

Chapter 3:

Workload and performance

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Workload

This section of the annual report provides basic statistical information on the number of applications lodged and finalised in 2003–04 and the number of applications current at the end of the reporting period. In addition to information on the overall workload, this section contains information relating to the Tribunal's major jurisdictions: Commonwealth employees' compensation, social security, taxation and veterans' affairs. Information relating to the previous two reporting periods is provided for the purposes of comparison.

The total number of applications lodged with the Tribunal and finalised by the Tribunal in the 2003–04 year declined marginally when compared with the previous year. The number of applications lodged with the Tribunal decreased by 6 per cent. While the number of finalisations decreased by 5 per cent, the number continued to be high compared with that achieved in 2001–02.

The number of applications current at 30 June 2004 was significantly lower than the number of applications current at the end of the previous reporting period. The number of current applications decreased by over 2,600 applications or 26 per cent. This continued the trend established in the previous reporting year.

Applications lodged

Lodgements by major jurisdiction

The number of applications lodged in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.2.

As in previous years, applications relating to workers' compensation and social security entitlements continued to be the most common types of matters lodged with the Tribunal, comprising 27 per cent and 24 per cent of all applications lodged in the Tribunal, respectively. In 2003–04, lodgements in these jurisdictions declined in comparison to the previous year by 14 per cent and 5 per cent, respectively.

Chart 3.1 Applications lodged, finalised and current

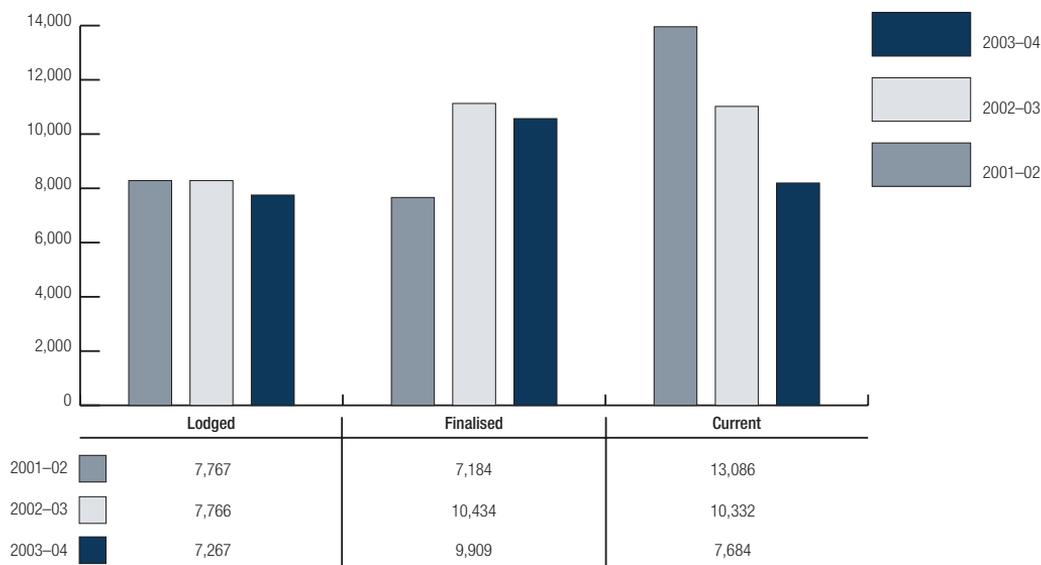
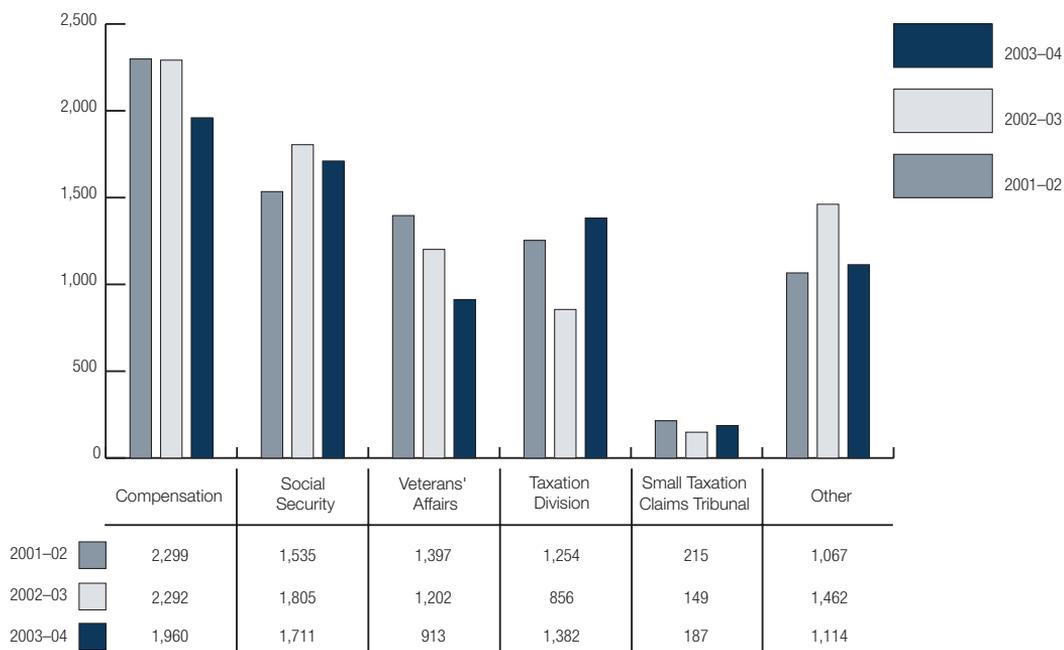


Chart 3.2 Applications lodged in major jurisdictions

The number of applications relating to veterans' affairs declined by 24 per cent of the previous year's total, continuing a downward trend in that jurisdiction.

The number of applications lodged in the Taxation Appeals Division (Taxation Division) and Small Taxation Claims Tribunal increased by 61 per cent and 26 per cent, respectively, in 2003-04. In the Taxation Division, 653 of the 1,382 lodgements (47 per cent) were applications for review of decisions relating to mass-marketed taxation schemes.

Table 3.1 in Appendix 3 provides more details on the applications lodged in the reporting year for all jurisdictions. Chart 3.2 in Appendix 3 provides details in relation to the number of applications lodged in each registry.

Applications finalised

Matters finalised by major jurisdiction

The number of applications finalised in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.3.

The number of applications finalised in the social security jurisdiction increased by 17 per cent during 2003-04.

The number of applications finalised in the other major jurisdictions declined in comparison to the previous year but remained relatively high in comparison to 2001-02. The finalisation of matters in the Taxation Division declined by 18 per cent, which can be attributed to a decrease in the number of applications finalised relating to mass-marketed taxation schemes. In the Small Taxation Claims Tribunal the number of finalised applications decreased by 15 per cent.

The number of finalised applications relating to veterans' affairs declined by 15 per cent, reflecting the declining number of applications lodged in that jurisdiction. The number of finalised applications in the compensation jurisdiction shows a marginal decline when compared with that in the previous year.

Table 3.1 in Appendix 3 provides more details on the applications finalised in the reporting year for all jurisdictions. Chart 3.3 in Appendix 3 provides

Chart 3.3 Applications finalised in major jurisdictions

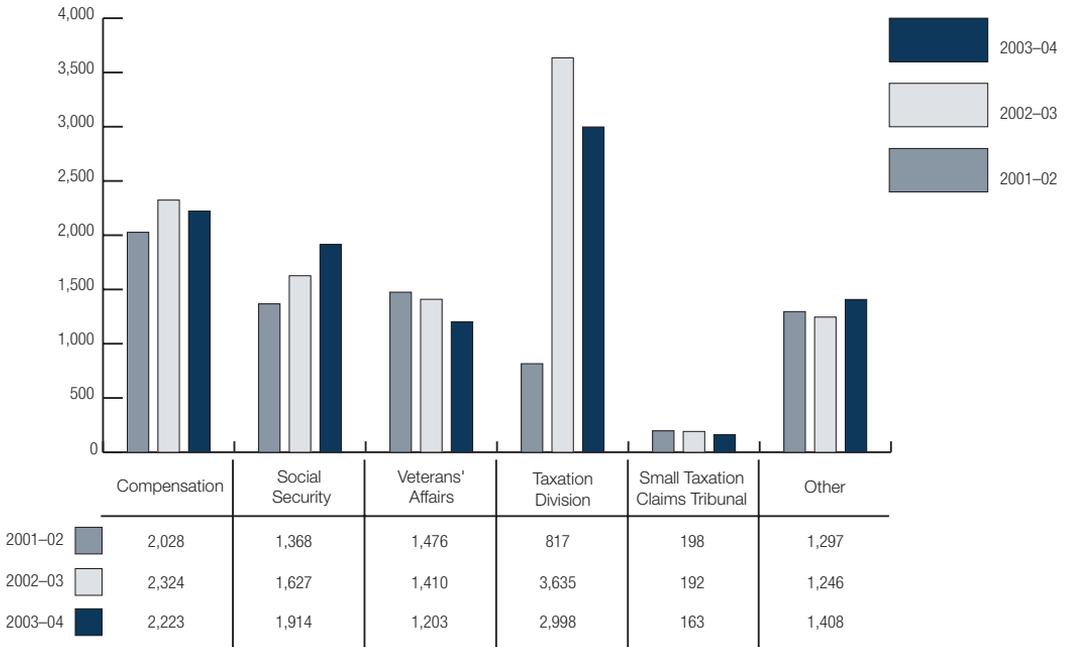
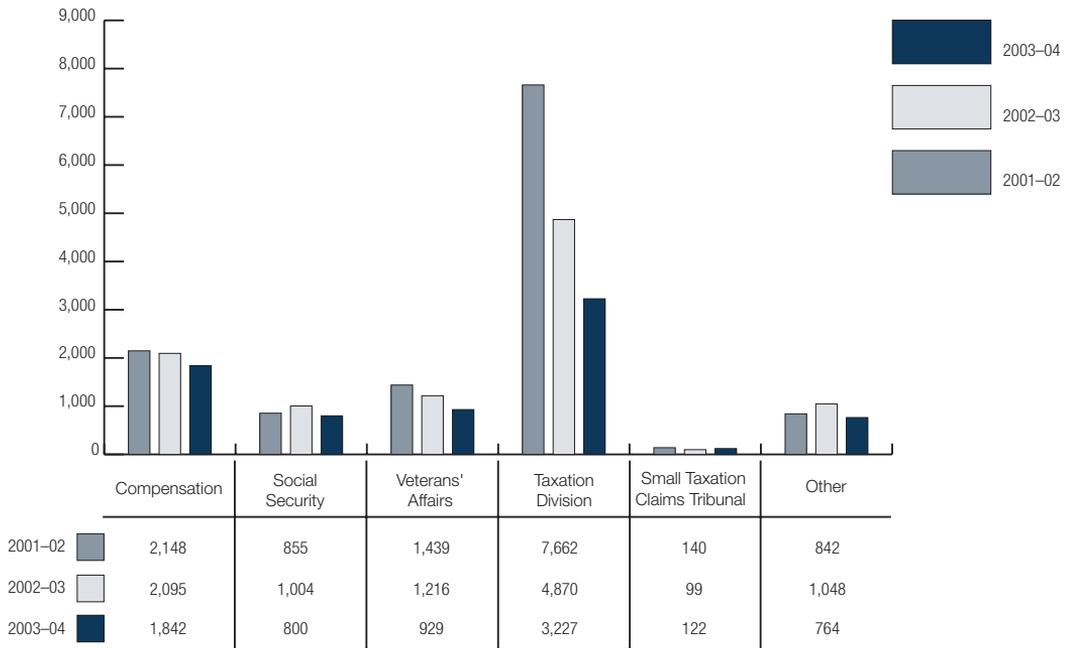


Chart 3.4 Applications current in major jurisdictions



information in relation to the number of applications finalised in each registry. Table 3.5 in Appendix 3 provides further statistical information about the outcomes of matters finalised in the reporting year.

Current applications

Current applications by major jurisdiction

The number of applications current in the Tribunal's major jurisdictions at the end of the current and the previous two reporting periods is shown in Chart 3.4.

The number of applications current at 30 June 2004 was lower than at the end of the previous reporting period in all of the major jurisdictions other than the Small Taxation Claims Tribunal. Most notably, the number of current applications in the Taxation Division declined by more than 1,640 applications or 38 per cent. This was primarily due to the resolution of a significant number of applications relating to taxation schemes.

Additional information about the number of taxation scheme matters that are current and their management is outlined in Chapter 4.

The number of current applications relating to veterans' affairs decreased by 24 per cent. The number of current applications at 30 June 2004 in the social security jurisdiction decreased by 20 per cent, and in the compensation jurisdiction by 12 per cent, of the number current at the end of the previous reporting period.

Table 3.6 and Chart 3.7 in Appendix 3 provide further information about current applications and their progress through the review process and the number of applications current in each registry.

Our performance

Outcome and outputs structure

As outlined in the Tribunal's 2003–04 Portfolio Agency Budget Statements, the Tribunal has one outcome:

To provide aggrieved persons and agencies with timely, fair and independent merits review of administrative decisions over which the Tribunal has jurisdiction.

In accordance with the Portfolio Agency Budget Statements, there is one output group relating to this outcome:

Output group 1.1
– Completed review of decisions

Output 1.1.1
– Applications finalised without a hearing

Output 1.1.2
– Applications finalised with a hearing.

Total resources for outcome

Table 3.1 shows how the 2003–04 budget appropriations for the Tribunal translate to total resourcing for the Tribunal's outcome, including administered expenses, revenue from government (appropriation), revenue from other sources, and the total price of the outputs.

Table 3.1 Total resources for Outcome 1 (\$'000)

	Budget 2003–04	Actual expenses 2003–04	Variation	Budget 2004–05
Departmental appropriations				
Output group 1.1 – Completed reviews of decisions				
Output 1.1.1 – Applications finalised without a hearing	11,673	12,138	465	11,727
Output 1.1.2 – Applications finalised with a hearing	15,554	15,089	(465)	15,627
Total revenue from government (appropriations) contributing to the price of departmental outputs	27,227	27,227	–	27,354
Revenue from other sources				
Output 1.1.1 – Applications finalised without a hearing	408	436	28	415
Output 1.1.2 – Applications finalised with a hearing	543	543	–	552
Revenue from other sources	951	979	28	967
Total price of departmental outputs (Total revenue from government and other sources)	28,178	28,206	28	28,321
Total estimated resourcing for Outcome 1 (Total price of outputs and administered expenses)	28,178	28,684	506	28,757

Table 3.2 Performance standards, 2003–04

Effectiveness – Overall achievement of the outcome	
<i>Effectiveness indicators</i>	<i>Measures</i>
Those affected by administrative decisions within the Tribunal's jurisdiction are advised of their rights of review.	All decision makers are provided with relevant material so they can advise people of their review rights.
Review processes are efficient and fair.	Parties to the review process are satisfied that the Tribunal's practices and procedures are efficient and fair, and complaints are dealt with efficiently and fairly.
Applications to the Tribunal are resolved in a timely manner.	Time standards are complied with.
Performance information for departmental outputs	
<i>Output description</i>	<i>Performance measure</i>
Output group 1.1 – Completed reviews of decisions	
Output 1.1.1 – Applications finalised without a hearing	<i>Price:</i> \$2,329 per completed application ^a
	<i>Quality:</i> 85% of matters have first conference within 13 weeks
	<i>Quantity:</i> 5,218 finalisations
Output 1.1.2 – Applications finalised with a hearing	<i>Price:</i> \$10,970 per completed application ^a
	<i>Quality:</i> 85% of matters to hearing within 40 weeks
	<i>Quantity:</i> 1,476 finalisations ^a

a Projection for 2003–04; see Table 3.3 for actual figures.

Table 3.3 Performance results, 2003–04

Output group 1.1 – Completed reviews of decisions		
<i>Output description</i>	<i>Performance result</i>	
Output 1.1.1 – Applications finalised without a hearing	<i>Price:</i>	\$1,592
	<i>Quality:</i>	87% of matters had first conference within 13 weeks ^a
	<i>Quantity:</i>	8,048 or 81%
Output 1.1.2 – Applications finalised with a hearing	<i>Price:</i>	\$8,528
	<i>Quality:</i>	54% of matters to hearing within 40 weeks ^a
	<i>Quantity:</i>	1,861 or 19%

a These figures do not include applications dealt with in the Small Taxation Claims Tribunal, which are subject to shorter time standards for these events.

Performance standards

Table 3.2 shows the performance standards that the Tribunal has established to assess the level of achievement of its planned outcome during 2003–04. The table sets out the indicators and measurements used to assess the efficiency of the outputs in contributing to the outcome. Information shown is both quantitative and qualitative. The Tribunal's performance results against these standards are shown in the next section.

Performance results

Notification of review rights

During the reporting period, the Tribunal provided information to a number of agencies in relation to the notification of rights to merits review of administrative decisions. The Tribunal advised agencies of an increase in the fees payable to lodge an application for review on and from 1 July 2004 to ensure that information provided to potential applicants would be current. The Tribunal also provided on request information relating to the form and content of notices of rights of review including the *Code of Practice for Notification of Reviewable Decisions and Rights of Review* determined under section 27B of the AAT Act.

Review processes are efficient and fair

The Tribunal is committed to providing a high-quality merits review process which is efficient and fair. This is reflected in the Organisational Plan 2003–04 and is embodied, in particular, in the goal relating to our users. The Tribunal's performance in relation to this goal is discussed in Chapter 4. Information on complaints made to the Tribunal and complaints handling by the Tribunal is provided later in this chapter.

Price, quality and quantity of applications finalised

Table 3.3 sets out the Tribunal's performance against the effectiveness indicators and measures related to applications finalised, including the cost per finalised application.

The number of applications finalised by the Tribunal during the year, both with and without a hearing, was above the projections for the 2003–04 Budget. As a result, the price per completed application was less than anticipated.

Table 3.4 Percentage of applications finalised within 12 months

Jurisdiction	Target %	2001–02 %	2002–03 %	2003–04 %
All matters	–	70	48	54
All matters (excluding Taxation Division)	–	71	71	72
Compensation	75	66	64	62
Social security	90	91	87	90
Taxation Division	75	64	7	13
Veterans' affairs	80	59	56	56

Note: These figures do not include applications dealt with in the Small Taxation Claims Tribunal.

The higher number of applications finalised without a hearing was largely attributable to the finalisation of a higher than anticipated number of applications relating to taxation schemes. Further information relating to the percentage of applications finalised without a hearing in the major jurisdictions is set out Table 3.4 in Appendix 3.

The Tribunal exceeded the target of holding a first conference within 13 weeks of lodgement in 85 per cent of applications. The Tribunal continued to experience difficulties, however, in meeting the target of holding a hearing within 40 weeks of lodgement in 85 per cent of applications. Comparative information relating to the Tribunal's performance against these targets in previous years is provided below in Table 3.6.

Timeliness of review

As a means of monitoring its performance, the Tribunal has set time standards for the finalisation of applications generally and in relation to steps in the review process, from the receipt of an application to the delivery of a decision. The following is an outline of the Tribunal's performance against these time standards for the year ending 30 June 2004.

The Tribunal aims to finalise most applications within 12 months of lodgement. It has set percentage targets for the finalisation of applications within this timeframe for the major jurisdictions. Information on compliance with these targets in the reporting period and in previous years is set out in Table 3.4.

Overall, 54 per cent of applications finalised in the reporting period were finalised within 12 months of lodgement. This result was affected, however, by the large number of applications relating to taxation schemes that were finalised during the reporting year. More than 2,400 applications finalised or 82 per cent of finalisations in the Taxation Division related to taxation scheme matters. The majority of these applications had been lodged in 2000–01 and deferred pending the outcome of test cases in the Federal Court and the High Court. This explains the low percentage of applications in the Taxation Division that were finalised within 12 months of lodgement.

Excluding finalisations in the Taxation Division from the overall figures, there has been a small improvement in the percentage of applications finalised within 12 months of lodgement during this reporting period. In relation to the other major jurisdictions, the Tribunal met its target in the social security jurisdiction but not in the compensation or veterans' affairs jurisdictions. While the percentage of applications finalised within 12 months remained steady for veterans' affairs applications, there was a small decrease in the compensation jurisdiction.

The Tribunal aims to finalise applications dealt with in the Small Taxation Claims Tribunal within 12 weeks or 84 days of lodgement. Table 3.5 shows performance against this time standard.

Table 3.5 Percentage of Small Taxation Claims Tribunal applications finalised within 84 days

	2001–02 %	2002–03 %	2003–04 %
Small Taxation Claims Tribunal	49	37	49

The table shows that the percentage of Small Taxation Claims Tribunal applications finalised within 84 days has improved since the previous year. Only a small proportion of applications finalised in the Small Taxation Claims Tribunal were applications relating to taxation scheme matters, 10 of which were lodged in 2000–01.

As has been noted above, the Tribunal has set time standards for intermediate steps in the review process. These include time standards relating to the time between:

- the dispatch by the Tribunal of a notice under section 29 of the AAT Act to a decision maker that an application has been received, and the receipt of the statement of reasons and documents required under section 37 of the AAT Act
- the receipt of an application and the holding of a first conference
- the receipt of an application and the holding of a hearing
- the last day of hearing and the delivery of a decision by the Tribunal.

The first of the steps is within the control of decision makers. Responsibility for the timeliness of the second and third steps is shared between the Tribunal and the parties. The fourth step is within the control of the Tribunal.

Table 3.6 shows performance against these intermediate time standards in relation to all applications other than applications dealt with in the Small Taxation Claims Tribunal, which are subject to different time standards.

Table 3.6 Intermediate timeliness statistics for applications other than Small Taxation Claims Tribunal applications

Step	Time standard (days)	2001–02 %	2002–03 %	2003–04 %
Dispatch of section 29 notice to receipt of section 37 documents	35	69	80	80
Receipt of application to first conference	91	79	87	87
Receipt of application to first day of hearing	280	49	51	54
Last day of hearing to delivery of decision ^a	60	65	62	57

^a These figures include applications in which further material or submissions were to be provided by one or more of the parties following the last day of a hearing.

While there has been a slight improvement in the timeliness of holding hearings, the proportion of applications decided in relation to which a decision was delivered within 60 days of the last day of hearing has declined.

The President and the Registrar monitor the Tribunal's performance against time standards on a regular basis. Detailed workload and performance statistics were distributed to all members and senior staff on a quarterly basis. A number of initiatives were undertaken during the reporting year aimed at improving the timeliness of review. These included the implementation of:

- a national system to address regular non-compliance
- trial of a duty lawyer service in New South Wales, Queensland and Victoria
- a case management strategy for taxation scheme matters.

Further information about these initiatives is contained in Chapter 4.

External scrutiny

The Tribunal's decisions are subject to external scrutiny by the Federal Court and the Federal Magistrates Court through the filing and determination of appeals lodged pursuant to section 44 of the AAT Act or the filing and determination of applications for review under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or the *Judiciary Act 1903* (Judiciary Act). More generally, the Tribunal's operations are subject to external scrutiny by way of complaints to the Commonwealth Ombudsman, requests under the *Freedom of Information Act 1982*, inquiries undertaken by parliamentary committees and audits undertaken by the Australian National Audit Office. This section provides a summary of activity in relation to these forms of scrutiny during the reporting period.

Appeals to the Federal Court under section 44 of the AAT Act and applications under the ADJR Act and the Judiciary Act

A party may appeal to the Federal Court, on a question of law, from decisions of the Tribunal in relation to an application for review pursuant to section 44 of the AAT Act. Pursuant to section 44AA of the AAT Act, the Federal Court may transfer an appeal under section 44 to the Federal Magistrates Court. A party may also seek judicial review of certain Tribunal decisions under the ADJR Act, under the Constitution or under the Judiciary Act. Applications may be made to the Federal Court, the Federal Magistrates Court or the High Court.

During the reporting year, 155 appeals were lodged with the Federal Court under section 44 of the AAT Act. There were 14 applications made under the ADJR Act or Judiciary Act, three of which related to interlocutory decisions made by the Tribunal during the course of particular applications for review. Table 3.10 in Appendix 3 provides information as to the number of appeals or applications lodged in relation to decisions in each of the Tribunal's major jurisdictions.

During the reporting year, decisions were given in 174 appeals lodged under section 44 of the AAT Act and in 12 applications for judicial review of decisions under the ADJR Act or Judiciary Act. The Tribunal's decision was set aside in only 43 cases, which constitutes less than 1 per cent of the total number of applications finalised by the Tribunal during the reporting year. Tables 3.11 and 3.12 in Appendix 3 provide more detailed information relating to the outcomes of appeals.

During the reporting year there were no judicial decisions or decisions made by administrative review tribunals that had or may have a significant impact on the operations of the Tribunal.

Freedom of information

Two requests for access to documents under the *Freedom of Information Act 1982* were received during the reporting period. Both requests were finalised during the reporting period within 30 days of receipt, with one request granted in full and one request granted in part. No request to amend records was received and no requests were carried over from previous years.

The statement required to be published in this report under section 8 of the Freedom of Information Act is in Appendix 7.

Ombudsman

During the reporting year, 11 complaints against the Tribunal were received by the Ombudsman. This represents a 52.2 per cent decrease from the previous year. During the year, 10 of the 11 complaints were finalised by the Ombudsman. The 10 complaints covered 10 types of issues, with only one issue raised in a complaint being investigated by the Ombudsman. This issue related to a District Registrar declining to defer a matter listed for a preliminary conference. The Ombudsman found that there was no defective administration by the Tribunal in relation to the issue investigated.

In relation to the issues raised in the other complaints not investigated, the Ombudsman:

- found four of the issues were not within the Ombudsman jurisdiction
- found two issues not warranted
- referred the complainant back to the Tribunal in relation to two issues
- advised the complainant to pursue the concern with a court or a tribunal on one issue.

The Tribunal and the Ombudsman have in place administrative arrangements to facilitate referral of matters between the two bodies, where each might have jurisdiction.

Reports by Auditor-General or parliamentary committees

There were no reports relating to the operations of the Tribunal prepared by the Auditor-General (other than the report on financial statements) or by a parliamentary committee during the reporting period.

Performance in relation to the Client Service Charter and complaints

The Tribunal's Client Service Charter sets out the rights and responsibilities of the Tribunal and its users. It is written in clear, simple language and is intended to be accessible to all users of the Tribunal. A copy of the charter can be viewed on the Tribunal's website (www.aat.gov.au).

Details on how to make a complaint, together with information on the Tribunal's complaint-handling procedures, are contained in the brochure, 'How to make a complaint'. This information can also be viewed on the Tribunal's website. Complaints may be made verbally or in writing.

The Tribunal's complaints-handling procedures require complaints to be dealt with in a timely manner and to properly address the issues involved. Complaints are handled by an appropriate person within the organisation, with responses coordinated and records maintained centrally, to allow for proper control and analysis. Privacy and confidentiality considerations are respected. Where appropriate, a complaint will result in an apology or a change to practice and procedure.

During 2003–04 the Tribunal received 29 written and verbal complaints. The issues raised in the complaints covered:

procedural issues	15
conduct of conferences	3
conduct of members of the Tribunal at hearings	6
complaints about Tribunal decisions	1
complaints about timeliness of Tribunal decisions	4

As outlined in the Tribunal's Client Service Charter, the Tribunal will normally respond to a written complaint within 20 working days. Complaints submitted in a language other than English will receive a response within 30 working days.

The Tribunal's response standard of 20 days was met in 93 per cent of complaints, or in respect of all the complaints except two. The average number of days from complaint to final response was 14 working days.

The Tribunal does not measure whether a complainant believes that their complaint was resolved, but if further letters are taken as an indicator of dissatisfaction, the dissatisfaction rate was 35 per cent.

Warrants, controlled operations and proceeds of crime workload

Warrants

During the reporting period, 24 members of the Tribunal were nominated members for the purposes of issuing warrants under the *Telecommunications (Interception) Act 1979*, the *Australian Federal Police Act 1979*, and the *Customs Act 1901*. The number of warrants issued by the Tribunal has shown a steady increase until 2002–03, with the number of warrants issued in 2003–04 being similar to that in 2002–03.

Table 3.7 Total numbers of warrants issued

Year	No. of warrants issued	% change as against previous year
2001–02	2,780	+12.2
2002–03	3,245	+16.7
2003–04	3,060	-5.7

In the 2003–04 financial year, warrants issued were distributed amongst the registries, as shown in Table 3.8.

Table 3.8 Numbers of warrants issued by each registry

ACT	NSW	Qld/NT	SA	Tas	Vic	WA	Total
0	1,820	336	222	0	514	168	3,060

The Tribunal is flexible in relation to the performance of its warrants function, and a nominated member is available whenever required. In the four-month period from 1 March to 30 June 2004, 25 applications for a warrant were made out-of-hours. ‘Out-of-hours’ means on the weekend, on a public holiday, or during the week before 9 a.m. or after 5 p.m.

During the reporting period, the Tribunal did not receive any applications to issue warrants pursuant to the *Education Services for Overseas Students Act 2000* or the *Migration Act 1958*.

Controlled operations

During the reporting period, 26 members of the Tribunal were nominated members for the purposes of reviewing certificates that authorise controlled operations under the *Crimes Act 1914*. Consistent with previous years, only a small number of applications for the review of certificates relating to controlled operations were received during the financial year.

Proceeds of crime examinations

During the reporting year, 22 members of the Tribunal were available as approved examiners for the purposes of conducting compulsory examinations under the *Proceeds of Crime Act 2002*. In the 2003–04 financial year, the AAT conducted 105 proceeds of crime examinations. These were distributed amongst the registries as shown in Table 3.9.

Table 3.9 Numbers of proceeds of crime examinations in each registry

ACT	NSW	Qld/NT	SA	Tas	Vic	WA	Total
12	54	29	0	0	5	5	105



