

AAT Appeals

This fact sheet is for people who arrived in Australia by plane, or by boat and are not being processed under the “Fast Track” process, and who have received a negative decision from the Department of Home Affairs (the Department).

Your right to appeal

If your application for a protection visa is refused by the Department of Home Affairs (the Department), you have the right to appeal this decision to the Administrative Appeals Tribunal (AAT).

By lodging an appeal, you are asking the AAT to take a fresh look at whether you are a refugee and/or in need of complementary protection.

What is the AAT?

The AAT is an independent statutory body set up to review decisions made by the Department in relation to whether to grant a protection visa. The judges are referred to as ‘members’ and are appointed by the Government. Hearings are similar to court hearings, although less formal. It is not a requirement to have a legal representative for your hearing, and many applicants to the AAT do not have a legal representative.

Time limits for appeals

If you are in the community, you must apply within 28 days from the date you were notified of the refusal. The date you are considered notified depends on how you received the document. The letter notifying you of the refusal should explain this. If you received the Notification by email, it is on the day you received the email. If you received the Notification by registered post, it is 7 working days from the date of the letter.

If you are in immigration detention – including community detention, the time limit is 7 working days. The first i.e. Day 1 of these 7 days commences is the day you were notified e.g. the day the Notification was handed to you.

It is very important that you lodge within time. If you do not lodge prior to these time limits, you will lose your right to review. Extensions are not possible in general.

How much does it cost?

There is no fee to apply for AAT review, but if you lose there is a fee of \$2,076 which you then owe to the Australian government. If you cannot pay the fee at the time you are asked to pay it, you should speak to the Department to work out a plan to pay the fee.

How do I lodge the AAT appeal?

You can lodge an appeal [online](#), by fax or [in person](#). We recommend you lodge online if you have access to an email address you check regularly. If not, we recommend you take the Department’s decision to the Tribunal in person and lodge there.

What happens after I lodge?

After you submit your appeal application, you will usually receive a letter of acknowledgment and then some time much later, you will receive a notice of your hearing date.

It is important that if you change your address, you let both the Department and the Tribunal know by filling in their respective forms to notify them: otherwise you could miss out on an important notification – for example about your hearing date.

If you don't currently have a complete copy of your file, we also recommend you submit a request under Freedom of Information for your file with the Department now so that you can have this before your hearing with the Tribunal.

Reviewing your application for a Protection visa and the Department's decision

Generally speaking, the AAT hearing is your **last chance** to present your case for protection to the Australian government.

Read over your application for a Protection visa very carefully. More importantly you should read your statement which explains why you fear returning to your country of origin.

You should also read the Department decision and write down all the reasons why you think the Department decision is wrong. You may want to explain why you think the Department was wrong to the AAT in writing before your hearing or you may want to explain your reasons at the hearing.

You should have been given a copy of your Department interview recording. If not, you can request it under Freedom of Information (FOI) legislation. Listen to the recording before the interview so that it refreshes your memory as to what you have already said at the interview. If there is anything that you said at the interview that is wrong or inaccurate, or that was interpreted incorrectly, write it down and either put it in a statement to the AAT before the hearing or make sure you clarify these points at the hearing.

New information or evidence

Since your interview with the Department, changes may have occurred in your life which may be relevant to your claims for protection. For example:

- There may be changes to your personal situation in Australia (e.g. you have changed religions; you may have started a new relationship; you may have joined a political party or organisation);
- You may have had contact with friends or family members in your home country;
- The general situation may have changed in your home country;
- You may have obtained new documents or evidence to support your case.

The AAT is able to consider any new information or evidence that you submit, *even if this was not seen previously by the Department*. This is because the AAT is making a fresh decision about your case.

If you have new information about your case, or if you wish to make any changes to your application, try to do so before the hearing date and submit this information in writing to the Tribunal. If you are not able to do this before the hearing date, inform the AAT member at the beginning of your hearing.

It is important to be clear at the hearing so it helps to ensure that you have clearly thought about what has happened and when. At the hearing you will be asked for details of events that you have described in your statement. Try to answer their questions as directly and comprehensively as possible, and *provide details* if you know and can remember them. If there are inconsistencies in your evidence at the AAT hearing, your statement, or interview at the Department, this might be a reason for the AAT not to believe you, so check what you have said so you can explain it well.

Will the AAT have all the information about my case?

The AAT will have the Department file containing your application for a Protection visa, a recording of your interview at the Department and all other information or evidence you have submitted to the Department.

The AAT may also have files which contain and previous visa applications you have made to the Department.

They will also have any information you submit to them directly.

The AAT hearing

AAT applicants have a right to a hearing before a decision is made on their appeal. This is an important opportunity to provide additional evidence and convince the AAT of your credibility.

Do I need to bring anything to the hearing?

You may want to bring your letter inviting you to the hearing.

You will also need to bring your photo identification. This is usually your passport or your national ID card from your country of origin.

You may also want to bring any original documents you may want to have considered with the application that have not already been put on the Department's file.

How do I get to the hearing?

Your hearing will be held at

The Administrative Appeals Tribunal
Level 6
83 Clarence St
Sydney NSW 2000

When you get to level 6, you will need to notify the front desk that you have a hearing with the AAT at the specified time. The person at the front desk will mark your name off and give you a number and ask you to wait for your number to be called.

When the AAT is ready for you, a hearing attendant will call for your number and you will be taken to a hearing room.

Who will be at the hearing?

The person interviewing you will be an AAT Member. They will be making the decision in your case. You may address that person as 'Member'. They are similar to a judge in court, but the AAT is a little less formal than court.

They will need to decide whether or not you are a refugee. In doing so, they will need to consider the definition of a refugee and consider whether you are owed 'complementary protection': if there are substantial reasons for considering that you would be subjected to significant harm in your country of origin.

There may also be an interpreter if you have requested one.

There will also be any other person you have requested to attend the hearing with you, for example, a support person or friend. Please note, that you must inform the AAT before the hearing if you wish to bring someone.

The hearing attendant will go through with you the formalities before the Member is brought into the room. The hearing attendant leaves the room once the hearing starts and does not take part in the proceedings.

What happens during the hearing?

Before the hearing

Before the hearing starts, the hearing attendant will confirm who you are and explain to you the process. He or she will ask you to provide your photo identification and whether or not there are other documents you would like to submit to the AAT before the hearing.

The hearing will be recorded and all proceedings will be kept private and confidential.

The hearing attendant will ask you whether or not you would like to take an oath on a holy book or an affirmation which is a promise to tell the truth. The interpreter will also be asked this as well.

The hearing attendant will leave the room to go and get the Member. When the Member enters the room you and the interpreter have to stand up. You may sit when the Member sits down.

The hearing attendant will administer the oath or affirmation to the interpreter and then to you. He or she will check whether the recording equipment is working and then leave the room.

During the hearing

The Member will commence the hearing and explain to you the role of the AAT and the interpreter and grounds for protection in Australia. The issue the AAT must consider is whether or not you are owed protection obligations by Australia.

If there are problems with the interpreter during the course of the hearing you should raise this immediately with the Member. It is important that the information you put forward is accurate and that there is a clear line of communication between you and the Member. The interpreter has no part in the decision that is made. They only act as a medium of communication.

If there is nothing else you would like to add before the hearing starts, the Member will ask you some questions about why you fear returning to your country of origin. The Member will ask you questions about the events which you have detailed in your statements and what you may have said at the Department interview and also discuss other information with you that they may have.

If you do not understand a question, say so. If you cannot remember an event very clearly, say so. Be sure of your answers before you start speaking, as you will be recorded.

The Member may tell you that they have information which does not support your claims to protection. It may seem as though the Member does not believe your evidence, but this is not necessarily the case. The Member is raising these issues with you to be fair and to allow you to respond to the information. You may respond to this at the hearing or you may wish to respond at a later date in writing or at another hearing. If the issues are quite complicated, it may be best to have more time to consider your response. You must inform the Member which method of responding you would prefer. In considering your response you may want to ask the AAT member where they obtained the information from and why it is relevant to your case.

If you elect to respond in writing at a later date, the Member will assign you a date on which the response is due. If you elect to have another hearing, the AAT will send you another invitation for hearing.

End of the hearing

At the end of the hearing, you should ask the Member what issues arise in your case so that you may have an opportunity to address them. You will then be asked if there is anything else you wish to add. It is very important that you have put all of the important parts of your case to the Member – *even if they have not asked you*. Do not leave until you feel satisfied that you have told your story in full.

If you have elected to respond to information put to you at the hearing in writing, the Member will tell you of the date which you have to respond by. The AAT will not make a decision in your case till after this date.

What happens once I have a decision?

Once you have had your hearing, the Member can make a decision on your case any time after the hearing. If you are going to provide more documents or evidence to the Member you should ask for a date when they are due so that the Member will not make a decision till then. Waiting periods for decisions vary and are influenced by a number of different factors.

The decision in your case will be sent to you in a letter.

If it is a positive decision, the decision record will say that the AAT will remit your application for review back to the Department for due consideration. The Department is responsible for granting the protection visa once all character and health requirements have been met.

If it is a negative decision, the letter will contain the reasons for the AAT's decision as to why you are not a refugee.

If you have come to this stage, we suggest that you contact RACS as soon as possible for further advice, as you have only **35 days** from the date of the decision to file an application for judicial review at the Federal Circuit Court.

Getting help from RACS

RACS is entirely independent of the Department of Home Affairs. All assistance is free.

If you would like advice or assistance, RACS offers the following service options:

Service	Day	Time	Address/Number
Telephone Advice	Monday to Friday	10AM to 1PM and 2PM to 4PM	(02) 8355 7227 or admin@racs.org.au
Auburn Drop-in	Wednesday	Register in person from 10 AM to 12 PM	Visit 44A Macquarie Road, Auburn

Please note: This fact sheet contains general information only. It does not constitute legal or migration advice. RACS is independent of the Department of Home Affairs. All assistance is free. This factsheet was prepared in October 2023.