SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET ESTIMATES 2017

Administrative Appeals Tribunal

Question No. BE17-094

Senator McKim asked the following question on 25 May 2017:

Senator McKIM: Okay. So if we can work in financial years and obviously year to date for the current year. How many reviews under section 473D of the act for the current year and for the previous year?
Ms Haddad: For the current year to 30 April 2017, it is 2184 and the previous year I can tell you the total since we started, which is 2,448. So it is about 300—
Senator McKIM: Can you remind me when you started?
Ms Haddad: We were officially created in April 2015, but we did not receive our first cases until October of that year.
Senator McKIM: Do you keep data about how many interviews have been conducted as a part of those reviews?
Ms Haddad: We do. I do not have it with me.
Senator McKIM: Maybe I could put some questions to you and you can take them on notice.
Ms Haddad: It would be a small number.
Senator McKIM: That is the first question; then for the previous year and year to date. I am very happy to take them on financial years. Do you also breakdown whether the interviews are conducted over the phone or in person?
Ms Haddad: Yes, we do.
Senator McKIM: If you could provide the breakdown as well. Do you have figures on how many people have sought judicial review for those periods?
Ms Haddad: Yes, I do. I can give it to you in a percentage. I have to find the actual numbers. Since the beginning, 66 per cent of IAA decisions have been appealed to the Federal Circuit Court.
Senator McKIM: Could you take on notice to break those down?
Ms Haddad: Certainly.
Senator McKIM: Do you have monthly figures?
Ms Haddad: I do.
Senator McKIM: For the ones you take on notice, would you be able to provide the monthly breakdown?
Ms Haddad: I can do that.
Senator McKIM: Do you keep a track of the outcomes of judicial appeals?
Ms Haddad: We do.
Senator McKIM: Do you have a global percentage with you?
Ms Haddad: A very small number have been resolved. There are only 37 that have been resolved so far.
Senator McKIM: How many of them were successful?
Ms Haddad: Seventeen—I would have to check that, though.
Senator McKIM: I am happy for you to take that on notice. Can you provide the outcomes of all

the decisions, in the context that we are speaking about, made by the IAA broken down by nationality? Is that something that would be able to do?
Ms Haddad: Yes, we can do.
Senator McKIM: I am happy for you to take that on notice. Do you keep records around the number of people who receive legal assistance? I realise it is not your job to provide that.
Ms Haddad: We record if someone has nominated another person to represent them, if you like. We record if they have nominated another person to be what is called their authorised recipient—to receive correspondence and do nothing more on their behalf.
Senator McKIM: But not necessarily whether they have received any form of legal assistance?
Ms Haddad: That is right. It is apparent sometimes from documents that we receive from applicants that they have had assistance in preparing those documents, but they have not formally nominated anyone to represent them. We can provide statistics but they will only take you so far.
Senator McKIM: If you could provide those statistics, that would be great. What is the number of decisions since the commencement—I think you said your first referral was in October 2015—where the IAA has requested new information under section 473D? Do you have those figures?
Ms Haddad: Where we have actually requested information from an applicant or a third party?
Senator McKIM: Yes.
Ms Haddad: No, I do not have that information.
Senator McKIM: Do you keep it?
Ms Haddad: We do keep it, yes.
Senator McKIM: I would like that taken on notice and the answer broken down, if possible, by method of invitation: whether it was in writing, verbally requested at an interview or through the proceedings of the IAA. Also, if you could break that down by nationality, that would be helpful as well.
Ms Haddad: We can probably do that. It is not something we normally keep statistics on, but I think we could probably interrogate.
Senator McKIM: I do not want to create unnecessary burden. If it is a reasonable request, fulfil it; if not, please let us know.

The response to the honourable Senator's question is as follows:

Q1: *Do you keep data about how many interviews have been conducted as a part of those reviews? Do you also breakdown whether the interviews are conducted over the phone or in person?*

A1: In 2015-2016, the IAA conducted eight interviews. Three of the interviews related to one matter. Two interviews were conducted in person, five by videoconference and one by telephone.

In 2016-17 to 30 April 2017, the IAA conducted 18 interviews. Six interviews were conducted in person, 10 by videoconference and two by telephone.

Q2: *Do you have figures on how many people have sought judicial review for those periods?*

A2: The below table provides a monthly breakdown of IAA decisions that were subsequently appealed:

Period	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total appeals	% of decisions appealed
2015-16	0	0	0	0	0	4	4	2	9	9	18	35	81	62.3%
2016-17 to 30 Apr	60	71	81	72	86	92	89	96	135	79	-	-	861	68.6%

From date of first referrals to 30 April 2017, the total number of decisions subsequently appealed stood at 942. This equates to 67.8% of all IAA decisions.

Q3. *Outcomes of judicial appeals - How many of appeals were successful?*

A3: As at 30 April 2017, there were 17 successful appeals. 15 of these appeals were remitted by consent and two by judgment. Both of the judgements were subsequently appealed by the Minister and appeals yet to be determined by the Full Federal Court.

Q4. *Can you provide the outcomes of all the decisions, in the context that we are speaking about, made by the IAA broken down by nationality?*

A4. The below table shows the outcome of decisions made by the IAA broken down by nationality.

2015-16	Nationality	Set aside	Affirm	Otherwise* finalised	Total No. of cases
	Afghanistan	2	16	0	18
	Albania	0	1	0	1
	Bangladesh	0	6	0	6
	Iran	13	15	0	28
	Iraq	6	21	0	27
	Myanmar	1	0	0	1
	Pakistan	0	2	0	2
	Sri Lanka	14	32	0	46
	Vietnam	0	1	0	1
	Total	**36**	**94**	**0**	**130**
2016-17 to 30 Apr 2017	Afghanistan	30	75	4	109
	Bangladesh	3	38	0	41
	Iran	73	159	1	233
	Iraq	17	83	0	100
	Lebanon	1	15	0	16
	Myanmar	2	5	0	7
	Nepal	0	5	0	5
	Pakistan	7	22	0	29
	Sri Lanka	66	584	3	653
	Vietnam	9	46	0	55
	Other	1	5	2	8
	Total	**209**	**1037**	**10**	**1256**

2015-16 to 30 Apr 2017	**Total**	**245**	**1131**	**10**	**1386**

* "Otherwise finalised" refers to all matters that were referred to the IAA in error by the Department of Immigration and Border Protection.

Q5: *Do you keep records around the number of people who receive legal assistance?*

A5: From the date of first referrals in October 2015 to 30 April 2017, of the 2446 matters referred to the IAA, a person was appointed by the applicant to represent them and act on their behalf in relation to their case (for part or all of the review) in 1395 of cases. In a further 322 of cases an applicant appointed a person to receive correspondence on their behalf.

There are also a number of cases where it is apparent that the applicant has received assistance at the review stage, but there is no record of representation and the IAA does not otherwise maintain data on this.

Q6: *Information requested from an applicant or a third party by the IAA.*

A6: Below is a summary of requests sent to applicants and third parties for information and requests sent to applicants for response to new adverse information, by method of invitation.

Period	**Invitation Method**	**Information requested from applicant**	**Information requested from 3rd party**	**Request to respond to adverse new information**
2015-16	Written	11	1	4
	Oral	3	1	0
2016-17 to 30 Apr 2017	Written	20	9	125
	Oral	3	1	3

Regarding providing a breakdown of requests of information by nationality, this data is not readily available.