

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
BUDGET ESTIMATES 2017

Administrative Appeals Tribunal

Question No. BE17-099

Senator McKim asked the following question on 25 May 2017:

Senator McKIM: My understanding is that in the AAT the affirm rate—is that the terminology for decisions that are upheld, effectively?

Ms Haddad: Yes.

Senator McKIM: The AAT overall affirm rate for unauthorised maritime arrivals is 68 per cent—that is my understanding, or my advice—while the IAA overall affirm rate for unauthorised maritime arrivals is 82 per cent. Are those figures right?

Ms Haddad: The 82 per cent is correct. I would have to check the other one.

Senator McKIM: Do you have it with you? Just while you are looking, Ms Haddad, refresh my memory: did you say the 82 per cent was the correct figure?

Ms Haddad: That is correct for the IAA.

Senator McKIM: At the IAA; that is right. And the AAT overall rate, if you have it?

Ms Haddad: I do not have the overall rate for UMA. I have the overall rate for UMA and non-UMA together.

Senator McKIM: Okay, what is that?

Ms Haddad: That is 12 per cent—sorry, the affirm rate?

Senator McKIM: The affirm rate. So that would be 88, would it?

Ms Haddad: 88 per cent, yes.

Senator McKIM: Could you take on notice the AAT rate for UMAs?

Ms Haddad: Yes, I think we can probably find it.

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

The following table sets out for the 2015–16 financial year and the 2016–17 financial year to 30 April 2017:

- the number of protection (refugee) visa cases relating to unauthorised maritime arrivals finalised by the Administrative Appeals Tribunal's Migration & Refugee Division under Part 7 of the *Migration Act 1958*
- the number of referrals finalised by the Immigration Assessment Authority under Part 7AA of the *Migration Act 1958*, and
- the distribution of the outcomes of those reviews.

In relation to the AAT's Migration & Refugee Division, a case may be finalised in one of the following ways:

- the Tribunal may affirm the decision under review, vary the decision, remit the matter for reconsideration in accordance with directions or recommendations or set the decision aside and substitute a new decision
- the applicant may withdraw the application
- the Tribunal may decide it does not have jurisdiction to review the decision.

In relation to the IAA, a referral may be finalised in one of the following ways:

- the Authority may affirm the decision under review or remit the decision for reconsideration in accordance with directions or recommendations
- the Authority treats the referral as finalised if it was referred to the Authority in error by the Department of Immigration and Border Protection.

	2015–16		2016–17 to 30 April 2017	
	IAA	AAT	IAA	AAT
Number finalised	130	983	1,256	351
Outcomes^a				
Affirmed	72%	67%	83%	68%
Varied/Remitted/Set aside	28%	31%	17%	30%
Otherwise finalised ^b	0%	2%	<1%	3%

^a Percentages may not total 100% due to rounding.

^b For the IAA, “Otherwise finalised” refers to matters that were referred to the IAA in error by the Department of Immigration and Border Protection. For the AAT, “Otherwise finalised” refers to applications finalised on the basis that the application was withdrawn or the Tribunal had no jurisdiction to review the decision.

For all referrals finalised by the IAA from the time of receipt of its first referral in October 2015 to 30 April 2017, the proportion of decisions affirmed is 82 per cent.