned before taking up his appointment.

On 1 July 2010, one continuing full-time member was appointed as a part-time member for the remainder of the term of appointment.

The membership as at 1 July 2010 is set out in Table 4.3.

Table 4.3 – Membership as at 1 July 2010

	Women	Men	Total
Principal Member	–	1	1
Deputy Principal Member	1	–	1
Senior members	3*	2	5*
Full-time members	10	19	29
Part-time members	40	14	54
Total	55	35	90

* Ms Kira Raif counted as Senior Member (full-time member acting as Senior Member).

A list of members and their appointment periods as at 1 July 2010 is available in Appendix 1 of this Report. Member biographies are available on the tribunal website.

Member professional development and performance

The tribunals’ membership is highly competent and professional and is supported by legal, research and administrative staff and continuing professional development. 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.

On appointment, although experienced in other fields, members do not necessarily have detailed knowledge of migration or refugee law 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.

The National Member Professional Development Committee works to ensure that members have access to relevant and high quality development activities which will enhance the quality of the tribunals’ decision making. The committee sets the strategic direction for member professional development and has responsibility for the national member conference and new member induction programs. Chaired by the Deputy Principal Member and comprising the Principal Member, all Senior Members, Melbourne and Sydney member representatives and the directors of Legal Services and Country Advice and Information, the committee brings together a wide range of experience and seeks to formulate the most relevant, interesting and accessible calendar possible.

In Melbourne and Sydney, local professional development committees identify the individual and collective development needs of members and draft an ongoing program taking into account these needs and key strategic issues, for approval by the national committee. Two sessions are usually held per month and members are expected to attend as many as possible. The programs include training in legal issues, country information and forums for discussing current issues. Highlights for 2009–10 have

included *Making Credibility Determinations on Refugee Claims – the US Model* by US Immigration Judge Phillip Williams, seminars on Working effectively with Interpreters by Dr Sandra Hale, Associate Professor at the School of Humanities and Languages at the University of Western Sydney and a presentation by Dr Ida Kaplan and Guy Coffey of the Victorian Foundation for the Survivors of Torture on dealing with victims of torture and trauma.

The National Members' Conference was held in Bowral in September 2009. A number of academics and subject experts spoke at the conference. Keynote speakers were the Minister for Immigration and Citizenship, Senator Chris Evans and the Commonwealth Solicitor General, Mr Stephen Gageler SC who addressed members on 'The impact of migration law on the development of administrative law in Australia over the last 25 years'.

A program of 'background briefing' sessions is an initiative designed to provide members with greater contextual insight into culture and location-specific issues. A number of topic experts were invited by the tribunals to speak to members on a range of relevant issues, for example, foreign correspondent Paul McGeough spoke to members in May on political and human rights developments in Iraq and Afghanistan.

Staff

Professional staff support to members is vital to the efficient and lawful conduct of reviews. An important role of staff is the provision of member and client services. Registry 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 staff dealings with all stakeholders are essential for good tribunal performance and are important to our reputation. Important values are understanding and responding to client needs and seeking to improve services for individuals, families, businesses and the community.

Legal Services staff and Country Advice and Information Services staff provide high quality advice and information to members to support the conduct of reviews. Information Technology, Human Resources, Finance and Business Services, Caseload Strategy, Policy and Procedures and Executive Support staff provide a range of enabling services to support the operation of the tribunals and the delivery of high quality decisions.

Staff are employed under the Public Service Act and are appointed as tribunal officers under the Migration Act. As at 30 June 2010, the tribunals employed 272 APS employees comprising:

- 229 ongoing full-time employees;
- 37 ongoing part-time employees;
- 5 non-ongoing full-time employees; and
- 1 casual employee.

Table 4.4 sets out the number of staff employed as at 30 June 2010. Approximately 36% of employees are men and 64% are women.

Table 4.4 – Staff as at 30 June 2010

APS Level	NSW		Victoria		Total
	Women	Men	Women	Men	
APS 1	0	0	0	0	0
APS 2	3	2	2	3	10
APS 3	24	8	6	3	41
APS 4	28	19	12	5	64
APS 5	26	8	12	5	51
APS 6	22	14	9	7	52
Legal Officer	6	2	2	2	12
Executive Level 1	10	8	2	1	21
Senior Legal Officer	3	2	1	4	10
Executive Level 2	5	2	1	0	8
Principal Legal Officer	1	0	0	0	1
SES B1	0	0	1	0	1
SES B2	0	1	0	0	1
Total	128	66	48	30	272

Further staffing statistics are set out in Appendix 3.

Section profile – Caseload Strategy

The Caseload Strategy Section plays a key role in the efficient management of the tribunals' caseload. Established in December 2009 after the Policy and Caseload Strategy Section was divided in two, the section has responsibility for analysis, intelligence and reporting on caseload trends, case issues and performance and for developing strategies for the management and allocation of cases. One of the section's core functions is to make recommendations for the allocation of cases to tribunal members in accordance with the tribunals' caseload and constitution policy. Recommendations are considered at bi-weekly meetings of the Allocations Committee, which comprises the Principal Member, Deputy Principal Member, Senior Members and the Director, Caseload Strategy.

The section's five staff undertake a range of tasks including the preparation of statistical reports for publication on the tribunals' website and to inform briefings for the Senior Management Group and Management Board. During 2009–10, Caseload Strategy briefed management on issues including strategies for reducing the backlog of unconstituted MRT cases, improving the timeliness of RRT reviews and improving reporting on the reasons why reviews are decided over time standards. The section has recently assisted in the development of the 2010–11 caseload and constitution policy, which was issued as Principal Member Direction 1/2010, following consultation with members, staff and community groups.

Workforce planning

The tribunals continue to review strategies to attract and retain quality staff. A wide range of skills and expertise are required, from general administrative staff, to lawyers, accountants, and technology professionals. Staff are employed across 10 sections: Executive Support, Policy and Procedures, Caseload Strategy, Legal Services, Country Advice and Information Services, the NSW Registry, the Victorian Registry, Human Resources Section, Information Technology Section and Finance and Business Services.

The tribunals participate in 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 impact our capacity to attract and retain quality staff.

Learning and development

A changing work practice environment requires us to do our core business well, to define roles, standards and expectations clearly and to identify good performance. A major focus for the registries during the year was on managing and understanding client expectations. A series of client satisfaction workshops were delivered and attended by all registry staff. Staff also attended sessions on cross cultural communication and managing difficult client interactions. Training to enhance skills included time management; influencing and persuading skills; project management; and selected systems training. Corporate training was delivered on a range of topics covering staff representation, workplace harassment, selection committees and induction.

Individual development and training needs are identified through the 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.

Performance agreements and learning needs are tracked and monitored through an electronic reporting system.

The tribunals have a studies assistance scheme. A total of 25 staff undertook approved courses of study, taking a total of 80 days study leave and being reimbursed \$66,005 in course fees.

Executive remuneration

The tribunals have one Senior Executive Service (SES) officer. Remuneration and conditions were determined through section 24 (1) determinations, taking into account current APS remuneration levels and the market demand for the skills of the officer. The section 24 (1) determinations 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 4.5 sets out the salary range as at 30 June 2010. This reflects the most recent salary increase in the Certified Agreement, which was 4.3% from 15 October 2009.

Table 4.5 – Salary range pay points as at 30 June 2010

Level	Lowest	Highest
APS 1	\$23,167	\$42,641
APS 2	\$43,657	\$48,381
APS 3	\$49,684	\$53,600
APS 4	\$55,337	\$60,059
APS 5	\$61,689	\$66,609
APS 6	\$68,267	\$76,516
Legal Officer	\$55,337	\$76,516
EL 1	\$85,306	\$94,306
Senior Legal Officer	\$85,306	\$106,261
EL 2	\$98,359	\$114,653
Principal Legal Officer	\$115,260	\$121,519

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

The extended and varied Certified Agreement includes provision for:

- access to an employee assistance program;
- 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.

The Certified Agreement also includes a flexibility clause which provides for the supplementation of terms and conditions. Supplementary agreements have been made with 9 non-SES employees in accordance with the flexibility clause. Six supplementary agreements, in respect of one Principal Legal Officer and five Executive Level 2 officers, provided a responsibility allowance. One supplementary agreement provided for the use of an agency-leased car, one provided for part-time employment and one provided a retention allowance. Three supplementary agreements, in respect of three Executive Level 1 officers or equivalent, provided an additional salary component.

One SES officer, one Principal Legal Officer and seven Executive Level 2 officers received performance pay. An aggregate amount of \$49,037 was paid in performance-linked bonuses during 2009–10 in respect of performance in calendar year 2009. The average bonus payment was \$5,449 and payments ranged from \$1,795 – \$9,114.

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) in 2008 in consultation with members and staff.

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 members and staff through training.

The 2010–11 Workers' Compensation premium for the tribunals as advised by Comcare is 13% less than the cost for 2009–10. This continuing trend reflects the success of preventative strategies in the management of risk in the workplace and to early rehabilitation intervention.

Personal profile – Kadira Pethiyagoda

Coming from a background where I felt I had already had a broad exposure to global issues, in my first year at the tribunals I've found working as a Country Advisor both interesting and fulfilling. There has been much to learn and I have found that some of my preconceived notions about the political and human rights situations in various countries have been challenged. I have conducted research and advised members on issues ranging from chieftaincy in Ghana, to religious sects in India, to identifying an expert to brief members on Sri Lanka.

Born in Kandy, Sri Lanka, I moved to Australia at age two with my family, prior to the point when the country's low intensity conflict exploded into civil war. Despite the war we visited Sri Lanka often, even moving back there for a year when I was a teenager. Years later I revisited the subcontinent again when, after graduating from Monash University with a Bachelors in Sociology and Masters in Business Systems, I was posted to India as a diplomat representing Australia. My duties while on posting included responding to requests from the tribunals. Now, drawing on my experiences, I am undertaking a Masters thesis on the influence of culture on India's foreign relations while continuing my duties in the Country Advice and Information Section.

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.

A revised Workplace Diversity Program was implemented in July 2009. The Program focuses on strategies to facilitate an understanding of workplace diversity principles and to ensure fairness and inclusiveness are applied in all business activities, and in human resource policies and practices.

The principles underlying the Workplace Diversity 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.

To heighten awareness of the benefits of diversity to the tribunals' workforce, we continued to celebrate Harmony Day and International Women's Day.

In response to the Government's commitment to increase the representation of Indigenous employees in the APS to 2.7% by 2015, the tribunals increased efforts to recruit and retain Indigenous employees. During the year, an Indigenous trainee, recruited via the centralised APSC Indigenous Pathways to Employment program, completed a structured program of rotations through various sections of the tribunals, before winning a promotion to another agency. At the end of the year, the tribunals were negotiating an employment opportunity with indigenous graduates for a position in either Sydney or Melbourne.

The tribunals consulted with staff and contributed to the development of a high level Immigration Portfolio Indigenous employment strategy, which sits alongside and complements the tribunals' Workplace Diversity Program and its recently revised Reconciliation Action Plan. As part of our ongoing commitment and support to Aboriginal and Torres Strait Islander culture and heritage, an Indigenous issues page was created on the tribunals' intranet and events held in the tribunals' Sydney and Melbourne offices included the celebration of National Sorry Day (26 May) and Reconciliation Week (27 May to 3 June).

The tribunals are committed to providing a workplace that is safe and free from behaviour that may reasonably be perceived as harassing, intimidating, overbearing, bullying, or physically or emotionally threatening and ensuring that all employees are treated with respect and courtesy. To ensure the safety, rights and obligations of members and staff, complaints handling is based on confidentiality, impartiality, procedural fairness and protection from victimisation.

Information is provided to all to staff and members in regard to workplace harassment prevention. Following revision of the Workplace Harassment Prevention guideline, 11 new Workplace Harassment Contact Officers were appointed and trained in April 2010.

MEMBER AND STAFF SURVEYS

National MRT-RRT Member and Staff Opinion Surveys were conducted in October-November 2009. The aim of the surveys was to gauge levels of satisfaction with the tribunals, and to identify, value and promote positive attributes, and identify negative attributes to be addressed and remedied. The surveys were also designed to provide benchmarks against which progress can be measured. The surveys were overseen by a Steering Group comprising members and staff.

Separate surveys for members and staff were designed and delivered online by Profmark Consulting. The member and staff surveys included some common questions as well as specific questions addressing issues specific to each group.

Overall, members and staff were positive about working for the tribunals. Response rates were good, with 83% of members and 74% of staff completing the survey. Both members and staff indicated they enjoy their work (members 100%, staff 83%) and understand what is expected of them (members 100%, staff 91%) and how their work contributes to the tribunals' goals (members 81%, staff 95%). Respondents reported good working relationships with their colleagues (members 96%, staff 88%) and also rated highly the service provided to review applicants (members 83%, staff 77%). Respondents also suggested ways that services to review applicants and advisers could be improved.

An action plan of practical measures to address issues identified in the survey as less satisfactory has been developed and will be implemented in 2010–11. Key areas for attention include change management, communication, workplace harassment prevention and performance management.

Disability strategy

The tribunals' Disability Action Plan details the tribunals' compliance 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 also encompasses the activities of the tribunals as a service provider and purchaser. The plan is reviewed annually and is reinforced by other strategic 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 have recently purchased lower energy computers, encourage the use of double-sided printing, promote awareness about the use of electricity and water, encourage the use of composting food waste in the Melbourne office and are actively moving to the storage and use of electronic records and documents. Walk to Work and Ride to Work days are advertised internally and actively supported by management.

Green Committee

The tribunal's Green Committee identifies opportunities and develops proposals for more environmentally sustainable practices, processes and purchasing, and promotes an environmentally sustainable culture within the tribunals.

PURCHASING

The tribunals' purchasing arrangements with suppliers include contracts and notified consultancies, interpreting 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 publishing on the tribunals' 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 lowest practical fare policy.

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 2009–10 for the provision of services previously performed in-house.

ASSETS MANAGEMENT

The tribunals manage over 1,000 assets with a combined value of \$4.5 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 – *Guidance on Procurement Publishing Obligations*.

During 2009–10, 2 new consultancy contracts were entered into involving total actual expenditure of \$17,833. One exceeded \$10,000. No ongoing consultancy contracts were active during the 2009–10 year.

Table 4.6 – Consultancy services let during 2009–10, of \$10,000 or more

Consultant Name	Description	Contract Price	Selection Process	Justification
Profmark Consulting Pty Ltd	Conducting a Staff/ Member survey and reporting on findings	\$15,560	Select Tender	Need for independent research or assessment

Table 4.7 – Annual expenditure on consultancy contracts

	2009–10	2008–09	2007–08
Expenditure	\$17,833	\$18,181	\$100,558

Annual Reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website 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 2009–10.

ADVERTISING AND MARKET RESEARCH

All agencies are required to report on advertising and market research. During 2009–10, the tribunals spent \$8,936 (inclusive of GST) on advertising services as set out in Table 4.8. The tribunals did not engage any market research services, or conduct any advertising campaigns.

Table 4.8 – Advertising services

Vendor	Amount	Description
Adcorp Australia Ltd	\$8,936	Employment advertising
Total	\$8,936	

CORRECTION OF MATERIAL ERRORS IN PREVIOUS ANNUAL REPORT

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



PART 5

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 - Refugee Review Tribunal for the year ended 30 June 2010, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Asset Additions; Schedule of Administered Items and Notes to and Forming Part of the Financial Statements, including a Summary of Significant Accounting Policies.

The Responsibility of the Chief Executive for the Financial Statements

The Migration Review Tribunal - Refugee Review Tribunal's Principal Member, as Chief Executive, is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the 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 the Australian National Audit Office Auditing Standards, which incorporate the 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

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT 2600
Phone (02) 6203 7300 Fax (02) 6203 7777

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 Migration Review Tribunal - Refugee Review Tribunal'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 Migration Review Tribunal - Refugee Review Tribunal's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Migration Review Tribunal - Refugee Review Tribunal's Chief Executive as well as evaluating the overall presentation of the financial statements.

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

Independence

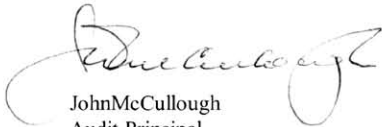
In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Migration Review Tribunal - Refugee Review Tribunal:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the 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 - Refugee Review Tribunal's financial position as at 30 June 2010 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



John McCullough
Audit Principal
Delegate of the Auditor-General

Canberra
14 September 2010

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2010 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
Chief Executive

Date.....10/09/2010

Signed.....

Rhys Jones
Acting Chief Financial Officer

Date.....10/9/2010

Table of contents to financial statements

Statement by CEO and CFO	84
Statement of Comprehensive Income	86
Balance Sheet	87
Statement of Changes in Equity	88
Cash Flow Statement	89
Schedule of Commitments	90
Schedule of Contingencies	91
Schedule of Asset Additions	92
Schedule of Administered Items	93
Note 1: Summary of Significant Accounting Policies	95
Note 2: Events After the Reporting Period	99
Note 3: Expenses	100
Note 4: Income	101
Note 5: Financial Assets	102
Note 6: Non-Financial Assets	103
Note 7: Payables	106
Note 8: Interest Bearing Liabilities	106
Note 9: Provisions	106
Note 10: Cash Flow Reconciliation	107
Note 11: Contingent Liabilities and Assets	107
Note 12: Senior Executive Remuneration	108
Note 13: Remuneration of Auditors	109
Note 14: Financial Instruments	110
Note 15: Income Administered on Behalf of Government	111
Note 16: Expenses Administered on Behalf of Government	111
Note 17: Assets Administered on Behalf of Government	112
Note 18: Liabilities Administered on Behalf of Government	113
Note 19: Administered Reconciliation Table	113
Note 20: Administered Contingent Assets and Liabilities	113
Note 21: Administered Financial Instruments	114
Note 22: Appropriations	115
Note 23: Compensation and Debt Relief	116
Note 24: Reporting of Outcomes	117

Statement of comprehensive income

for the period ended 30 June 2010

	Notes	2010 \$'000	2009 \$'000
EXPENSES			
Employee benefits	3A	33,981	30,474
Supplier expenses	3B	9,298	8,088
Depreciation and amortisation	3C	1,334	1,348
Finance costs	3D	133	140
Write-down and impairment of assets	3E	29	-
Loss on sale of assets	3F	2	-
Total expenses		44,777	40,050
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Rendering of services	4A	54	-
Total own-source revenue		54	-
Gains			
Other	4B	56	56
Total gains		56	56
Total own-source income		110	56
Net cost of (contribution by) services		(44,667)	(39,994)
Revenue from Government	4C	40,062	38,266
Surplus (Deficit) attributable to the Australian Government		(4,605)	(1,728)

Balance sheet

as at 30 June 2010

	Notes	2010 \$'000	2009 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	49	103
Trade and other receivables	5B	11,959	14,238
Total financial assets		12,008	14,341
Non-Financial Assets			
Land and buildings	6A,C	1,509	1,965
Property, plant and equipment	6B,C	572	545
Intangibles	6D	2,422	2,921
Other	6E	203	294
Total non-financial assets		4,706	5,725
Total Assets		16,714	20,066
LIABILITIES			
Payables			
Suppliers	7A	648	777
Other	7B	4,801	3,849
Total payables		5,449	4,626
Interest Bearing Liabilities			
Leases	8	1,904	2,382
Total interest bearing liabilities		1,904	2,382
Provisions			
Employee provisions	9	6,707	5,799
Total provisions		6,707	5,799
Total Liabilities		14,060	12,807
Net Assets		2,654	7,259
		2010	2009
		\$'000	\$'000
EQUITY			
Parent Entity Interest			
Contributed equity		10,876	10,876
Asset Revaluation Reserve		384	384
Retained surplus (accumulated deficit)		(8,606)	(4,001)
Total parent entity interest		2,654	7,259

for the period ended 30 June 2010

	Retained earnings		Asset revaluation reserve		Contributed equity/capital		Total equity	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Opening balance	(4,001)	(4,001)	384	384	10,876	10,876	7,259	7,259
Balance carried forward from previous period								
Comprehensive income	(4,605)	-					(4,605)	-
Surplus (Deficit) for the period	(4,605)	-					(4,605)	-
Total comprehensive income	(8,606)	(4,001)	384	384	10,876	10,876	2,654	7,259
Closing balance as at 30 June	(8,606)	(4,001)	384	384	10,876	10,876	2,654	7,259
Closing balance attributable to the Australian Government	(8,606)	(4,001)	384	384	10,876	10,876	2,654	7,259

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

Cash flow statement

for the period ended 30 June 2010

	2010	2009
Notes	\$'000	\$'000
OPERATING ACTIVITIES		
Cash received		
Goods and services	54	-
Appropriations	41,014	39,791
Other	1	1
Total cash received	41,069	39,792
Cash used		
Employees	33,073	30,005
Suppliers	9,334	7,770
Borrowing costs	133	140
Net GST paid	4	74
Cash transferred to/(from) the Official Public Account	(2,336)	791
Total cash used	40,208	38,780
Net cash from (used by) operating activities	10 861	1,012
INVESTING ACTIVITIES		
Cash used		
Purchase of property, plant and equipment	439	649
Other	-	-
Total cash used	439	649
Net cash from (used by) investing activities	(439)	(649)
FINANCING ACTIVITIES		
Cash used		
Repayment of borrowings	476	448
Other	-	-
Total cash used	476	448
Net cash from (used by) financing activities	(476)	(448)
Net increase (decrease) in cash held	(54)	(85)
Cash and cash equivalents at the beginning of the reporting period	103	188
Cash and cash equivalents at the end of the reporting period	5A 49	103

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

Schedule of commitments

as at 30 June 2010

	2010	2009
	\$'000	\$'000
BY TYPE		
Commitments receivable		
GST recoverable on commitments	(1,946)	(2,360)
Total commitments receivable	<u>(1,946)</u>	<u>(2,360)</u>
Other commitments		
Operating leases	21,405	25,965
Total other commitments	<u>21,405</u>	<u>25,965</u>
Net commitments by type	<u>19,459</u>	<u>23,605</u>
BY MATURITY		
Commitments receivable		
GST recoverable on commitments	(1,946)	(2,360)
Total commitments receivable	<u>(1,946)</u>	<u>(2,360)</u>
Operating lease commitments		
One year or less	4,701	4,804
From one to five years	16,704	21,161
Total operating lease commitments	<u>21,405</u>	<u>25,965</u>
Net commitments by maturity	<u>19,459</u>	<u>23,605</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 2010 is \$6.8m.

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 2010 is \$14.6m.

Operating leases included are effectively non-cancellable and comprise:

<i>Nature of lease</i>	<i>General description of leasing arrangement</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.

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

Schedule of contingencies

as at 30 June 2010

The MRT-RRT has no contingent assets or liabilities.

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

Schedule of asset additions

for the period ended 30 June 2010

The following non-financial non-current assets were added in 2009-10:

	Buildings \$'000	Other property, plant & equipment \$'000	Intangibles \$'000	Total \$'000
By purchase - appropriation ordinary annual services	39	243	157	439
Total additions	39	243	157	439

The following non-financial non-current assets were added in 2008-09:

	Buildings \$'000	Other property, plant & equipment \$'000	Intangibles \$'000	Total \$'000
By purchase - appropriation ordinary annual services	31	21	597	649
Total additions	31	21	597	649

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

Schedule of administered items

	Notes	2010 \$'000	2009 \$'000
Income administered on behalf of Government			
<i>for the period ended 30 June 2010</i>			
Revenue			
Other	15	12,643	12,066
Total non-taxation revenue		<u>12,643</u>	<u>12,066</u>
Total revenues administered on behalf of Government		<u>12,643</u>	<u>12,066</u>
Total income administered on behalf of Government		<u>12,643</u>	<u>12,066</u>
Expenses administered on behalf of Government			
<i>for the period ended 30 June 2010</i>			
Write-down and impairment of assets	16A	1,546	2,068
Other	16B	5,291	4,405
Total expenses administered on behalf of Government		<u>6,837</u>	<u>6,473</u>

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

Schedule of administered items

	Notes	2010 \$'000	2009 \$'000
Assets administered on behalf of Government			
<i>as at 30 June 2010</i>			
Financial assets			
Cash and cash equivalents	17A	59	54
Receivables	17B	749	469
Total financial assets		<u>808</u>	<u>523</u>
Total assets administered on behalf of Government		<u>808</u>	<u>523</u>
Liabilities administered on behalf of Government			
<i>as at 30 June 2010</i>			
Payables			
Other	18	-	-
Total payables		<u>-</u>	<u>-</u>
Total liabilities administered on behalf of Government		<u>-</u>	<u>-</u>

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

Schedule of administered items

	Notes	2010 \$'000	2009 \$'000
Administered Cash Flows			
<i>for the period ended 30 June 2010</i>			
OPERATING ACTIVITIES			
Cash received			
Fees		10,811	9,735
Total cash received		<u>10,811</u>	<u>9,735</u>
Cash used			
Other		5,291	4,405
Total cash used		<u>5,291</u>	<u>4,405</u>
Net cash flows from (used by) operating activities		<u>5,520</u>	<u>5,330</u>
Net Increase (Decrease) in Cash Held		<u>5,520</u>	<u>5,330</u>
Cash and cash equivalents at the beginning of the reporting period		54	26
Cash from Official Public Account for:			
- Transfer from other entities (Finance - Whole of Government)		5,340	4,404
		<u>5,340</u>	<u>4,430</u>
Cash to Official Public Account for:			
- Appropriations		10,855	9,706
		<u>10,855</u>	<u>9,706</u>
Cash and cash equivalents at the end of the reporting period	<u>17A</u>	<u>59</u>	<u>54</u>

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

Schedule of administered items

SCHEDULE OF ADMINISTERED ITEMS

Administered Commitments

as at 30 June 2010

There are no administered commitments at 30 June 2010 (2009: Nil)

Schedule of administered items

Administered Contingencies

as at 30 June 2010

There are no administered contingencies at 30 June 2010 (2009: Nil)

Notes to and forming part of the financial statements

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Migration Review Tribunal and Refugee Review Tribunal

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

The MRT-RRT activities contributing toward this outcome 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.

The MRT-RRT conducts the following administered activities: 1. the collection of MRT application fees and RRT post decision fees. 2. The repayment of fees to successful applicants.

1.2 Basis of Preparation of the Financial Statements

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are general purpose financial statements.

The Financial Statements have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2009; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities 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 statements are 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 FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity 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 unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the statement of comprehensive income 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, 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 land and buildings was revalued at the 30 June 2010 by an independent valuer.

1.4 New 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, which 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.

Notes to and forming part of the financial statements

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental outputs for the year (adjusted for any formal 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.

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

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 MRT-RRT retains no managerial involvement or 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 entity.

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 associated with the transaction will flow to the entity.

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 impairment allowance account. Collectability of debts is reviewed at end of reporting period. Allowances are made when collectability of the debt is no longer probable.

1.6 Gains

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.

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

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).

Sale of Assets

Gains from disposal of 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 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of end of reporting period 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.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

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 at the estimated salary rates that will apply at the time the leave is taken, 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.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2010. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

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 for the Australian Government. The PSSap is a defined contribution scheme.

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 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 an 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.

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 cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

1.12 Financial Assets

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

- 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'.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

1.13 Financial Liabilities

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

Notes to and forming part of the financial statements

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 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 income 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 subsequent 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 in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit 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.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to 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:

	2010	2009
Leasehold improvements	Lease term	Lease term
Plant and Equipment	3 to 10 years	3 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2010. 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

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 MRT-RRT's software are 3 to 8 years (2009: 3 to 8 years).

All software assets were assessed for indications of impairment as at 30 June 2010.

1.18 Taxation / Competitive Neutrality

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
- 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 MRT-RRT for use by the Government rather than the agency 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 agency on behalf of the Government and reported as such in the statement of cash flows in the schedule of administered items and in the administered reconciliation table in Note 19.

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 profit or loss.

Note 2: Events After the Reporting Period

There has not been any event occurring after balance date that has not been brought to account in the 2009-10 Financial Report.

Notes to and forming part of the financial statements

Note 3: Expenses

	2010	2009
	\$'000	\$'000
Note 3A: Employee Benefits		
Wages and salaries	25,683	23,112
Superannuation:		
Defined benefit plans	2,995	3,045
Defined contribution plans	945	729
Leave and other entitlements	4,346	3,588
Separation and redundancies	12	-
Total employee benefits	33,981	30,474

Note 3B: Suppliers

Goods and services		
Property operating expenses	3,963	3,656
Interpreting	1,053	944
Communications	1,136	818
Interstate facilities	701	523
Printing and Stationery	371	340
Other	2,074	1,807
Total goods and services	9,298	8,088

Goods and services are made up of:

Provision of goods – external parties	552	497
Rendering of services – related entities	1,317	1,404
Rendering of services – external parties	4,578	3,337
Total goods and services	6,447	5,238

Other supplier expenses

Operating lease rentals – external parties:		
Minimum lease payments	2,672	2,636
Workers compensation expenses	179	214
Total other supplier expenses	2,851	2,850
Total supplier expenses	9,298	8,088

Note 3C: Depreciation and Amortisation

Depreciation:		
Infrastructure, plant and equipment	212	233
Buildings	466	462
Computer software	42	120
Total depreciation	720	815

Amortisation:

Intangibles:		
Computer software	614	533
Total amortisation	614	533
Total depreciation and amortisation	1,334	1,348

Note 3D: Finance Costs

Finance leases	133	140
Total finance costs	133	140

Note 3E: Write-Down and Impairment of Assets

Asset write-downs and impairments from:

Revaluation decrement - Leasehold Improvements	29	-
Total write-down and impairment of assets	29	-

Note 3F: Losses from Asset Sales

Property, plant and equipment:		
Carrying value of assets sold	2	-
Total losses from asset sales	2	-

Note 4: Income

REVENUE	2010 \$'000	2009 \$'000
---------	----------------	----------------

Note 4A: Sale of Goods and Rendering of Services

Rendering of services - related entities	<u>54</u>	<u>-</u>
Total sale of goods and rendering of services	<u>54</u>	<u>-</u>

GAINS

Note 4B: Other Gains

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

REVENUE FROM GOVERNMENT

Note 4C: Revenue from Government

Appropriations:		
Departmental outputs	40,062	38,266
Total revenue from Government	<u>40,062</u>	<u>38,266</u>

Notes to and forming part of the financial statements

Note 5: Financial Assets

	2010	2009
	\$'000	\$'000
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	49	103
Total cash and cash equivalents	49	103
Note 5B: Trade and Other Receivables		
Good and Services:		
Goods and services - related entities	57	-
Total receivables for goods and services	57	-
Appropriations receivable:		
For existing outputs	11,756	14,092
Total appropriations receivable	11,756	14,092
Other receivables:		
GST receivable from the Australian Taxation Office	131	130
Other	15	16
Total other receivables	146	146
Total trade and other receivables (gross)	11,902	14,238
Total trade and other receivables (net)	11,959	14,238
Receivables are expected to be recovered in:		
No more than 12 months	11,959	14,238
More than 12 months	-	-
Total trade and other receivables (net)	11,959	14,238
Receivables are aged as follows:		
Not overdue	11,959	14,238
Total receivables (gross)	11,959	14,238

Note 6: Non-Financial Assets

	2010	2009
	\$'000	\$'000
Note 6A: Land and Buildings		
Leasehold improvements:		
Fair value	1,595	4,007
Accumulated depreciation	(86)	(2,042)
Total leasehold improvements	1,509	1,965
Total land and buildings	1,509	1,965

\$1,509K (2009: \$1,965) of total leasehold improvements may not be disposed of without prior ministerial approval.

Revaluations are conducted in accordance with Note 1 of the accounts. On the 30 June an independent valuation of our Melbourne property was carried out by the Australian Valuation Office.

A revaluation for leasehold improvements resulting in a decrement of \$29K was expensed. (2009: nil)

No indicators of impairment were found for land and buildings.

No land or buildings are expected to be sold or disposed of within the next 12 months.

Note 6B: Property, Plant and Equipment

Other property, plant and equipment:		
Fair value	1,012	778
Accumulated depreciation	(440)	(233)
Total other property, plant and equipment	572	545
Total property, plant and equipment	572	545

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

Note 6C: Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment (2009-10)

	Buildings \$'000	Other property, plant & equipment \$'000	Total \$'000
As at 1 July 2009			
Gross book value	4,007	778	4,785
Accumulated depreciation and impairment	(2,042)	(233)	(2,275)
Net book value 1 July 2009	1,965	545	2,510
Additions:			
By purchase	39	243	282
Revaluations recognised in the operating result	(29)	-	(29)
Depreciation expense	(466)	(212)	(678)
Disposals:			
Other	-	(4)	(4)
Net book value 30 June 2010	1,509	572	2,081
Net book value as of 30 June 2010 represented by:			
Gross book value	1,595	1,012	2,607
Accumulated depreciation	(86)	(440)	(526)
	1,509	572	2,081

Notes to and forming part of the financial statements

Note 6C (Cont'd): Reconciliation of the Opening and Closing Balances of Buildings, Property, Plant and Equipment (2008-09)

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

2010
\$'000

2009
\$'000

Note 6D: Intangibles

Computer software:		
Internally developed – in use	5,427	4,651
Purchased	157	776
Total computer software (gross)	5,584	5,427
Accumulated amortisation	(3,162)	(2,506)
Total computer software (net)	2,422	2,921
Total intangibles	2,422	2,921

No indicators of impairment were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

Note 6D (cont'd): Reconciliation of the Opening and Closing Balances of Intangibles (2009-10)

	Computer software internally developed \$'000	Computer software purchased \$'000	Other intangibles internally developed \$'000	Total \$'000
As at 1 July 2009				
Gross book value	4,651	776	-	5,427
Accumulated amortisation and impairment	(1,941)	(565)	-	(2,506)
Net book value 1 July 2009	2,710	211	-	2,921
Additions:				
By purchase	-	11	-	11
Internally developed	146	-	-	146
Amortisation	(589)	(67)	-	(656)
Net book value 30 June 2010	2,267	155	-	2,422
Net book value as of 30 June 2010 represented by:				
Gross book value	4,797	787	-	5,584
Accumulated amortisation and impairment	(2,530)	(632)	-	(3,162)
	<u>2,267</u>	<u>155</u>	<u>-</u>	<u>2,422</u>

Note 6D (cont'd): Reconciliation of the Opening and Closing Balances of Intangibles (2008-09)

	Computer software internally developed \$'000	Computer software purchased \$'000	Other intangibles internally developed \$'000	Total \$'000
As at 1 July 2008				
Gross book value	4,238	592	-	4,830
Accumulated amortisation and impairment	(1,408)	(445)	-	(1,853)
Net book value 1 July 2008	2,830	147	-	2,977
Additions:				
By purchase	-	184	-	184
Internally developed	413	-	-	413
Amortisation	(533)	(120)	-	(653)
Net book value 30 June 2009	2,710	211	-	2,921
Net book value as of 30 June 2009 represented by:				
Gross book value	4,651	776	-	5,427
Accumulated amortisation and impairment	(1,941)	(565)	-	(2,506)
	<u>2,710</u>	<u>211</u>	<u>-</u>	<u>2,921</u>

2010 2009
\$'000 \$'000

Note 6E: Other Non-Financial Assets

Prepayments	<u>203</u>	<u>294</u>
Total other non-financial assets	<u>203</u>	<u>294</u>

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

Total other non-financial assets are expected to be recovered in:

No more than 12 months	<u>203</u>	<u>294</u>
Total other non-financial assets	<u>203</u>	<u>294</u>

Notes to and forming part of the financial statements

Note 7: Payables

	2010 \$'000	2009 \$'000
Note 7A: Suppliers		
Trade creditors and accruals	648	777
Total supplier payables	648	777
Supplier payables expected to be settled within 12 months:		
Related entities	112	100
External parties	536	677
Total	648	777
Total supplier payables	648	777
Settlement is usually made within 30 days.		
Note 7B: Other Payables		
Other - Appropriation owing to Government	4,801	3,849
Total other payables	4,801	3,849
Total other payables are expected to be settled in:		
No more than 12 months	4,801	3,849
Total other payables	4,801	3,849

Note 8: Interest Bearing Liabilities

	2010 \$'000	2009 \$'000
Note 8: Leases		
Finance leases	1,904	2,382
Total finance leases	1,904	2,382
Payable:		
Within one year:		
Minimum lease payments	611	611
Deduct: future finance charges	(101)	(133)
In one to five years:		
Minimum lease payments	1,486	2,096
Deduct: future finance charges	(92)	(192)
Finance leases recognised on the balance sheet	1,904	2,382

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

	2010 \$'000	2009 \$'000
Note 9: Employee Provisions		
Leave	5,018	4,289
Other	1,689	1,510
Total employee provisions	6,707	5,799
Employee provisions are expected to be settled in:		
No more than 12 months	3,164	2,750
More than 12 months	3,543	3,049
Total employee provisions	6,707	5,799

Note 10: Cash Flow Reconciliation

	2010	2009
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Cash and cash equivalents as per:		
Cash flow statement	49	103
Balance sheet	49	103
Difference	-	-
Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(44,667)	(39,994)
Add revenue from Government	40,062	38,266
Adjustments for non-cash items		
Depreciation / amortisation	1,334	1,348
Net write down of non-financial assets	29	-
Disposal of assets	2	-
Changes in assets / liabilities		
(Increase) / decrease in net receivables	2,279	(650)
(Increase) / decrease in prepayments	91	(56)
Increase / (decrease) in employee provisions	908	469
Increase / (decrease) in supplier payables	(129)	104
Increase / (decrease) in other payable	952	1,525
Net cash from (used by) operating activities	861	1,012

Note 11: Contingent Liabilities and Assets

Quantifiable Contingencies

There are no quantifiable contingent assets and liabilities as at 30 June 2010.

Unquantifiable Contingencies

At 30 June 2010 the MRT-RRT had no legal claims against it.

Notes to and forming part of the financial statements

Note 12: Senior Executive Remuneration

Note 12A: Actual Remuneration Paid to Senior Executives

	2010	2009
The number of senior executives who received:		
less than \$145,000*	1	-
\$190,000 to \$204,999	1	1
\$220,000 to \$234,999	-	1
\$250,000 to \$264,999	1	1
\$370,000 to \$384,999	1	1
Total	4	4

* Excluding acting arrangements and part-year

Total expense recognised in relation to Senior Executive employment

	\$	\$
Short-term employee benefits:		
Salary (including annual leave taken)	603,974	738,993
Changes in annual leave provisions	45,078	19,692
Performance bonus	12,023	21,375
Other ¹	138,124	150,280
Total Short-term employee benefits	799,199	930,340
Superannuation (post-employment benefits)	76,667	110,513
Total	875,866	1,040,853

Notes

1. "Other" includes motor vehicle allowances and other allowances.

One position was vacant for 9 months.

Note 12B: Salary Packages for Senior Executives

Average annualised remuneration packages for substantive Senior Executives

	As at 30 June 2010			As at 30 June 2009		
	No. SES	Base salary (including annual leave)	Total remuneration package ¹	No. SES	Base salary (including annual leave)	Total remuneration package ¹
Total remuneration:						
\$175,000 to \$189,999	-	-	-	1	126,415	180,206
\$190,000 to \$204,999	1	141,650	198,642	-	-	-
\$225,000 to \$239,999	-	-	-	1	155,030	231,130
\$240,000 to \$254,999	2	167,690	244,006	1	171,201	251,342
\$355,000 to \$369,999	1	194,720	366,733	1	189,040	362,978
Total	4			4		

* Excluding acting arrangements and part-year service.

Notes

1. Non-Salary elements available to Senior Executives include:

- Performance Bonus
- Motor vehicle allowance
- Superannuation

Note 13: Remuneration of Auditors

2010	2009
\$'000	\$'000

Financial statement audit services were provided free of charge to the Agency.

The fair value of the services provided was:

<u>55</u>	<u>55</u>
<u>55</u>	<u>55</u>

No other services were provided by the Auditor-General.

Notes to and forming part of the financial statements

Note 14: Financial Instruments

	Notes	2010 \$'000	2009 \$'000
Note 14A: Categories of Financial Instruments			
Financial Assets			
Loans and receivables:			
Cash and Cash Equivalents	5A	49	103
Loans and Receivables	5B	72	16
Total		121	119
Carrying amount of financial assets			
		121	119
Financial Liabilities			
At amortised cost:			
Finance lease	8	1,904	2,382
Other Liabilities - Suppliers	7A	648	777
Total		2,552	3,159
Carrying amount of financial liabilities			
		2,552	3,159

Note 14B: Net Expense from Financial Liabilities

Financial liabilities - at amortised cost			
Interest expense	3D	133	140
Net gain/(loss) financial liabilities - at amortised cost		133	140
Net gain/(loss) from financial liabilities			
		133	140

Note 14C: Fair Value of Financial Instruments

	Carrying amount 2010 \$'000	Fair value 2010 \$'000	Carrying amount 2009 \$'000	Fair value 2009 \$'000
Financial Assets				
Cash and Equivalents	49	49	103	103
Loans and Receivables	72	72	16	16
Total	121	72	119	119
Financial Liabilities				
Finance lease	1,904	1,831	2,382	2,301
Other - suppliers	648	648	777	777
Total	2,552	2,479	3,159	3,078

Fair value for all classes of assets and liabilities is determined at market value.

Note 14D: Credit Risk

The MRT-RRT's maximum exposure to credit risk at reporting date in relation to each class of recognised financial instruments is as follows:
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.

Note 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.

Note 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 'Currency risk' or 'Other price risk'.

Notes to the Schedule of Administered Items

Note 15: Income Administered on Behalf of Government

	2010	2009
	\$'000	\$'000
REVENUE		
Non-Taxation Revenue		
Note 15: Other Revenue		
Other - MRT Application fees	10,291	9,260
Other - RRT Post Decision fees	2,352	2,806
Total other revenue	<u>12,643</u>	<u>12,066</u>

Note 16: Expenses Administered on Behalf of Government

	2010	2009
	\$'000	\$'000
EXPENSES		
Note 16A: Write-Down and Impairment of Assets		
Asset write-downs and impairments from:		
Bad debts - RRT fees	1,546	2,068
Total write-down and impairment of assets	<u>1,546</u>	<u>2,068</u>
Note 16B: Other Expenses		
Refund of fees	5,291	4,405
Total other expenses	<u>5,291</u>	<u>4,405</u>

Notes to and forming part of the financial statements

Note 17: Assets Administered on Behalf of Government

	2010 \$'000	2009 \$'000
FINANCIAL ASSETS		
Note 17A: Cash and Cash Equivalents		
Cash on hand or on deposit	59	54
Total cash and cash equivalents	59	54
Note 17B: Receivables		
Other receivables:		
Fees	1,311	1,125
Total other receivables	1,311	1,125
Total receivables (gross)	1,311	1,125
Less: impairment allowance account:		
Other	562	656
Total impairment allowance account	562	656
Total receivables (net)	749	469
Receivables are expected to be recovered in:		
No more than 12 months	749	469
More than 12 months	-	-
Total trade and other receivables (net)	749	469
Receivables were aged as follows:		
Not overdue	234	188
Overdue by:		
0 to 30 days	223	193
31 to 60 days	164	218
61 to 90 days	207	216
More than 90 days	483	310
Total receivables (gross)	1,311	1,125
The impairment allowance account is aged as follows:		
Not overdue	-	4
Overdue by:		
0 to 30 days	-	16
31 to 60 days	2	143
61 to 90 days	185	192
More than 90 days	375	301
Total impairment allowance account	562	656
Goods and services receivables are with entities external to the Australian Government. Credit terms were within 7 days (2009: [7] days).		

Reconciliation of the Impairment Allowance Account: Movements in relation to 2010

	Other receivables \$'000	Total \$'000
Opening balance	656	656
Increase/decrease recognised in net surplus	(94)	(94)
Closing balance	562	562
Movements in relation to 2009		
	Other receivables \$'000	Total \$'000
Opening balance	307	307
Increase/decrease recognised in net surplus	349	349
Closing balance	656	656

Note 18: Liabilities Administered on Behalf of Government

	2010	2009
	\$'000	\$'000
PAYABLES		
Note 18: Other payables		
Other	-	-
Total other payables	<u>-</u>	<u>-</u>

Note 19: Administered Reconciliation Table

	2010	2009
	\$'000	\$'000
Opening administered assets less administered liabilities as at 1 July	523	262
Adjustments for prior years roundings	(6)	-
Adjusted opening administered assets less administered liabilities	517	262
Plus: Administered income	12,643	12,066
Less: Administered expenses	(6,837)	(6,473)
Administered transfers to/from Australian Government:		
Appropriation transfers from OPA:		
Annual appropriations for administered expenses	5,340	4,404
Transfers to OPA	(10,855)	(9,736)
Closing administered assets less administered liabilities as at 30 June	808	523

Note 20: Administered Contingent Assets and Liabilities**Unquantifiable Contingencies**

At 30 June 2010, the MRT-RRT had no contingent assets.

At 30 June 2010, the MRT-RRT had no legal claims against it.

Notes to and forming part of the financial statements

Note 21: Administered Financial Instruments

	2010	2009
	\$'000	\$'000
Note 21A: Categories of Financial Instruments		
Financial Assets		
Cash	59	54
Loans and receivables	749	469
Total	808	523
Carrying amount of financial assets	808	523

Note 21B: Fair Value of Financial Instruments

	Carrying amount	Fair value	Carrying amount	Fair value
	2010	2010	2009	2009
	\$'000	\$'000	\$'000	\$'000
Financial Assets				
Cash on Hand	59	59	54	54
Loans and receivables ¹	749	749	469	469
Total	808	808	523	523

1. Fair value for loans and receivables is, which is determined for disclosure purposes, is calculated based on the present value of future principal and interest cash flows, discounted at the market rate of interest at reporting date.

Note 21C: Credit Risk

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

Note 21D: Liquidity Risk

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

Note 21E: Market Risk

The MRT-RRT is not exposed to market risk.

Note 22: Appropriations

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

Particulars	Departmental outputs	
	2010 \$'000	2009 \$'000
Balance brought forward from previous period (<i>Appropriation Acts</i>)	10,346	11,165
<i>Appropriation Act:</i>		
Appropriation Act (No. 1, 3&5) 2009-2010 as passed	41,014	37,513
Appropriations Reduced:		
Adjustment to appropriations	(952)	734
<i>FMA Act:</i>		
*Appropriations to take account of recoverable GST (<i>FMA Act</i> section 30A) ¹	(4)	(74)
Relevant agency receipts (<i>FMA Act</i> s 31)	55	1
Total appropriation available for payments	50,459	49,339
Cash payments made during the year (GST inclusive)	(43,455)	(38,993)
Balance of authority to draw cash from the Consolidated Revenue Fund for ordinary annual services appropriations and as represented by:	7,004	10,346
Cash at bank and on hand	49	103
Departmental appropriations receivable	11,756	14,092
Departmental appropriations to be returned to the Official Public Account	(4,801)	(3,849)
Total as at 30 June	7,004	10,346

1. The amounts in this line item are calculated on an accrual basis to the extent that an expense may have been incurred that includes GST but has not been paid by year end

Notes to and forming part of the financial statements

Note 23: Compensation and Debt Relief

	2010 \$	2009 \$
Administered		
No 'Act of Grace' expenses were incurred during the reporting period (2009: Nil expenses).	-	-
2 waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the Financial Management and Accountability Act 1997. (2009 Nil waivers)	<u>2,000</u>	-
490 waivers of amounts owing to the Australian Government were made pursuant to Regulation 4.13(4) of the Migration Regulations 1994. (2009: 338 waivers)	<u>686,000</u>	<u>473,200</u>

Note 24: Reporting of Outcomes

Note 24A: Net Cost of Outcome Delivery

	Outcome 1	
	2010 \$'000	2009 \$'000
Expenses		
Administered	6,837	6,473
Departmental	44,777	40,050
Total	51,614	46,523
Income from non-government sector		
Total administered	12,643	12,066
Departmental		
Other	-	-
Total departmental	-	-
Total	12,643	12,066
Net cost/(contribution) of outcome delivery	38,971	34,457

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to Note 3B.

Note 24B: Major Classes of Departmental Expense, Income, Assets and Liabilities by Outcomes

	Outcome 1	
	2010 \$'000	2009 \$'000
Departmental Expenses:		
Employees	33,981	30,474
Suppliers	9,298	8,088
Depreciation and Amortisation	1,334	1,348
Finance costs	133	140
Write-down and impairment of assets	29	-
Other Expenses	2	-
Total	44,777	40,050
Departmental Income:		
Income from government	40,462	38,266
Rendering of services	54	-
Total	40,516	38,266
Departmental Assets		
Financial Assets	12,008	14,341
Non-Financial Assets	4,706	5,725
Total	16,714	20,066
Departmental Liabilities		
Payables	5,449	4,626
Interest Bearing Liabilities	1,904	2,382
Provisions	6,707	5,799
Total	14,060	12,807

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

Notes to and forming part of the financial statements

Note 24C: Major Classes of Administered Expenses, Income, Assets and Liabilities by Outcomes

	Outcome 1	
	2010 \$'000	2009 \$'000
Administered expenses		
Write down and impairment of assets	1,546	2,068
Other Expenses - refund of application fees	5,291	4,405
Total	6,837	6,473
Administered income		
Other non-tax revenue	12,643	12,066
Total	12,643	12,066
Administered assets		
Financial assets	808	523
Total	808	523
Administered liabilities		
Other	-	-
Total	-	-

Outcome 1 is described in Note 1.1.

APPENDIX 1

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 tribunals' website.

A list of members and their appointment periods as at 1 July 2010 is set out below.

The first appointment date reflects the date from which there has been continuing appointments to the MRT, the RRT or both tribunals.

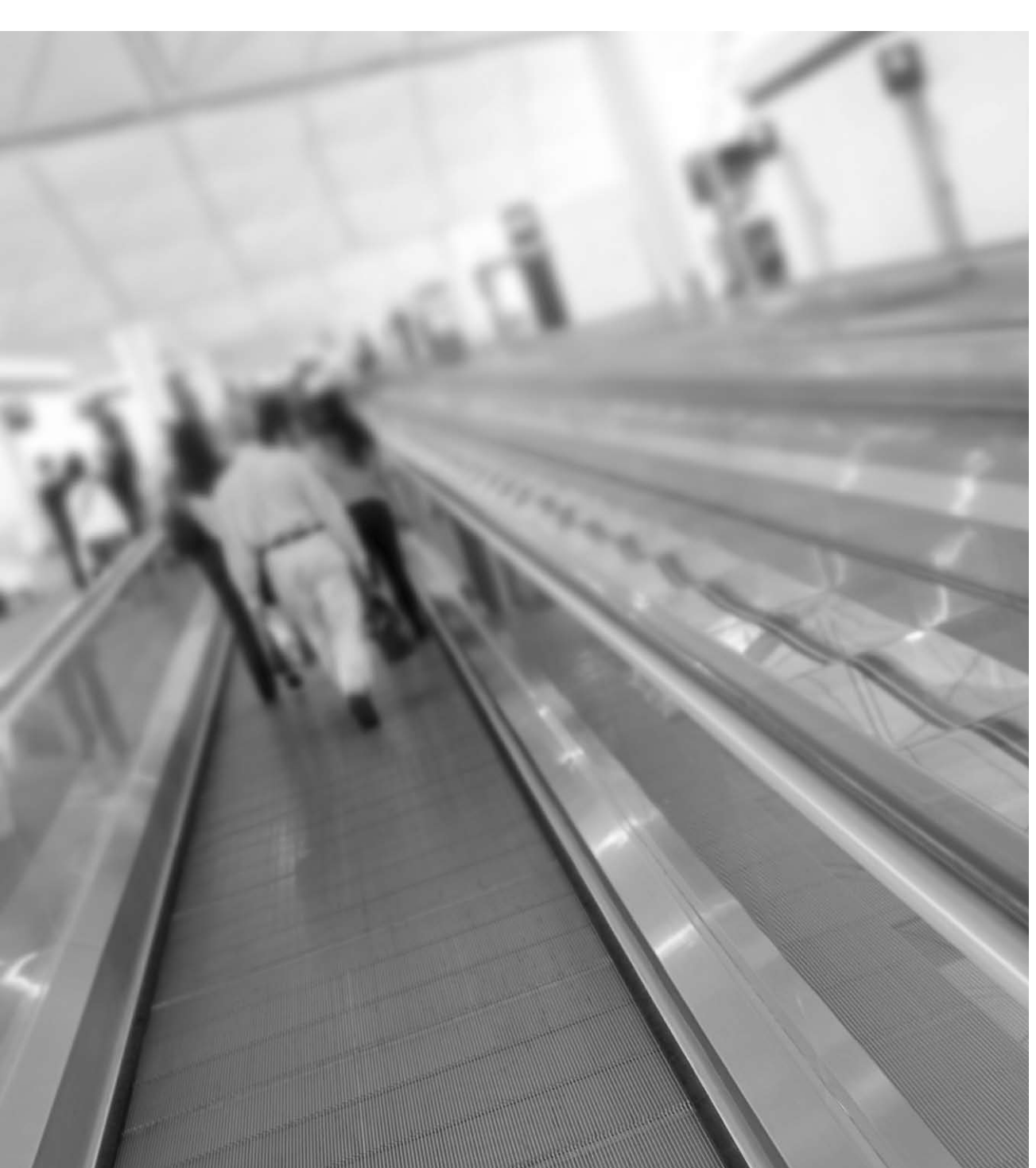
Member	Office	First appointed	Current appointment expires	Gender	Location
Mr Denis O'Brien	Principal Member	3 Sep 2007	30 Jun 2012	M	Sydney
Ms Amanda MacDonald	Deputy Principal Member	1 Dec 2000	31 Mar 2015	F	Sydney
Ms Linda Kirk	Senior Member	1 Jan 2009	31 Dec 2013	F	Melbourne
Mr Peter Murphy	Senior 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 2015	F	Melbourne
Mr Tony Caravella	Full-time Member	1 Jul 2009	30 Jun 2014	M	Perth
Mr John Cipolla	Full-time Member	1 Feb 2000	30 Jun 2015	M	Sydney
Ms Denise Connolly	Full-time Member	1 Jul 2010	30 Jun 2015	F	Sydney
Mr Richard Derewlany	Full-time Member	1 Oct 2001	30 Jun 2015	M	Sydney

Member	Office	Appointed	Current appointment expires	Gender	Location
Ms Dione Dimitriadis	Full-time Member	14 Jul 2003	30 Jun 2014	F	Sydney
Ms Suseela Durvasula	Full-time Member	1 Oct 2001	30 Jun 2015	F	Sydney
Mr Paul Fisher	Full-time Member	1 Jul 2006	30 Jun 2014	M	Melbourne
Mr Patrick Francis	Full-time Member	1 Jul 2010	30 Jun 2015	M	Melbourne
Ms Maria Rosa Gagliardi	Full-time Member	31 Jul 2006	30 Jun 2014	F	Melbourne
Ms Michelle Grau	Full-time Member	1 Jul 2010	30 Jun 2015	F	Sydney
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
Ms Margret Holmes	Full-time Member	1 Jul 2009	30 Jun 2014	F	Melbourne
Mr Simon Jeans	Full-time Member	1 Jul 2010	30 Jun 2015	M	Sydney
Mr Dominic Lennon	Full-time Member	14 Jul 2003	30 Jun 2014	M	Melbourne
Mr Paul Millar	Full-time Member	1 Jul 2010	30 Jun 2015	M	Sydney
Mr David Mitchell	Full-time Member	7 Jul 1999	30 Jun 2015	M	Melbourne
Mr Adam Moore	Full-time Member	1 Jul 2010	30 Jun 2015	M	Melbourne
Ms Louise Nicholls	Full-time Member	1 Oct 2001	30 Jun 2015	F	Sydney
Mr Charles Powles	Full-time Member	1 Jul 2010	30 Jun 2015	M	Melbourne
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 2015	M	Sydney
Mr Andrew Rozdilsky	Full-time Member	1 Jul 2010	30 Jun 2015	M	Sydney

Member	Office	Appointed	Current appointment expires	Gender	Location
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 2015	M	Sydney
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 2015	F	Melbourne
Ms Melissa Bray	Part-time Member	1 Jul 2010	30 Jun 2015	F	Melbourne
Ms Nicole Burns	Part-time Member	1 Jul 2007	30 Jun 2015	F	Melbourne
Ms Mary Cameron	Part-time Member	1 Jul 2006	30 Jun 2014	F	Melbourne
Ms Catherine Carney-Osborn	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
Ms Christine Cody	Part-time Member	1 Jul 2010	30 Jun 2015	F	Sydney
Mr Timothy Connellan	Part-time Member	1 Jul 2007	30 Jun 2015	M	Melbourne
Mr Clyde Cosentino	Part-time Member	1 Jul 2010	30 Jun 2015	M	Brisbane
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
Ms Gabrielle Cullen	Part-time Member	1 Jul 2006	30 Jun 2014	F	Sydney
Ms Megan Deane	Part-time Member	23 Mar 2000	30 Jun 2015	F	Melbourne
Mr Ted Delofski	Part-time Member	1 Oct 2001	30 Jun 2015	M	Sydney

Member	Office	Appointed	Current appointment expires	Gender	Location
Mr David Dobell	Part-time Member	1 Jul 2006	30 Jun 2014	M	Sydney
Mr Jonathon Duignan	Part-time Member	8 Jan 2001	30 Jun 2015	M	Sydney
Ms Jennifer Ellis	Part-time Member	15 Jun 1999	30 Jun 2015	F	Melbourne
Ms Jennifer Eutick	Part-time Member	1 Jul 2010	30 Jun 2015	F	Brisbane
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 Brook Hely	Part-time Member	1 Jul 2009	30 Jun 2014	M	Melbourne
Ms Diane Hubble	Part-time Member	1 Jul 2006	30 Jun 2014	F	Melbourne
Ms Sally Hunt	Part-time Member	1 Jul 2010	30 Jun 2015	F	Sydney
Ms Rowena Irish	Part-time Member	1 Jul 2010	30 Jun 2015	F	Sydney
Mr Andrew Jacovides	Part-time Member	19 Sep 1993	30 Jun 2015	M	Sydney
Ms Deborah Jordan	Part-time Member	1 Jul 2007	30 Jun 2015	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	Brisbane
Mr Anthony Krohn	Part-time Member	1 Jul 2010	30 Jun 2015	M	Melbourne
Ms Suzanne Leal	Part-time Member	1 Oct 2001	30 Jun 2015	F	Sydney
Mr Gary Ledson	Part-time Member	1 Jul 2007	30 Jun 2015	M	Melbourne
Ms Patricia Leehy	Part-time Member	28 Jul 1997	30 Jun 2015	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

Member	Office	Appointed	Current appointment expires	Gender	Location
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 2015	F	Sydney
Ms Philippa McIntosh	Part-time Member	5 Sep 1993	30 Jun 2015	F	Sydney
Ms Vanessa Moss	Part-time Member	1 Jul 2010	30 Jun 2015	F	Perth
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 Alison Murphy	Part-time Member	1 Jul 2010	30 Jun 2015	F	Melbourne
Ms Ann O'Toole	Part-time Member	14 Jul 2003	30 Jun 2014	F	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
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 2015	F	Melbourne
Mr Peter Tyler	Part-time Member	1 Jul 2007	30 Jun 2015	M	Melbourne
Ms Lisa Ward	Part-time Member	1 Oct 2001	30 Jun 2015	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

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 2010 and should be read in conjunction with the more detailed information in the rest of this Annual Report.

The *Australian Information Commissioner Act 2010* and the *Freedom of Information Amendment (Reform) Act 2010* (Reform Act) passed through Parliament on 31 May 2010. The reforms to the FOI Act are aimed at promoting a pro-disclosure culture across government and building a stronger foundation for more openness in government. The reforms will impact the way the tribunals process FOI requests and the tribunals' information publication scheme. The majority of measures in the Reform Act will commence on 1 November 2010. The new Information Publication Scheme and the requirement for agencies to publish information where access has been given under the FOI Act will commence on 1 May 2011.

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 2 and 4 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;
- audio recordings of proceedings;
- application and other forms;
- brochures and fact sheets;
- procedures;
- legal advices;
- reference and research materials;
- country advices;
- statistics; and
- administrative and policy files.

The tribunals do not have any documents 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 the tribunals' registries or at www.mrt-rrt.gov.au. No fee applies.

During 2009–10, the MRT received 1,674 requests for access under section 362A of the Migration Act, and finalised 1,674 requests.

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.

The \$30 FOI application fee will be abolished from 1 November 2010. The tribunals' policy had been not to require payment of the fee for applicants requiring access to documents about their own cases.

There will also be changes in charging arrangements from 1 November 2010. The tribunals anticipate that charges will be imposed in even fewer requests than the small number of requests for which charges are currently imposed.

During 2009–10, the tribunals received 730 requests for access under the FOI Act, and finalised 721 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 for the tribunals' registries are provided on page 2 of this Report.



APPENDIX 3

Additional staffing statistics

Appendix 3 – Additional staffing statistics

The following membership and staffing statistics are provided in addition to those set out in Part 4 of the Report.

Ongoing and non-ongoing staff

	30 June 2010			30 June 2009			30 June 2008		
	Women	Men	Total	Women	Men	Total	Women	Men	Total
Ongoing full-time	140	89	229	133	88	221	148	90	238
Ongoing part-time	31	6	37	30	6	36	26	6	32
Non-ongoing full-time	4	1	5	6	4	10	5	6	11
Non-ongoing part-time	0	0	0	0	0	0	1	0	1
Casual	1	0	1	1	0	1	1	0	1
Total	176	96	272	170	98	268	181	102	283

Members and staff by location 30 June 2010

	Sydney	Melbourne	Brisbane	Adelaide	Perth	Total
Members	53	33	3	3	2	94
Staff	194	78	0	0	0	272
Total	247	111	3	3	2	366

Members and staff by age 30 June 2010

Age	Staff	Members
Under 25	3	0
25 to 34	71	0
35 to 44	86	22
45 to 54	73	34
55 to 64	32	31
Over 65	7	7



APPENDIX 4

Disability Action Plan

Appendix 4 – Disability Action Plan

Purchaser role

Performance indicator	Performance measure	Performance 2009–10	Goals for 2010–11	Actions for 2010–11
1. Publicly available information on agreed purchasing specifications are available in accessible formats* for people with disabilities.	<p>Percentage of publicly available purchasing specifications requested and provided in:</p> <ul style="list-style-type: none"> • accessible electronic formats; and • accessible formats other than electronic. <p>Average time taken to provide accessible material in:</p> <ul style="list-style-type: none"> • electronic formats; and • formats other than electronic. 	All requests for information in accessible formats were met.	Seek to meet any requests for information in accessible formats.	Seek to meet any requests for information in accessible formats.
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>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>	Purchasing for an individual with a disability is done in consultation with that individual.	Maintain processes.	Maintain processes.

Performance indicator	Performance measure	Performance 2009–10	Goals for 2010–11	Actions for 2010–11
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> .	Percentage of purchasing specifications for goods and services that specify that tender organisations must comply with the Disability Discrimination Act. Percentage of contracts for the purchase of goods and services that require the contractor to comply with the Disability Discrimination Act.	All requests for tender and draft contracts issued included a clause requiring compliance with the Disability Discrimination Act.	Include specifications and requirements in memoranda of understanding and service level agreements.	Seek to include specifications and requirements in memoranda of understanding and service level agreements as they are reviewed or renewed.
4. Publicly available performance reporting against the purchase contract specifications requested in accessible formats for people with disabilities is provided.	Percentage of publicly available performance reports against the contract purchasing specification requested and provided in: <ul style="list-style-type: none"> • accessible electronic formats; and • accessible formats other than electronic. Average time taken to provide accessible material in: <ul style="list-style-type: none"> • electronic formats; and • formats other than electronic. 	All requests for information in accessible formats were met.	Meet all requests for information in accessible formats.	Continue to meet all requests for alternative formats.

* 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.

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.

** Purchasing agreements can include contracts, memoranda of understanding and service level agreements.

Provider role

Performance indicator	Performance measure	Performance 2009–10	Goals for 2010–11	Actions for 2010–11
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 2009–10 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

List of requirements

Appendix 5 – List of requirements

Agencies are required to prepare Annual Reports to Parliament consistently with requirements approved by the Joint Committee of Public Accounts and Audit and published by the Department of the Prime Minister and Cabinet. Detailed below are the page numbers relating to each of the Annual Report requirements.

Item	Page
Letter of transmittal	3
Table of contents	4
Index	149
Glossary	139
Contact officer(s)	2
Internet home page address and Internet address for report	2
Report by the Principal Member	9
Summary of significant issues and developments	10–12
Overview of tribunals' performance and financial results	24–27
Outlook for following year	10–12
Significant issues and developments – portfolio	10–12
Overview description of the tribunals	14
Role and functions	14
Organisational structure	20
Outcome and program structure	24–25
Where outcome and program structures differ from PB Statements/ PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	24
Portfolio structure	20–21
Review of performance during the year in relation to programs and contribution to outcomes	24
Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	24
Performance of purchaser/ provider arrangements	80
Where performance targets differ from the PBS/ PAES, details of both former and new targets, and reasons for the change	24–25
Narrative discussion and analysis of performance	10–12, 24

Trend information	28
Significant changes in nature of principal functions/services	50
Factors, events or trends influencing the tribunals' performance	10–12
Contribution of risk management in achieving objectives	62
Social justice and equity impacts	44
Performance against service charter customer service standards, complaints data, and the tribunals' response to complaints	47
Discussion and analysis of the tribunals' financial performance	26
Discussion of any significant changes from the prior year or from budget	26
Agency resource statement and summary resource tables by outcomes	26
Developments since the end of the financial year that have affected or may significantly affect operations or financial results in future	50
Statement of the main corporate governance practices in place	60
Names of the senior executive and their responsibilities	60
Senior management committees and their roles	60
Corporate and operational planning and associated performance reporting and review	61
Approach adopted to identifying areas of significant financial or operational risk	62
Certification that the tribunals comply with the Commonwealth Fraud Control Guidelines	63
Policy and practices on the establishment and maintenance of appropriate ethical standards	62
How nature and amount of remuneration for SES officers is determined	73
Significant developments in external scrutiny	63
Judicial decisions and decisions of administrative tribunals	37
Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	63
Assessment of effectiveness in managing and developing human resources to achieve tribunal objectives	69
Workforce planning, staff turnover and retention	72
Impact and features of enterprise or collective agreements, determinations, common law contracts and AWAs	73–74
Training and development undertaken and its impact	72
Occupational health and safety performance	74

Productivity gains	25
Statistics on staffing	70–71, 130
Enterprise or collective agreements, determinations, common law contracts and AWAs	73–74
Performance pay	74
Assessment of effectiveness of assets management	79
Assessment of purchasing against core policies and principles	80
Number of new and ongoing consultancy services contracts and total actual expenditure on consultancy contracts	79–80
Absence of provisions in contracts allowing access by the Auditor-General	79
Contracts exempt from the AusTender	80
Report on performance in implementing the Commonwealth Disability Strategy	77
Financial Statements	82
Occupational health and safety (section 74 of the <i>Occupational Health and Safety Act 1991</i>)	74–75
Freedom of Information (subsection 8(1) of the <i>Freedom of Information Act 1982</i>)	126–128
Advertising and Market Research (Section 311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	80
Ecologically sustainable development and environmental performance (Section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	78
Grant programs	80
Correction of material errors in previous annual report	80



Glossary of terms and abbreviations

Glossary of terms and abbreviations

AASB	Australian Accounting Standards Board.
AAT	The Administrative Appeals Tribunal is a statutory body that provides independent merits review of a range of government decisions.
Access to documents	The tribunals allow access to documents they hold in accordance with the Migration Act and the FOI Act.
Act, the	The <i>Migration Act 1958</i> (the Act) 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.
AEIFRS	The Australian Equivalents to International Financial Reporting Standards.
affirm	To ratify the decision under review – the original decision remains unchanged and in force.
AIAL	Australian Institute of Administrative Law.
ANAO	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.
ANU	The Australian National University.
applicant	The applicant for review.
APEC	Asia-Pacific Economic Cooperation.
appropriations	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.
APS	The Australian Public Service.
APS employee	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> .
ARC	The Administrative Review Council.
asylum seeker	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.
AustLII	The Australasian Legal Information Institute publishes a website that provides free internet access to Australian legal materials, including published MRT and RRT decisions.

authorised recipient	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.
AWA	Australian Workplace Agreement.
bridging visa	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 being while they are awaiting the outcome of application for a substantive visa.
case	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.
CaseMate	CaseMate is the tribunals' case management system. It is a customised database that contains, in electronic form, information on individual cases.
CDS	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.
CEO	The Chief Executive Officer is the Principal Member, who is responsible for the operations and administration of the tribunals.
Chief Financial Officer	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.
COAT	The Council of Australasian Tribunals.
Comcare	A statutory authority responsible for workplace safety, rehabilitation and compensation.
Commonwealth Ombudsman	The Commonwealth Ombudsman considers and investigates complaints about Australian Government departments and agencies, including the tribunals.
competitive tendering and contracting	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.

constitution	Constitution is the formal process by means of which the Tribunal is constituted and a case allocated to a member for the purposes of a particular review. Once constituted as the Tribunal for the purposes of a particular review, a member is responsible for the decision-making processes and the decision of the Tribunal for that review.
consultancy	A consultancy is one type of service delivered under a contract for services. A consultant is an entity engaged to provide professional, independent and expert advice or services and may be an individual, a partnership or a corporation.
corporate governance	The process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.
CPA	The Commonwealth Public Account.
CSS	Commonwealth Superannuation Scheme
current assets	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.
current liabilities	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.
DIAC	The Department of Immigration and Citizenship. Officers of DIAC hold delegations to make the primary decisions reviewable by the tribunals.
decision statement	The formal document which sets out the Tribunal decision and reasons in writing for a particular review.
Deputy Principal Member	The Deputy Principal Member assists the Principal Member in relation to the operations of tribunals.
Deputy Registrar	The Deputy Registrar of the Tribunals assists the Registrar.
Department, the	The Department of Immigration and Citizenship (also DIAC).
DFAT	The Department of Foreign Affairs and Trade.
District Registrar	District Registrars assist the Registrar. A District Registrar is responsible for day to day operations and management of a tribunal registry.
EL	Executive level officer of the APS.
executive officer	The executive officer is the Principal Member. The Principal Member is responsible for the overall operation and administration of the Tribunals.
expenditure	The total or gross amount of money spent by the Government on any or all of its activities.
FCA	The Federal Court of Australia.

FCAFC	The Full Court of the Federal Court of Australia.
Finance	The Department of Finance and Deregulation.
financial results	The results shown in the financial statements of an agency.
FMA Act	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.
FMCA	The Federal Magistrates Court of Australia.
FMO	Finance Minister's Orders.
FOI	Freedom of Information.
FOI Act	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.
former visa holder	A person who previously held a visa. For example, a person whose visa has been cancelled.
GST	Goods and Services Tax (GST) is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia.
Guidance on the Assessment of Credibility	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.
Guide to Refugee Law in Australia	The Guide to Refugee Law in Australia 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.
HCA	The High Court of Australia.
hearing	An appearance by a person before either the MRT or the RRT. The appearance may be in person, or by video or telephone link.
IARLJ	The International Association of Refugee Law Judges.
IASB	International Accounting Standards Board.
IFRS	International Financial Reporting Standards.
IT	Information technology.

Management Board	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, the Registrar and Senior Members.
jurisdiction	Jurisdiction defines the scope of the tribunals' power to review decisions.
Legal Services Directions	Issued by the Attorney-General under the <i>Judiciary Act 1903</i> , 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.
Member	A member is constituted as the MRT or the RRT for the purposes of a particular review and is responsible for the decision-making process and the decision of the MRT or the RRT for that review. Up to three members may be constituted as the MRT.
merits review	Merits review is the administrative reconsideration of the subject matter of the decision under review.
MIAC	The acronym MIAC is used to identify the Minister for Immigration and Citizenship in abbreviated court citations.
migration agent	A migration agent is someone who uses knowledge of migration law and procedures to advise or assist a person who is applying for a visa or in other transactions with DIAC or the tribunals. They may be a lawyer and may work in the private or not-for-profit sector. A migration agent operating in Australia is required by law to be registered with the MARA.
Minister, the	The Minister for Immigration and Citizenship.
MRT	The Migration Review Tribunal.
non-ongoing APS employee	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.
notification	The act of formally making known or giving notices.
OHS	Occupational health and safety.
OMARA	The Office of 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.
ongoing APS employee	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.
OPA	Official Public Account

operations	Functions, services and processes performed in pursuing the objectives or discharging the functions of an agency.
outcomes	The results, impacts or consequence of actions by Government on the Australian community.
outputs	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.
PAES	Portfolio Additional Estimates Statements.
PBS	Portfolio Budget Statements.
performance pay	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.
PMD	Principal Member Direction.
PRC	The People's Republic of China.
primary decision	A primary decision is the decision subject to review by either the MRT or the RRT.
Principal Member	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 as fair, just, economical, informal and quick as practicable; allocating work, determining guidelines and issuing written directions.
Principal Registry	The Principal Registry is the tribunals' national office. The tribunals' executive functions are performed at the Principal Registry.
protection visas	Protection visas are a class of visas a criterion for which is that 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.
PSS	Public Sector Superannuation Scheme.
purchaser/ provider arrangements	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.
Refugees Convention	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.

Registrar	The Registrar of the tribunals assists the Principal Member with the administrative management of the tribunals.
Registry	A registry is an office of the tribunals.
Regulations, the	The Migration Regulations 1994, unless otherwise indicated.
remit	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.
representative	A representative is someone who can forward submissions and 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.
review applicant	A review applicant is a person who has made an application for review to either of the tribunals.
review application	A review application is an application for review that has been made to either of the tribunals.
reviewable decision	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.
RRT	The Refugee Review Tribunal.
RSD	Refugee status determination.
Senior Management Group	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 agency management and planning issues.
Senior Member	Senior Members provide guidance to and are responsible for members within each of the registries.
service charters	It is Government policy that agencies which provide services directly to the public have service charters in place. A service charter is a public statement about the service an agency will provide and what customers can expect from the agency.
SES	Senior Executive Service of the APS.
set aside	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.
source country	The country of nationality or citizenship of a visa applicant.
SSAT	The Social Security Appeals Tribunal.

statutory objective	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.
Tribunal	The Migration Review Tribunal (the MRT) or the Refugee Review Tribunal (the RRT).
tribunals	The Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT), unless otherwise indicated.
Tribunals' Plan	The Tribunals' Plan 2007–2010 replaced 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.
UNHCR	The United Nations High Commissioner for Refugees.
VRB	The Veterans' Review Board.
visa applicant	A visa applicant is a person who has made a visa application.
workplace diversity	The concept of workplace diversity values and utilises the contributions of people of different backgrounds, experiences and perspectives.





Index

Index

A

abbreviations 139–47
access to information 125–8
address 2
Administrative Appeals Tribunal 43, 46,
80, 140
advertising campaigns 80
advertising expenditure 80
application fees 16
application forms 16
applying for review 16
asset management 79
asylum seekers 16, 140
audit 62–3, 82–4
AustLII website 19, 140
Australian National Audit Office 26, 62,
63, 64, 65–7, 140
Australian Public Service Code of
Conduct 62
Australian Public Service Values 62
Australian Workplace Agreement 141

B

budget 26
see also financial statements

C

cancellation of visas 14, 15, 16, 24
case law 24, 37–43
caseload 26, 28
caseload and constitution arrangements
11, 18, 61, 65
caseload strategy section 71
Certified Agreement 73–4, 76
Code of conduct 19, 46, 49, 62
Committees
Audit and Risk Management 12, 60, 62
Community Liaison 11, 12

Management Board 35, 45, 60, 61, 62,
71, 144
Member Professional Development
35, 69
OHS 75
Senior Management Group 60, 71, 146
Commonwealth Disability Strategy 77, 141
Commonwealth Ombudsman 47, 49, 63,
141
Community Liaison meetings 12, 46,
49–50, 127
competitive tendering and contracting
79, 141
complaints 25, 47–9, 63, 65, 67, 76, 134,
141, 144
consultancy services 79–80, 142
contact details 2
contracts 79–80
Convention relating to the Status of
Refugees 15–16, 145
corporate governance 12, 60, 64, 142
corporate plan 61
corrections to previous reports 80
Council of Australasian Tribunals 49
countries (source countries) 11, 27, 146
country advice information 12, 18, 127
courts 37–8

D

decisions 19
Department of Foreign Affairs and Trade
142
Department of Immigration and
Citizenship 10, 14, 42, 64, 142
Deputy Principal Member 10, 20, 60, 61,
68, 69, 71, 120, 142, 144
Deputy Registrar 21, 60, 142, 146
detention cases 18, 25, 27, 32, 33
disability action plan 46, 77, 132–4
discretionary grants 80
District Registrars 21, 142, 146
documents 127

E

ecologically sustainable development 78
email address 2
ethical standards 62
expenditure 26, 79–80, 142
external relations 49–50
external scrutiny 63–7

F

Federal Court judgments 11, 39–43
fees 16
financial performance 26
financial statements 81–118
Fraud Control Plan 62, 63
freedom of information 125–8, 143

G

glossary 139–47
Green Committee 78

H

health and safety 67, 74–5
hearings 17–18, 35
High Court judgments 11, 39–41
human resources 21, 67–77

I

immigration detention 16, 27
industrial relations 63
Information and Communications
Technology Review 63
information resources 18–19
internal auditors 60, 62–3
International Association of Refugee Law
Judges 49, 50, 143
Internet address 2
Interpreter Advisory Group 35
interpreters 2, 7, 18, 25, 35, 37, 44, 45, 46,
48, 62, 70, 78
Interpreters' Handbook 19, 46

J

judicial decisions 38–43

L

Legal Services 18, 21, 69, 70, 72, 143, 144
legislative changes 10, 50
list of requirements 135–8
lodgements 10, 11, 27, 29–30

M

market research 80
Member Code of Conduct 62
Members 7, 11, 12, 14, 20, 25, 37, 44, 46, 49,
50, 60, 62, 67, 68–9, 70, 71, 74, 75, 76,
77, 78, 80, 120–4, 130, 144
Memorandum of understanding 50, 63,
133
merits review 12, 14–15, 19, 24, 126, 140,
144
migration agents 17, 36, 49, 144, 146
Minister 3, 14, 18, 36, 37, 38, 42, 43, 63, 68,
70, 144

N

National telephone enquiry number 2,
45, 46

O

occupational health and safety 74–5, 144
offices 2, 46
Ombudsman 47, 49, 63, 141
organisational structure 19, 21, 60, 126
Outcome 11, 23, 24, 33, 36, 38, 44, 61, 65,
66, 67, 145
Output 11, 26, 65, 66, 80, 145

P

performance 10–12, 24–6
performance audit 64–7
performance management 69–70, 73, 77
planning 61
Principal Member 10, 20, 37, 50, 60, 61, 63,
68, 69, 71, 120, 141, 142, 144, 145

Principal Member Directions 11, 18, 45, 46, 61, 65, 71, 145

Principal Member's report 10–12

procedural fairness 76

professional development 60, 69–70

property management policy 64

protection visas 14, 15, 16, 27, 32, 33, 38, 39, 41, 43, 55, 65, 145

Protocol relating to the Status of Refugees 15–16, 145

purchaser/provider 80, 145

purchasing 78–9

R

reform agenda 64

refugee 15, 16

Refugees Convention 16, 57, 58, 145

Registrar 7, 10, 21, 60, 61, 141, 144, 146

remuneration 67, 68, 72, 73, 120

representation of applicants 17, 18, 35, 36, 46, 49, 67, 128, 146

revenue 26, 86, 93, 96, 99, 101, 111

risk management 60, 62–3

S

salaries 73, 74

Senior Management Group 60, 71, 146

Senior Members 20, 35, 37, 46, 60, 62, 68, 69, 71, 120, 144, 146

Service charter 18, 19, 44–7, 67, 77, 134, 146

source countries 11, 27, 146

staff 21, 70–1

statistics 7, 18, 28–34, 71, 129–30

structure 20, 21, 60

surveys 72, 77

T

temporary protection visas 15, 58, 65

tendering 78–9, 80, 133, 141

time limits 16

timeliness of decisions 11, 18, 25, 32, 37, 48, 65, 69, 71

training 25, 44, 46, 48, 69, 72, 73, 75

Tribunals' Plan 19, 24, 46, 61, 65, 77, 147

U

United Nations Convention Relating to the Status of Refugees 15–16

V

visas 14–15, 16

visits to tribunal 49, 70

W

website address 2

workers' compensation 75

workforce planning 65, 72

workplace diversity 46, 67, 76–7, 147

Workplace Harassment Contact Officers 77

