How to write a letter to request Ministerial Intervention under Section 417 and Section 48B of the Migration Act
Section 417 of the Migration Act

Gives the Minister for Immigration and Citizenship the power to grant a visa to a person who was refused by the Refugee Review Tribunal (RRT) if the Minister thinks it is in the “public interest” to grant them a visa.

Minister’s Power under section 417 of the Migration Act

If your protection visa review is unsuccessful at the RRT, one option you may have is to request the Minister to intervene in your case under Section 417.

The Minister will only consider cases that have unique or exceptional circumstances.

If you think Complementary Protection applies to you and your case has not been considered by DIAC under the Complementary Protection regime, get legal advice first.

IMPORTANT POINTS TO NOTE:

- The Minister DOES NOT HAVE to consider whether to intervene in your case
- The Minister only intervenes in a small number of cases each year
- Before making a request to the Minister, you should consider what other options you have
- If you have an Australian partner you might be able to apply for a Partner visa in Australia. Seek legal advice.
**What are unique and exceptional circumstances?**

The Minister has guidelines about the types of situations that might be unique or exceptional circumstances.

The table below provides examples of unique or exceptional circumstances and how you might show they exist. (Adapted from DIAC table http://www.immi.gov.au/refugee/circumstances.htm)

<table>
<thead>
<tr>
<th>Examples of unique or exceptional circumstances</th>
<th>Supporting documents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australia's obligations as a party to the Convention on the Rights of the Child</strong></td>
<td>• Child's birth certificate, parenting agreement, support payments</td>
</tr>
<tr>
<td>Is your removal from Australia in the best interests of a child?</td>
<td>• A statutory declaration* from child's parent, teacher, relatives or others explaining what the impact on the child if you are removed.</td>
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<tr>
<td>If you were forced to leave Australia, would the rights of a child be negatively affected?</td>
<td>• Medical or psychological reports about the child.</td>
</tr>
<tr>
<td>For example</td>
<td>• Supporting letter from the child parent.</td>
</tr>
<tr>
<td>• the child's family would be separated</td>
<td>• You can also ask your local Federal Member of Parliament to write a letter of support to go with your request to the Minister.</td>
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<tr>
<td>• the child's physical or mental health would be affected</td>
<td></td>
</tr>
<tr>
<td>If you were forced to return, would this cause irreparable harm and continuing hardship to an Australian citizen or Australian family unit?</td>
<td>• Medical/specialist reports confirming an Australian citizen or permanent resident requires ongoing and continuous care that is not otherwise readily available</td>
</tr>
<tr>
<td>For example, an Australian citizen or resident you are caring for has serious health issues and no other care is available</td>
<td>• A supporting letter from the Australian citizen or permanent resident or their family members</td>
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<td></td>
<td>• Birth certificate, Australian citizenship papers, marriage certificate, joint utility bills, joint saving accounts</td>
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<tr>
<td></td>
<td>• A statutory declaration* outlining compassionate circumstances</td>
</tr>
<tr>
<td></td>
<td>• Medical or psychological reports</td>
</tr>
<tr>
<td></td>
<td>• You can also ask your local Federal Member of Parliament to write a letter of support to go with your request to the Minister.</td>
</tr>
</tbody>
</table>
### Minister’s Power under section 417 of the Migration Act (cont.)

<table>
<thead>
<tr>
<th>Examples of unique or exceptional circumstances</th>
<th>Supporting documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there compassionate circumstances regarding your age And / or health and / or psychological health?</td>
<td>• Documentation supporting that you would face irreparable harm and continuing hardship if you are returned to your country of origin</td>
</tr>
<tr>
<td></td>
<td>• Evidence of your age, and/or health or psychological state</td>
</tr>
<tr>
<td></td>
<td>• Medical/specialist/psychological reports</td>
</tr>
<tr>
<td></td>
<td>• A statutory declaration* from you or people you know about your age and/or health</td>
</tr>
<tr>
<td></td>
<td>• A supporting letter from family or others willing to provide you with ongoing care while in Australia</td>
</tr>
<tr>
<td></td>
<td>• <strong>You can also ask your local Federal Member of Parliament to write a letter of support to go with your request to the Minister.</strong></td>
</tr>
<tr>
<td>Have you been in Australia for a very long time (including time spent in detention)? Have you integrated well into the Australian community?</td>
<td>• Documents showing participation in or membership of community organisations, for example, cultural groups, sporting clubs, volunteer work</td>
</tr>
<tr>
<td></td>
<td>• Supporting letters from community organisations</td>
</tr>
<tr>
<td></td>
<td>• Children’s school enrolment records</td>
</tr>
<tr>
<td></td>
<td>• Business ownership records</td>
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<tr>
<td></td>
<td>• <strong>You can also ask your local Federal Member of Parliament to write a letter of support to go with your request to the Minister.</strong></td>
</tr>
</tbody>
</table>
The Minister’s power under section 48B of the Migration Act 1958

If you have been refused a Protection visa, you are not allowed to apply for another Protection visa.

Under Section 48B, the Minister can allow you to make another Protection visa application if there is significant new information about your case which was not available at the time of your first application and this new information demonstrates that you may now be a person to whom Australia owes protection obligations.

In your letter to the Minister, you should explain:

• What is the significant new information in your case?
• Why wasn’t it available at the time of your first application?
• How does the information show that Australia has obligations to protect you?

### Examples of unique or exceptional circumstances

<table>
<thead>
<tr>
<th>Examples of unique or exceptional circumstances</th>
<th>Supporting documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you unable to return to your country/countries of citizenship or usual residence because:</td>
<td>• Country information that relates to your fear of harm</td>
</tr>
<tr>
<td>• You would be subject to torture, or cruel, inhuman or degrading treatment or punishment?</td>
<td>• Independent information about your country that shows you would face this kind of harm.</td>
</tr>
<tr>
<td>• You would face the death penalty?</td>
<td></td>
</tr>
<tr>
<td>• There would be a significant threat to your personal security, dignity or human rights?</td>
<td></td>
</tr>
<tr>
<td>Circumstances where the migration laws have had unintended consequences or have led to unfair or unreasonable results</td>
<td>• A letter from you, a legal advisor or another person explaining what these circumstances are</td>
</tr>
<tr>
<td>Would allowing you to remain in Australia result in exceptional economic, scientific, cultural or other benefit to Australia?</td>
<td>• Documents supporting why you would be of exceptional benefit to Australia</td>
</tr>
<tr>
<td>• Awards or industry/peer recognition</td>
<td></td>
</tr>
<tr>
<td>• Supporting letters from relevant national bodies</td>
<td></td>
</tr>
<tr>
<td>• Evidence of qualifications</td>
<td></td>
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</tbody>
</table>
**Security and Character considerations (for both S417 & S48B)**

*The Minister will also consider:*

- Whether you pose a threat to Australian national security or society
- Whether you have committed any criminal offences in Australia
- Whether you have complied with the conditions of your visas in Australia

**How to write the letter to the Minister**

- At the beginning of the letter, write your name, date of birth, DIAC client ID number and RRT file number
- Outline your current situation and explain your unique and exceptional circumstances
- At the end of the letter, sign and date the letter
- Provide your contact details including your address and phone number
- Attach your supporting documents. (Certified copies # NOT originals)
- Keep a copy of the letter and all documents that you send the Minister.

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**Dear Minister,**

Name: John Doe  
DOB: 14/12/88  
DIAC ID: X567888  
RFT No: 6678908

My circumstances are exceptional ......

From,  
John Doe  
19/11/2012

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**The current Minister is:**

The Honourable Brendan O’Connor MP  
Minister for Immigration and Citizenship  
Parliament House  
Canberra ACT 2600
The Honourable Brendan O'Connor MP  
Minister for Immigration and Citizenship  
Parliament House  
Canberra ACT 2600

01/01/2013

Dear Minister,

**RE: CID: 345897433 Mr John DOE DOB 13/12/88 Request for Ministerial Intervention in my case**

I would like to request that the Minister uses his powers under *Section 417 or 48B (choose which section)* to intervene in my case.

I arrived in Australia on a _______ visa in YEAR. Please find the RRT decision record attached.

• EXPLAIN UNIQUE AND EXCEPTIONAL CIRCUMSTANCES IN AS MUCH DETAIL AS POSSIBLE.  
• USE THE CHART.  
• OUTLINE YOUR CONNECTIONS TO THE COMMUNITY.  
• YOUR CHANGED CIRCUMSTANCES.  
• LIST THE SUPPORTING DOCUMENTS YOU HAVE ENCLOSED IN YOUR LETTER  
• EXPLAIN THE IMPORTANCE OF EACH OF THESE DOCUMENTS

According to the guidelines, Ministerial Intervention requests can be made when there are compelling and compassionate circumstances in a case. It could be argued that there are compelling and compassionate circumstances in this case which warrant the Minister’s intervention.

List reasons why there are “compelling and compassionate circumstances” in your case.

I ask that you take the above into consideration when assessing my request for Ministerial Intervention and am grateful for this consideration.

Yours sincerely
Can you make more than one request for Ministerial Intervention?

- It is not usual for the Minister to consider repeat requests.

- There must have been significant changes in your circumstances since you made the last request.

- If you make more than one request, you will not necessarily be granted a Bridging visa to allow you to stay in Australia until a decision is made.

- It is very important to include all relevant information in your first request to the Minister.

*a certified copy of a document is a photocopy of a document that has been certified by a lawyer or a Justice of the Peace


#a statutory declaration is a written statement that allows a person to declare something to be true. When you make a statutory declaration, you are declaring that the statements in it are true. You need to have a lawyer or a Justice of the Peace watch you sign the statement.
What do you write in a supporting letter?

It is important to provide as much detail as possible in a letter of support.

At the beginning of the letter, write the name of the person who is requesting Ministerial Intervention, their date of birth, DIAC client ID number and RRT file number

Outline their current situation and why you think there are unique and exceptional circumstances in their case

The type of issues that might be relevant include:

• How do you know the applicant?
• How long have you known the applicant?
• What activities the applicant has been involved with in Australia? (for example, cultural, sporting, political, voluntary activities)
• Why you think the Minister should allow the applicant to remain in Australia?
• What is unique and compelling about the person’s circumstances?
• Is the applicant of good character? What can they contribute to Australian society?
• What do you think about the prospect of the applicant being removed from Australia?
• Would this cause irreparable harm to someone? If so, to whom?
• Would the applicant’s physical or mental health be adversely affected if the applicant was returned to their country of origin?
• If you are an employer of the applicant, what is your opinion of the applicant’s work ethic and the quality of work performed? Can you give examples of how the applicant has contributed to your workplace or industry?

At the end of the letter, sign and date the letter. Provide your contact details including your address and phone number.

On the next page is an example of a supporting letter.
The Honourable Brendan O'Connor MP
Minister for Immigration and Citizenship
Parliament House
Canberra ACT 2600

01/01/2013

Dear Minister,

RE: Letter of Support for Request of Ministerial Intervention in the case of John DOE
CID: 345897433 DOB 13/12/88

This letter is to support Mr John Doe’s request that the Minister uses his powers under Section 417
or 48B (choose which section) to intervene in his case.

I have known Mr Doe for ____ years. I understand that he arrived in Australia on a ______visa in
YEAR.

• EXPLAIN HOW YOU KNOW HIM

According to the guidelines, Ministerial Intervention requests can be made when there are
unique and exceptional circumstances in a case. It could be argued that there are compelling and
compassionate circumstances in this case which warrant the Minister’s intervention.

List reasons why there are “compelling and compassionate circumstances” in HIS case.

• USE THE CHART FOR REFERENCE
• OUTLINE HIS CONNECTIONS TO THE COMMUNITY
• HIS CHANGED CIRCUMSTANCES.
• LIST THE SUPPORTING DOCUMENTS YOU HAVE ENCLOSED IN YOUR LETTER.
• EXPLAIN THE IMPORTANCE OF EACH OF THESE DOCUMENTS

I ask that you take the above into consideration when assessing Mr Doe’s request for Ministerial
Intervention and am grateful for this consideration.

Yours sincerely

Ms Jane Smith
Further information

For further information, you can contact the RACS Telephone Advice service on 9114 1600 between 10:00 and 12:00 on Tuesday and Thursday for free telephone advice, to see if you need an appointment or for a referral to another service.

This brochure is available in: Arabic, Chinese (simplified), Dari/Farsi, Tamil Turkish, Urdu

For more information, visit www.racs.org.au, call RACS on (02) 9114-1600 or email admin@racs.org.au.

Disclaimer

This fact sheet is general. It does not constitute, and should be not relied on as, legal advice. Refugee Advice and Casework Service recommends seeking advice from a qualified lawyer on the legal issues affecting you before acting on any legal matter. Refugee Advice and Casework Service is the author of this publication and accepts responsibility for the information. This factsheet applies to people who live in, or are affected by, the law as it applies in Australia.

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