



Immigration and Protection Tribunal

Annual Report  
2013/2014

Judge Peter Spiller  
Chair

September 2014

## Introduction

The Immigration and Protection Tribunal was established under section 217 of the Immigration Act 2009.

This annual report records caseload and decision statistics in each of the Tribunal's four jurisdictional streams – residence, deportation (resident), deportation (humanitarian) (formerly referred to as removals) and refugee and protection. It also records the statistics for the Tribunal as a whole.

The Immigration Act 2009 imposes no reporting requirements on the Immigration and Protection Tribunal. Nevertheless, it has been the practice of the Tribunal to provide one to the Minister of Justice, the Minister of Immigration and the Minister for Courts. This is the third full annual report of the Immigration and Protection Tribunal and covers the 12 months from 1 July 2013 to 30 June 2014. The last full annual report was published by Judge Hastings in November 2012 and covered the period from 1 July 2011 to 30 June 2012. Apart from an interim report, also prepared by Judge Hastings, and covering the period 1 July 2012 to 31 December 2012, no other report was completed for the year ending 30 June 2013.

This report contains no financial statements because neither the Chair nor the Deputy Chairs determine the Tribunal's budget.

## Overview

The Tribunal has 15.8 full-time equivalent members (not including the Chair), of whom 14.8 are allocated to decision production, and 1 to judicial management functions. The Tribunal finalised 1,466 appeals and released 1,179 decisions in the year ended 30 June 2014. This compares favourably with the last interim report (403 decisions released in the six months to 31 December 2012).

### **The Backlog Project**

On 1 July 2013, a project was introduced, the overriding objective of the first stage of which was to clear the residence files on hand (then over 600). The first stage continued until 28 February 2014, when a comprehensive review determined priorities and practice for the ensuing period.

The first stage comprised three components:

- a. the residence backlog team, in which most members (including the then Chair and Deputies) worked for six months;
- b. the business-as-usual team, which managed the in-flow in the residence stream; and
- c. the risk management team, comprising the Chair and Deputies, which monitored and managed risks in the other streams.

By March 2014, the residence backlog had decreased from 623 at 1 July to 357 at 1 March. Focus was then shifted to the refugee and protection stream, with similar components to the first stage. At the beginning of this second stage, refugee and protection appeals stood at 212 and, by year end, some three months later, this had reduced to 190.

The second stage of the backlog project began in March 2014, aimed at reducing both the number of refugee and protection appeals on hand and the time taken to deliver such decisions. At the end of the financial year, the project had reduced the appeals on hand from 212 to 190 and the time from hearing to release of the decision from an average of 124 days to an average of 69 days.

Overall, the Tribunal started the 2013/2014 year with 1,278 appeals on hand, accepted 1,260 new appeals and ended the year with 1,072 appeals on hand, having finalised 1,466 matters over all streams, either by issuing decisions or by matters being withdrawn or determined to be invalid.

## Functions and Procedures

The functions of the Tribunal are set out in section 217(2) of the Act:

- (2) The functions of the Tribunal are—
  - (a) to determine appeals against—
    - (i) decisions to decline to grant residence class visas:
    - (ii) decisions in relation to recognition as a refugee or a protected person:
    - (iii) decisions to cease to recognise a person as a refugee or a protected person:
    - (iv) decisions to cancel the recognition of a New Zealand citizen as a refugee or a protected person:
    - (v) liability for deportation:
  - (b) to determine applications—
    - (i) made by refugee and protection officers in relation to the cessation of recognition of a person as a refugee or a protected person, if the recognition was originally determined by the Tribunal (or by the Refugee Status Appeals Authority under the former Act):
    - (ii) made by refugee and protection officers in relation to the cancellation of recognition of a New Zealand citizen as a refugee or a protected person, if the recognition was originally determined by the Tribunal (or by the Refugee Status Appeals Authority under the former Act):
    - (iii) made by the Minister under section 212(2) on whether a person has failed to meet his or her conditions of suspension of liability for deportation:
  - (c) to deal with certain transitional matters arising from the repeal of the Immigration Act 1987, in accordance with Part 12 of this Act.

The Tribunal may conduct its proceedings in an inquisitorial manner, an adversarial manner, or in a mixed inquisitorial and adversarial manner as it sees fit.



## Membership

As at 30 June 2014, the Tribunal consisted of the following full-time equivalent (FTE) and part-time members:

<u>Name</u>	<u>Location</u>	<u>Position</u>	<u>Term of Warrant</u>	<u>Expiry Date</u>	<u>FTE</u>
M A Poole	Auckland	Deputy Chair	5 years	14 Nov 2015	1.0
C M Treadwell	Auckland	Deputy Chair	5 years	14 Nov 2015	1.0
S A Aitchison	Auckland	Member	5 years	7 Feb 2016	0.8
M Avia	Auckland	Member	5 years	5 Aug 2018	0.4
B L Burson	Auckland	Member	5 years	14 Nov 2015	1.0
A M Clayton	Wellington	Member	5 years	14 Nov 2015	1.0
B A Dingle	Auckland	Member	5 years	14 Nov 2015	0.8
J A Donald	Auckland	Member	5 years	14 Nov 2015	1.0
P F Fuiava	Auckland	Member	3 years	14 Nov 2016	1.0
M B Martin	Auckland	Member	2 years	2 Oct 2016	1.0
A N Molloy	Auckland	Member	3 years	13 Dec 2016	0.8
L E Moor	Auckland	Member	3 years	14 Nov 2016	1.0
S M Pearson	Wellington	Member	5 years	14 Nov 2015	1.0
Z N Pearson	Auckland	Member	3 years	18 Dec 2015	1.0
V J Shaw	Auckland	Member	2 years	14 Nov 2016	0.8
V J-M Vervoort	Wellington	Member	3 years	14 Nov 2016	1.0
L Wakim	Auckland	Member	3 years	7 Jul 2015	1.0
Total FTE					15.6

Judge Wainwright, who replaced Judge Hastings as Chair in April 2013, resigned this position in May 2014. From May-June 2014, the Deputy Chairs served as Acting Co-Chairs of the Tribunal.

One member finished his term of office during the year, Graham Taylor. Graham served on the Tribunal from its inception in November 2010 and retired from it in November 2013. His service and contribution to the Tribunal are appreciated.

Two new members commenced with the Tribunal in the 2013-2014 year, Larissa Wakim and Moana Avia. Both have brought significant skills and experience to the Tribunal.

## Training Programme

Section 220(1)(b) of the Immigration Act 2009 gives the Chair responsibility for directing the education, training, and professional development of members of the Tribunal. Training members in each of the Tribunal's jurisdictional streams is intended to give the Tribunal greater flexibility to manage changing patterns of appeals efficiently, and will give members greater opportunity for personal professional development.

Because of the commitment of all members to the completion of both stages of the backlog project, internal training (apart from mentoring and peer reviewing) was curtailed for this year.

External professional development consisted of several members attending various sessions of the Council of Australasian Tribunals (COAT) conference held in Auckland in June 2014. Topics included the role of Tribunals in the justice system and recommending law reform, appraisal and mentoring of members and the reliance on memory in hearings. Four members attended a seminar on international adoption and surrogacy – family formation in the 21<sup>st</sup> century; two members spoke at the Immigration New Zealand Asylum Forum and one member was UNHCR-funded to attend the Consultative Committee Nansen Initiative relating to procedural gaps relating to natural disasters and cross-border population flow. That same member attended a UNHCR/IOM meeting regarding Pacific Protection in Canberra and a two-day conference on human rights and refugee law in London and a meeting with the UNHCR in Geneva.

Delegations from the Philippines and Japan were given an overview of New Zealand's refugee determination system by members of the Tribunal in-house.

The Deputy Chairs, Martin Treadwell and Melissa Poole, ran CLE professional development seminars for counsel and immigration advisers in Christchurch, Wellington and Auckland in March 2014, under the title "The Immigration and Protection Tribunal – Best Practices for Appeals".

## Judicial Reviews

One measure of the quality of the Tribunal's decisions is the number of its decisions that are successfully judicially reviewed. In the year to 30 June 2014, applications were lodged in the High Court to review 20 (or 1.7 percent) of the Tribunal's 1,179 decisions produced in that period.

Five applicants sought judicial review of decisions in which the Tribunal declined to quash orders made by the Minister of Immigration to deport residents either convicted of crimes or otherwise unlawfully in New Zealand. Two were dismissed, one was allowed, one was withdrawn and one had not been determined at year end.

There were two applications for review of residence decisions, both of which are yet to be determined.

The remaining 13 applications concerned refugee appeals, three of which were dismissed, two were discontinued and eight are still to be resolved.

Of the five judicial review determinations received, five were dismissed (80%).

Since its operations commenced in 1 December 2010, to 30 June 2014 the Tribunal has produced 3,096 decisions. Applications were lodged in the High Court to review 56 of them (1.8 percent). 31 of those applications were dismissed (55 percent) and only five were allowed (9 percent); 9 were discontinued (16 percent) and 11 (20 percent) are yet to be determined.



## Timeliness

The following chart compares the average length of time it took the Tribunal to issue decisions in each jurisdiction during the year ended 30 June 2014 with the times achieved at the end of the 2013 year. These times are calculated from the date an appeal was received to the date a decision was released.

### Average number of days from receipt of appeal to release of decision

	30/6/13	30/6/14
<b>IPT</b>	<b>395</b>	<b>364</b>
<b>Residence</b>	431	334
<b>Deportation (Humanitarian)</b>	340	429
<b>Deportation (Resident)</b>	501	410
<b>Refugee and Protection</b>	318	364

As already noted, a leading objective of the backlog project is to reduce the time taken to deliver decisions.

The chart below compares the average age of active appeals.

### Average age of active appeals

	30/6/13	30/6/14
<b>IPT Average</b>	<b>247</b>	<b>228</b>
<b>Residence</b>	240	134
<b>Deportation (Humanitarian)</b>	228	230
<b>Deportation (Resident)</b>	425	425
<b>Refugee and Protection</b>	329	248

It should be noted that the time taken to process deportation (resident) appeals is often determined by factors beyond the Tribunal's control. This is because such appeals are generally made while the appellant is serving a sentence of imprisonment. Section 236(1) of the Immigration Act 2009 requires the Tribunal to consider and determine such appeals as close as practicable to the date of the person's parole eligibility date or statutory release date. In some cases, this can be many years after a person has appealed his or her deportation liability notice.



## Caseload and Decision Statistics

The following charts show caseload and decision statistics for each of the 12 months to 30 June 2014.

### **Total Tribunal**

Chart A.1 shows that the Tribunal started the year with 1,278 appeals on hand. In the 2013/14 year it received 1,260 new appeals, finalised 1,466 (which included releasing 1,179 decisions) and ended the financial year with 1,072 appeals on hand. 287 appeals were withdrawn or invalid. Chart A.2 shows that 701 (59 percent) of the 1,179 decisions dismissed appeals, and 479 (or 41 percent) were either allowed or referred to the Minister. Chart A.3 shows these statistics in graph form.

Appendix 1 shows the caseload data by stream and financial year from the beginning.

### **Residence Appeals**

Chart B.1 shows that the Tribunal started the year with 623 residence appeals on hand (49 percent of the IPT total). In the 2013/14 year it received 594 new appeals, finalised 792 (which included releasing 747 decisions) and ended the year with 425 appeals on hand (40 percent). 45 appeals were withdrawn or invalid. Chart B.2 shows that of the 747 decisions released, 445 (59 percent) were dismissed, 192 (25 percent) were allowed, and 110 (16 percent) referred the appeals to the Minister. All residence decisions are decided on the papers. Chart B.3 shows these statistics in graph form.

### **Deportation (Resident) Appeals**

Chart C.1 shows that the Tribunal started the year with 78 deportation (resident) appeals on hand (6 percent of the IPT total). It received 47 new appeals, finalised 34 (which included releasing 26 decisions) and ended the year with 91 appeals on hand (8 percent). Eight appeals were withdrawn, out of time, or invalid. Chart B.2 shows that of the 26 appeal decisions released, 16 (62 percent) were dismissed and 10 (38 percent) were allowed. Chart C.3 shows these statistics in graph form.

### **Deportation (Humanitarian) Appeals**

Chart D.1 shows that the Tribunal started the year with 422 deportation (non-resident or humanitarian) appeals on hand (33 percent of the IPT total). It received 442 new appeals, finalised 498 appeals (which included releasing 285 decisions) and ended the year with 366 appeals on hand (34 percent). 213 appeals were withdrawn, out of time, or invalid. Chart D.2 shows that of the 285 appeal decisions released, 171 (60 percent) were dismissed and 114 (40 percent) were allowed. Deportation (humanitarian) decisions are decided on the papers. Chart D.3 shows these statistics in graph form.

### **Refugee and Protection Appeals**

Chart E.1 shows that the Tribunal started the year with 155 refugee and protection appeals on hand (12 percent of the IPT total). It received 177 new appeals, finalised 142 (which included releasing 121 decisions) and ended the year with 190 appeals on hand (18 percent of the IPT total). Chart E.2 shows that of the 121 appeal decisions published, 68 (56 percent) were dismissed, and 53 (44 percent) were allowed. Chart E.3 shows these statistics in graph form.

**ALL APPEALS**  
1 July 2013 to 30 June 2014

**Chart A.1**

**Total IPT Appeals on Hand**

Month	Appeals on hand at start of month	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of month
Jul	1278	117	25	77	102	1293
Aug	1293	80	24	127	151	1222
Sep	1222	93	37	114	151	1164
Oct	1164	125	25	99	124	1165
Nov	1165	94	16	119	135	1124
Dec	1124	119	22	82	104	1139
Jan	1139	74	12	68	80	1133
Feb	1132	73	15	105	120	1085
Mar	1085	107	19	85	104	1088
Apr	1088	104	32	88	120	1072
May	1072	114	31	98	129	1057
Jun	1057	160	29	117	146	1072
<b>YTD totals</b>		<b>1260</b>	<b>287</b>	<b>1179</b>	<b>1466</b>	

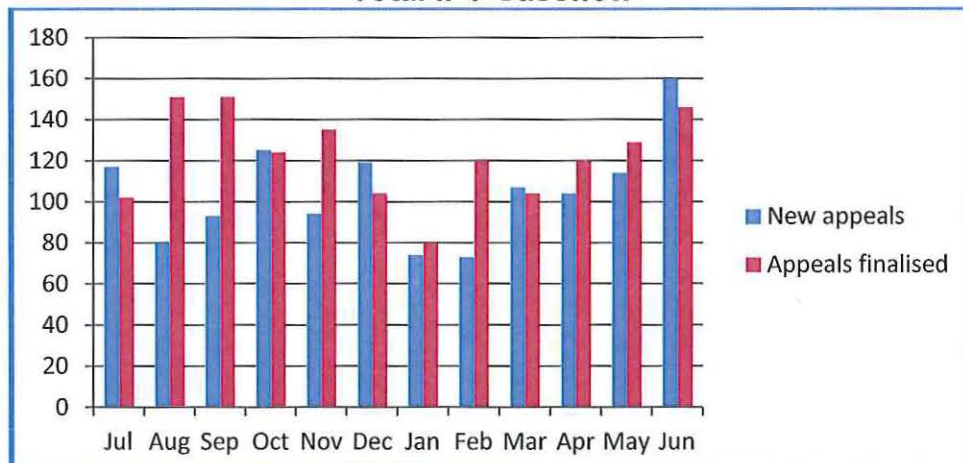
**Chart A.2**

**Total IPT Decisions Released**

Month	Dismissed	Allowed or referred to Minister	Total
Jul	38	39	77
Aug	75	52	127
Sep	65	49	114
Oct	61	38	99
Nov	63	56	119
Dec	52	30	82
Jan	42	26	69
Feb	71	34	105
Mar	47	38	85
Apr	65	23	88
May	52	46	98
Jun	69	48	117
<b>YTD totals</b>	<b>700</b>	<b>479</b>	<b>1179</b>

**Chart A.3**

**Total IPT Caseflow**





## RESIDENCE APPEALS 1 July 2013 to 30 June 2014

**Chart B.1**

### Residence Appeals on Hand

Month	Appeals on hand at start of month	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of month
Jul	623	50	3	41	44	629
Aug	629	40	7	96	103	566
Sep	566	26	5	97	102	490
Oct	490	48	6	80	86	452
Nov	452	46	3	87	90	408
Dec	408	50	7	52	59	399
Jan	399	37	0	48	48	388
Feb	388	38	3	66	69	357
Mar	357	56	2	44	46	367
Apr	367	64	3	42	45	386
May	386	66	2	45	47	405
Jun	405	73	4	49	53	425
<b>YTD totals</b>		<b>594</b>	<b>45</b>	<b>747</b>	<b>792</b>	

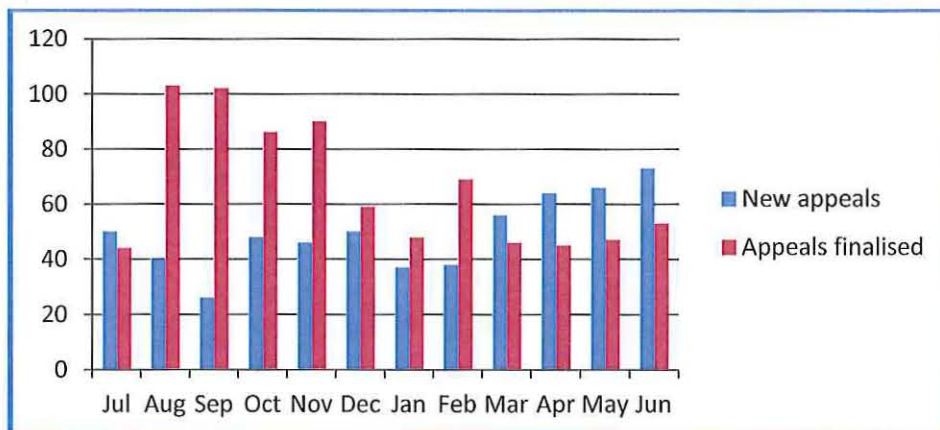
**Chart B.2**

### Residence Decisions Released

Month	Dismissed	Allowed	Referred to Minister	Total
Jul	21	14	6	41
Aug	65	22	9	96
Sep	54	28	15	97
Oct	51	13	16	80
Nov	39	33	15	87
Dec	32	11	9	52
Jan	27	10	11	48
Feb	43	23	0	66
Mar	26	11	7	44
Apr	34	4	4	42
May	25	10	10	45
Jun	28	13	8	49
<b>YTD totals</b>	<b>445</b>	<b>192</b>	<b>110</b>	<b>747</b>

**Chart B.3**

### Residence Caseflow





## DEPORTATION (RESIDENT) APPEALS 1 July 2013 to 30 June 2014

**Chart C.1**

### Deportation (Resident) Appeals on Hand

Month	Appeals on hand at start of month	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of month
Jul	78	2	1	7	8	72
Aug	72	1	0	3	3	70
Sep	70	4	1	1	2	72
Oct	72	7	2	1	3	76
Nov	76	7	0	0	0	83
Dec	83	3	2	3	5	81
Jan	81	1	1	0	1	81
Feb	81	6	1	2	3	84
Mar	84	1	0	0	0	85
Apr	85	4	0	3	3	86
May	86	6	0	5	5	87
Jun	87	5	0	1	1	91
<b>YTD totals</b>		<b>47</b>	<b>8</b>	<b>26</b>	<b>34</b>	

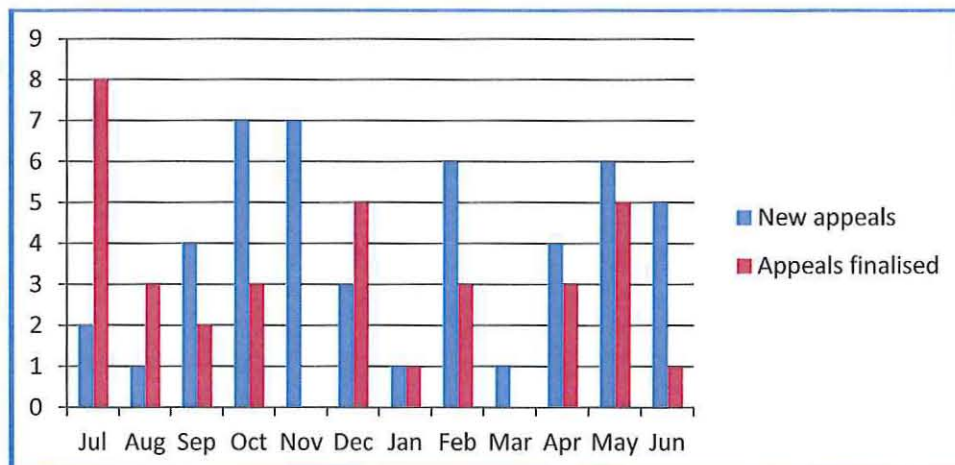
**Chart C.2**

### Deportation (Resident) Decisions Released

Month	Dismissed	Allowed	Total
Jul	5	2	7
Aug	1	2	3
Sep	1	0	1
Oct	0	1	1
Nov	0	0	0
Dec	2	1	3
Jan	0	0	0
Feb	2	0	2
Mar	0	0	0
Apr	2	1	3
May	2	3	5
Jun	1	0	1
<b>YTD totals</b>	<b>16</b>	<b>10</b>	<b>26</b>

**Chart C.3**

### Deportation (Resident) Caseflow



**DEPORTATION (HUMANITARIAN) APPEALS**  
1 July 2013 to 30 June 2014

**Chart D.1**

**Deportation (Humanitarian) Appeals on Hand**

Month	Appeals on hand at start of month	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of month
Jul	422	46	20	16	36	432
Aug	432	33	14	23	37	428
Sep	428	41	29	12	41	428
Oct	428	53	17	15	32	449
Nov	449	31	12	31	43	437
Dec	437	43	13	15	28	452
Jan	452	28	10	19	29	451
Feb	450	23	9	32	41	432
Mar	432	37	17	26	43	426
Apr	426	32	27	27	54	404
May	404	31	20	21	41	394
Jun	394	44	25	48	73	366
<b>YTD totals</b>		<b>442</b>	<b>213</b>	<b>285</b>	<b>498</b>	

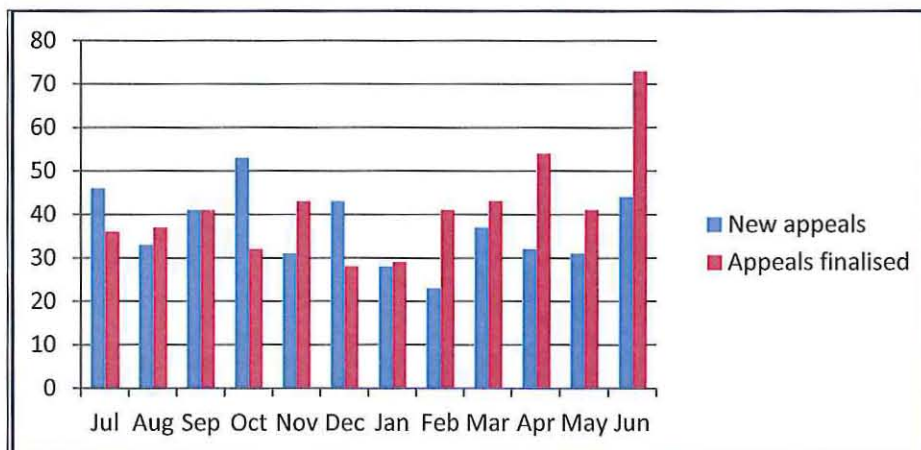
**Chart D.2**

**Deportation (Humanitarian) Decisions Released**

Month	Dismissed	Allowed	Total
Jul	3	13	16
Aug	6	17	23
Sep	8	4	12
Oct	9	6	15
Nov	24	7	31
Dec	9	6	15
Jan	15	5	20
Feb	23	9	32
Mar	14	12	26
Apr	19	8	27
May	12	9	21
Jun	30	18	48
<b>YTD totals</b>	<b>171</b>	<b>114</b>	<b>285</b>

**Chart D.3**

**Deportation (Humanitarian) Caseflow**



**REFUGEE AND PROTECTION APPEALS**  
1 July 2013 to 30 June 2014

**Chart E.1**

**Refugee and Protection Appeals on Hand**

Month	Appeals on hand at start of month	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of month
Jul	155	19	1	13	14	160
Aug	160	6	3	5	8	158
Sep	158	22	2	4	6	174
Oct	174	17	0	3	3	188
Nov	188	10	1	1	2	196
Dec	196	23	0	12	12	207
Jan	207	8	1	1	2	213
Feb	213	6	2	5	7	212
Mar	212	13	0	15	15	210
Apr	210	4	2	16	18	196
May	196	11	9	27	36	171
Jun	171	38	0	19	19	190
<b>YTD totals</b>		<b>177</b>	<b>21</b>	<b>121</b>	<b>142</b>	

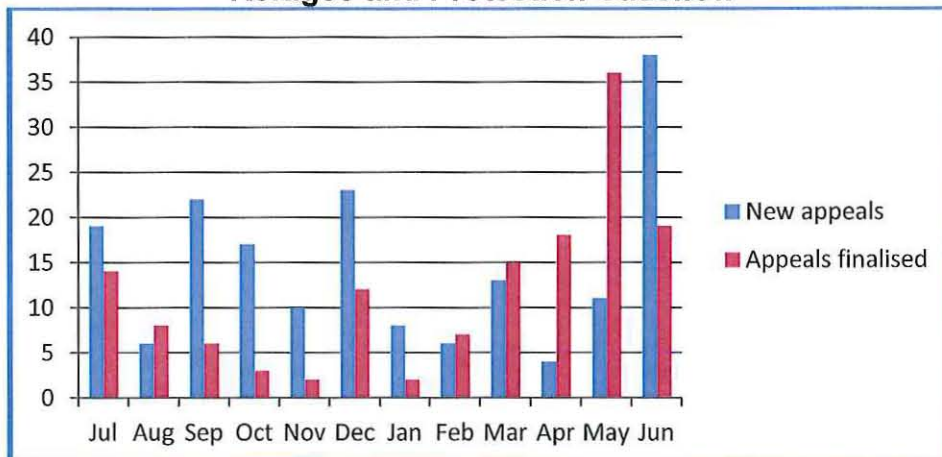
**Chart E.2**

**Refugee and Protection Decisions Released**

Month	Dismissed	Allowed	Total
Jul	9	4	13
Aug	3	2	5
Sep	2	2	4
Oct	1	2	3
Nov	0	1	1
Dec	9	3	12
Jan	1	0	1
Feb	3	2	5
Mar	7	8	15
Apr	10	6	16
May	13	14	27
Jun	10	9	19
<b>YTD totals</b>	<b>68</b>	<b>53</b>	<b>121</b>

**Chart E.3**

**Refugee and Protection Caseflow**





**SUMMARY OF ALL APPEALS**  
December 2010 to 30 June 2011; then Annually to 30 June 2014

**Chart F.1**

Year ending	Appeals on hand at start	New appeals	Withdrawn or invalid	Decisions released	Appeals finalised	Appeals on hand at end of year
June 2011	524	687	155	350	505	706
June 2012	706	1399	280	681	961	1144
June 2013	1144	1263	243	886	1130	1278
June 2014	1278	1260	287	1179	1466	1072
<b>Totals to date</b>		<b>4609</b>	<b>965</b>	<b>3096</b>	<b>4062</b>	

**Chart F.2**

**Total IPT Decisions Released**

Year ending	Dismissed	Allowed or referred to Minister	Total
Jun-11	209	141	350
Jun-12	404	277	681
Jun-13	549	337	886
Jun-14	700	479	1179
<b>Total to date</b>	<b>1862</b>	<b>1234</b>	<b>3096</b>

**Caveat**

Much of the above information produced by the Ministry of Justice's Tribunal Case Management system, or TCM, had to be manually verified to produce these statistics. The system is unable to provide detailed information regarding the countries from which appellants come.


## Acknowledgements

As the new Chair of the Tribunal as from 1 August 2014, I have had to rely on colleagues and officials from the Ministry of Justice in compiling this record of the Tribunal's business in the 2013-2014 year. I am particularly grateful for the assistance of Jessie Henderson, who was Acting National Manager Tribunals during the year and her team at the Ministry of Justice for their commitment to the Tribunal.

The Ministry of Justice staff who undertake the administrative functions of the Tribunal have, again, shown commitment and conscientious dedication to their work. They make the Tribunal function efficiently and responsibly and a debt of gratitude is owed to them. I mention, in particular the Acting Operations Manager, Minja Pesic and the Chair's Assistants, Sharon Salmon and Michelle Williams. I am grateful too for the support, counsel and hard work of Deputy Chairs Martin Treadwell and Melissa Poole.

As this report goes to press, Melissa Poole has resigned from the Tribunal to take up a position as Chair of the Tenancy Tribunal. At the same time as congratulating her on her appointment, I wish to record the Tribunal's gratitude for her fifteen years of service on the Tribunal and its predecessor bodies. Melissa's contribution to the high levels of expertise and professionalism among the members is rightly acknowledged and the fact that her tenure here has come to an end causes us great regret.

Finally, I record my appreciation to the members of the Tribunal for their collegiate spirit and productivity.

  
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Judge P Spiller  
Chair  
Immigration and Protection Tribunal

Appendix 1

**IPT Caseload Data by Appeal Stream and Financial Year**

Appeal stream		2010 Transitional Appeals*	2010/11	2011/12	2012/13	2013/14
Residence	New Business	291	330	603	518	594
	Disposals		216	381	522	792
	On Hand		405	627	623	425
Humanitarian	New Business	83	196	537	512	442
	Disposals		146	366	394	499
	On Hand		133	304	422	366
Refugee & Protection	New Business	70	109	199	173	177
	Disposals		75	164	157	142
	On Hand		104	139	155	190
Deportation Resident	New Business	80	7	60	60	47
	Disposals		23	49	57	34
	On Hand		64	75	78	91
<b>TOTAL IPT</b>	<b>New Business</b>	<b>524</b>	<b>642</b>	<b>1,399</b>	<b>1,263</b>	<b>1,260</b>
	<b>Disposals</b>		<b>460</b>	<b>960</b>	<b>1,130</b>	<b>1,467</b>
	<b>On Hand</b>		<b>706</b>	<b>1,145</b>	<b>1,278</b>	<b>1,072</b>

\*Appeals transitioned from legacy bodies

