

Referring a person for PAIS

This fact sheet is for community workers and service providers, or members of the community who would like to know more about how to best refer a vulnerable person seeking asylum for consideration for eligibility for government funded legal assistance with their application for a protection visa under the Primary Application Information Service (PAIS).

Except for children for whom the Minister is the legal guardian, services under PAIS only cover the primary stage of an application, and do not extend to review by the Immigration Assessment Authority.

Who is eligible for PAIS?

The Department assesses PAIS eligibility using the following criteria

A person who is:

an unlawful air arrival (UAA) who entered Australia on or after 13 April 2015 or

an illegal maritime arrival (IMA) (irrespective of their arrival date);

*may be eligible for assistance under the PAIS if they satisfy either criteria 4 or **all** of criteria 1-3 below.*

- 1. At the time of the relevant PAIS assessment, they have not engaged a registered migration agent for assistance in relation to a temporary or permanent protection visa application*
- 2. They have not previously had a valid protection application considered in Australia*
- 3. They are, at the time of assessment, an adult in relation to whom the Department considers it to be **in the best interests of Government** to provide assistance to ensure their claims are presented and able to be considered, in particular, a person regarded as being **exceptionally vulnerable**.*

OR

- 4. They are, at the time of assessment, an unaccompanied minor.*

A person must either satisfy criteria 1 and 2 and 3 or may satisfy criterion 4 alone in order to be considered eligible for PAIS assistance.

The Department has indicated that it is expected that around 20% of the group of people who arrived by boat between 13 August 2012 and 1 January 2014 will be referred for assistance through PAIS.

The Department has guidance on the kinds of factors may give rise to a functional impairment that affects a person's ability to engage in the protection process and these include:

- experience of torture and trauma where cumulative experiences have had a significant impact on a person's ability to articulate their claims for protection;
- serious mental illness such as schizophrenia, severe depression or post-traumatic stress disorder, or incapacity associated with drug addiction;
- incapacitating illness where ill-health and treatment affects a person's ability to engage with the process; or
- conditions affecting cognitive function.

In each case, it is helpful to ensure that evidence of recent treatment for the condition giving rise to exceptional vulnerability is provided to the Department.

Other information specific to how a person's individual circumstances affect their ability to engage in the protection process or present protection claims may also be relevant.

How can I refer a person for PAIS?

1. Prior to invitation to apply for a TPV/SHEV: initial assessment

The Department assesses all fast-track applicants for PAIS eligibility prior to being invited to apply.

This is called initial assessment.

Prior to a person being invited to apply, external parties can provide information relevant to PAIS eligibility information by asking the person's SRSS provider or case manager (for example if they are in detention) to attach the document to the person's case plan in the CCMDS Portal. RACS foresees difficulty for external parties trying to contact case managers.

The Guidance states that the Department is preparing an information pack for SRSS providers. SRSS providers may in turn create processes for external parties to provide information relevant to a person's eligibility.

2. After an invitation to apply for a TPV/SHEV: subsequent assessment

After a person has been invited to apply, an external stakeholder (or an applicant themselves) can request that the Department review their eligibility. This is called subsequent assessment. The Department may also initiate a subsequent assessment (for example, as a result of observations of a person's behaviour at their protection visa interview).

Requests for subsequent assessment should be sent to PAIS@border.gov.au. There is no application form. A request for subsequent assessment should have reference to the eligibility criteria, and attach supporting evidence if possible.

The Guidance states that the Department will notify applicants of the outcome of the subsequent assessment in writing.

Handling personal information

In all cases, information should only be provided on behalf of a person with their informed consent, and the person should always be provided a copy of material that is provided on their behalf.

Family groups

Where an eligible person is a member of a family group, they should indicate this when they return their consent form after they are offered PAIS assistance. The Department has indicated the whole family group will be referred to PAIS.

Please note: This factsheet contains general information only. It does not constitute legal or migration advice. If you would like more detailed information on any aspect, please refer to RACS fact sheets available at www.racs.org.au. RACS is independent of the Department of Immigration. All assistance is free. This factsheet was prepared in August 2016.