

Your Options if Refused by the AAT or IAA

This Fact Sheet provides information on the possible options available to a person who has had an application for review refused by the Administrative Appeals Tribunal (AAT) or the Immigration Assessment Authority (IAA) or been refused a protection visa by the Department of Home Affairs (the 'Department') but then excluded from a review by the IAA.

Expiry of your Bridging Visa after the decision

If you were granted a Bridging Visa **before 19 November 2016** in connection with your application for a protection visa, it will expire 28 days after you are notified of the decision of the AAT or IAA or the decision of the Department if you were excluded from review in the IAA.

You need to check if you were notified by email or by post to calculate the correct expiry date. Your Bridging Visa will expire 28 days after you were notified. If you were notified by email, this is 28 days after the date the email was sent. If you were notified by post, this is 7 working days plus 28 days from the date of the letter notifying you of the decision.

If you were granted a Bridging Visa **on or after 19 November 2016**, it will expire 35 days after the IAA made the decision.

If you do not apply for a new Bridging Visa before the expiry of your current visa, you will become "unlawful" and will be at risk of being detained and removed from Australia.

You will generally only be eligible for a Bridging Visa if you are writing to the Minister, applying for judicial review in the Federal Circuit and Family Court of Australia (FCaFCoA) or making arrangements to depart Australia. You can make a Bridging Visa application after you write to the Minister or file with the FCaFCoA by:

- Applying online in ImmiAccount or completing Form 1005 and posting it to:

Department of Home Affairs
GPO Box 9984
Sydney NSW 2001

- You will not be able to apply by going to the Department office or calling the Department by phone.
- Include a copy of your acknowledgment letter from the Minister or your application for judicial review stamped by the FCaFCoA.

1. Ministerial Intervention - Section 417 of the Migration Act

This option is only available to people who have a decision from the AAT. The Minister has the power under section 417 of the Migration Act to grant a visa if there are exceptional circumstances and it is in the public interest.

You must meet the Ministerial Guidelines for exceptional circumstances to be successful. For more information, see RACS Fact Sheet, "Ministerial Intervention after an AAT Decision Under Section 417"

2. Ministerial Intervention - Section 48B of the Migration Act

Once you have been refused a Protection visa by the Department, you cannot lodge a further protection visa application while you are in Australia.

However, you can request the Minister to use his power under section 48B of the Migration Act to allow you to lodge a further protection visa application. For this to be possible, you will need to show that there are exceptional circumstances and since the protection visa refusal there is either:

- Important and relevant new information about your case or
- A significant change in your circumstances.

The new information must demonstrate that you may now be a person to whom Australia owes protection obligations. The new information must not previously have been considered by a decision maker with the Department, the IAA, a previous s48B request, or an International Treaty Obligations Assessment (ITOA). For more information, see RACS Fact Sheet, "Section 48B Ministerial Intervention".

3. Judicial Review

You can apply for judicial review to the Federal Circuit and Family Court of Australia (FCaFCoA) if there is a legal error in the decision at the AAT.

This requires you to show that the law has been applied incorrectly and the FCaFCoA is not able to look again at the merits of your case (i.e. whether or not you are a refugee or owed protection by Australia). For more information, see RACS Fact Sheet, "Judicial Review".

4. Other Immigration Options

Once you have been refused a Protection visa by the Department or the AAT, you are generally prevented from applying for any other type of visa in Australia. We suggest you get some migration advice about what your options are at this stage.

5. Departing Australia

If you have not applied for any of the above options, or if none of the above options are successful, then in most cases your Bridging Visa will expire 35 days after being notified of the relevant decision. You should confirm this with a lawyer/migration agent. You should contact the Department and discuss your options and possible arrangements to leave Australia. The Department and the International Organisation for Migration (IOM) can sometimes provide financial assistance with leaving Australia. For more information, see RACS Fact Sheet, "Voluntary Return".

If you do not contact the Department or leave Australia before your Bridging Visa expires, you could be taken to immigration detention and removed from Australia.

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
Client Line	Monday to Friday	11AM 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.