



## EXPEDITED REVIEW OF DECISIONS UNDER SECTION 501 OR 501CA OF THE *MIGRATION ACT 1958*

### Information for applicants in Australia

*When this Fact Sheet refers to “you” it means the applicant and his or her representative. When it refers to “we” or “us” it means the AAT.*

This fact sheet is for people in Australia who want the Administrative Appeals Tribunal (AAT) to review a decision made by a delegate of the Minister for Home Affairs (the Minister) under the *Migration Act 1958*:

- to refuse or cancel your visa on character grounds under section 501, or
- to not revoke the mandatory cancellation of your visa on character grounds under section 501CA.

Special rules apply to the review when you are the visa applicant or the person whose visa was cancelled, and you are in Australia. This fact sheet provides information about:

- what you need to do, and
- what we do when we review the decision.

For more information about the review of decisions under section 501 or 501CA when the visa applicant or the person whose visa was cancelled is not in Australia, go to our website or call us. Our contact details are at the end of this fact sheet.

### How do I apply?

You must apply to us in writing. You can either:

- apply online at [www.aat.gov.au/apply-online](http://www.aat.gov.au/apply-online)
- fill out an application form which is available:
  - on the [Forms page](#) on our website, or
  - by calling us
- write us a letter, or
- send us an email.

If you write us an application letter or an email, it must include:

- your name, address and telephone number and, if you want to receive documents from us by email, your email address
- the date you received the decision
- brief reasons why you think the decision is wrong, and
- **a copy of the decision and one of the two sets of documents** you were given when the Department of Home Affairs (the Department) notified you of the Minister’s decision.

If you do not apply online, you can lodge your application at one of our offices or send your application by post, email or fax.

## Is there a time limit for applying to the AAT?

Yes. You must lodge your application for review **within 9 days** after the day on which you received a copy of the Minister's decision and the two sets of documents from the Department. If the ninth day is a Saturday, Sunday or public holiday, you must lodge your application by the next working day.

**We have no power to extend the time limit** for lodging your application for review.

## Is there an application fee?

Yes. The **standard application fee** is **\$952**. However, you are entitled to pay a **reduced fee of \$100** if:

- you are in prison or in immigration detention
- you have been granted legal aid for your application
- you hold a health care card, pensioner concession card, Commonwealth seniors health card, or any other card issued by the Commonwealth that certifies entitlement to Commonwealth health concessions
- you are under 18 years of age or receiving youth allowance, Austudy or ABSTUDY, or
- we decide that paying the standard application fee would cause you **financial hardship**.

To apply for a fee reduction on financial hardship grounds, you must fill out the **Request for Fee Reduction form** which is available:

- on the [Forms page](#) on our website, or
- by calling us.

The fee can be paid in cash or by cheque, money order, EFTPOS, MasterCard or Visa.

We will not start the review until you pay the fee. We may dismiss your application if you do not pay the application fee within 6 weeks after lodging your application.

## What do we do when we review a decision?

We are independent from the Minister and the Department. We take a fresh look at the information relevant to your case and decide if the Minister's decision should stay the same or be changed.

We must make a decision **within 12 weeks** after the day on which you were notified of the Minister's decision.

## What happens next?

We will send you and the Department a letter confirming that we have received your application. We will also call you **within 1 week** of receiving your application to explain what happens next.

It is very important that we are able to contact you. If your telephone number or contact details change at any time, you must let us know immediately.

## The Minister's representative

The Minister will usually be represented by a law firm. The Minister's representative will send you a letter notifying you of their contact details.

Once you have received this letter, you should **only** send documents relating to your application to us and to the Minister's representative, **not to the Minister or the Department**.

## Do you need an interpreter or assistance with a hearing or speech impairment?

If you need an interpreter at any stage of your application, we will arrange and pay for an interpreter. If you have not already told us that you need an interpreter, contact us to let us know which language you speak.

If you have a hearing or speech impairment, contact us through the [National Relay Service](#). For more information, visit [www.relayservice.gov.au](http://www.relayservice.gov.au).

## Do you need help from a lawyer, migration agent, friend or family member?

When we call you, we will talk to you about who can help you with your application. A lawyer or a migration agent can help you. A family member or a friend can also help you. If you want to, you can also handle your application yourself.

If you want a lawyer or a migration agent to represent you, you must arrange this yourself as soon as possible. We are not able to assist with any costs of a lawyer or migration agent. If you do get a lawyer or a migration agent, you must tell them to contact us to let us know that they are representing you.

## Assistance for people in prison

There may be a Welfare Officer or Chaplain in the prison who can help you with your application. If someone in the prison is able to help you, please tell us the person's name, telephone number and the best times to contact that person. You should also ask the person to contact us.

## Telephone Directions Hearing

**Within 1 to 2 weeks** of receiving your application, a Member will hold what is called a **Telephone Directions Hearing**. The Member will call you and the Minister's representative, and the three of you will talk about your case.

It is very important that you are available for the Telephone Directions Hearing.

If you are in prison or in immigration detention, we will arrange for you to have access to a telephone for the Directions Hearing. You should find out where that telephone will be and tell us what number we should call to reach you. You should do this at the same time as lodging your application for review.

If you are not in prison or immigration detention, you can come to the AAT to participate in the Directions Hearing in person. You should call us to let us know if you want to come in person.

If you have a lawyer or a migration agent to represent you, he/she will also participate in the Telephone Directions Hearing.

## What you need for the Telephone Directions Hearing

It is important that you have all the documents that the Department gave you when they told you about the Minister's decision. You will have sent one of the two sets of these documents to us when you made your application. The Member will talk to you and the Minister's representative about what is in these documents.

## What will be discussed during the Telephone Directions Hearing?

The Member will talk to you and the Minister's representative about your case. The Member may talk about:

- why the Minister made the decision
- why you think the Minister's decision is wrong
- what kind of information might support your case
- how to get information that might support your case
- time limits for providing information to the Minister's representative
- the information that the Minister's representative will provide
- when and where the Member will hold a Hearing
- whether you will appear in person at the AAT, or participate by video or telephone, and
- when the AAT must give you its decision.

At the end of the Telephone Directions Hearing, the Member might tell you to give more information to us and the Minister's representative by a certain date. The Member might also tell the Minister's representative to give you and us more information.

The Member might also decide to hold another Telephone Directions Hearing. If so, the Member will tell you the date and time.

## Hearing

### What is a Hearing?

A Hearing is an opportunity for you and the Minister's representative to present information and arguments about the Minister's decision to the Member who will decide your case.

### When will the Hearing be?

We usually tell you the date and the time for the Hearing when we send you the letter confirming that we have received your application. If this changes, we will send you another letter confirming when the Hearing will take place.

### Preparing for the Hearing

At the Hearing, you will have the chance to give us information which supports why you think the Minister's decision was wrong. You can also ask your family and friends and other people to give information to us about you and your situation. These people are called your witnesses.

There are special rules about giving this information to us. You must follow these rules if you want the Member to use the information when making the decision in your case. Please read the note below carefully.

**Note:** In deciding your case, the Member must take into account the matters referred to in **Direction No. 79** made by the Minister. A copy of this Ministerial Direction should be included in the set of documents that the Department gave you when they notified you of the Minister's decision. You should refer to the matters contained in this Direction when deciding what evidence you and any witnesses will give at the Hearing, and what documents (if any) you wish to refer to at the Hearing.

**IMPORTANT:**

Direction No. 79 started on **28 February 2019**. It replaced **Direction No. 65**. There are some differences between Direction 65 and Direction 79. The Minister's delegate might have used Direction No. 65 when the delegate decided your case. If your hearing in the AAT is on or after 28 February 2019, the member hearing your case must apply Direction 79, even if the delegate used Direction No. 65. You should read Direction No. 79 to see if affects what evidence and documents you want to give to the Tribunal and the Minister's lawyers, and what evidence any witnesses will give at the hearing.

**What to do if you want to give us information at the Hearing?**

The information that you or anyone else gives us at the Hearing is called evidence. This includes anything you or your witnesses say to the Member and any documents you want the Member to look at, including references or other documents from family members, friends, employers and others.

**Note:** You must give the Minister's representative **written statements** of what you and your witnesses are going to say **at least 2 business days before the Hearing**.

You must also give the Minister's representative **any documents** you want the Member to consider **at least 2 business days before the Hearing**.

(A **business day** is a day that is **not** a Saturday, Sunday, or a public holiday in the ACT or in the place where the hearing is to be held.)

If you do not give the Minister's representative a copy of what you and your witnesses are going to say and any documents you want the Member to consider, **the Member cannot consider the evidence** when making the decision in your case.

You should **email or fax the documents to the Minister's representative** using the contact details in the letter they sent you. If you do not have access to email or a fax machine, you can **post the documents** to them preferably **by Express Post** to guarantee delivery as soon as possible.

If you do not have the representative's contact details, call us immediately and we will provide them to you.

You must also send copies of anything you send to the Minister's representative to us.

**Do I need to tell my witnesses to come to the AAT Hearing?**

You must arrange for your witnesses to come to the AAT on the day of your Hearing. If they cannot attend in person, they might be allowed to give their information to the Member by telephone. You should talk to the Member about this at the Telephone Directions Hearing or call us about it.

## **Where will the Hearing be?**

Hearings are conducted in person at the AAT, unless the Member allows a person to participate by video or telephone. At the Telephone Directions Hearing, the Member will discuss with you where and how the Hearing will be held.

The Hearing will be held in a hearing room, which looks similar to a court room.

## **Will the Hearing be in public?**

Hearings are generally held in public. However, the Member can decide to hold all or part of the Hearing in private if you or the Minister's representative ask for it to be in private.

The Member can also decide who will be in the room at a Hearing. You should talk to the Member about this at the Telephone Directions Hearing or call us about it.

## **What happens at a Hearing?**

At the beginning of the Hearing, the Member may ask the Minister's representative to talk briefly about the main issues in your case.

You will have the chance to give your evidence to the Member. If you have complied with the special rules above about giving information to the Minister's representative, you can tell the Member about yourself and your situation and you can give any documents to the Member. Your witnesses can also tell the Member about you and your situation.

When you give your evidence at the Hearing, the Minister's representative and the Member can ask questions from you and your witnesses.

The Minister's representative will also have the chance to give information to the Member. If the Minister's representative has any witnesses, you and the Member can ask them questions.

After all the witnesses have spoken, both you and the Minister's representative will have an opportunity to make a final statement. This is a brief summary of why you think the Member should make a different decision.

## **When will you get your decision?**

If there has been a Hearing, the Member will either give you a decision at the end of the Hearing or tell you that they need more time to make a decision. If you do not get a decision at the end of a Hearing, we will contact you when the decision is ready and send you a copy of the decision.

## Contact us

For more information about the AAT and how we conduct reviews, go to [our website](#) or call us. Our staff can give you information about procedures but cannot give you legal advice.

**Email:** [generalreviews@aat.gov.au](mailto:generalreviews@aat.gov.au)

**Post:** AAT, GPO Box 9955, Your capital city (*Northern Territory residents should write to Adelaide*)

### In person or by fax:

<b>ADELAIDE</b> Level 2 1 King William Street ADELAIDE SA 5000  <b>FAX (08) 8128 8099</b>	<b>BRISBANE</b> Level 6 295 Ann St BRISBANE QLD 4000  <b>FAX (07) 3052 3001</b>	<b>CANBERRA</b> Level 8 14 Moore St CANBERRA CITY ACT 2600  <b>FAX (02) 6243 4600</b>	<b>HOBART</b> Edward Braddon Building Commonwealth Law Courts 39–41 Davey St HOBART TAS 7000  <b>FAX (02) 9276 5597</b>
<b>MELBOURNE</b> Level 4 15 William St MELBOURNE VIC 3000  <b>FAX (03) 9454 6998</b>	<b>PERTH</b> Level 13 111 St Georges Terrace PERTH WA 6000  <b>FAX (08) 6222 7299</b>	<b>SYDNEY</b> Level 6 83 Clarence St SYDNEY NSW 2000  <b>FAX (02) 9276 5599</b>	

**Telephone:** If you want more information or assistance, call us on **1800 228 333** (calls are free from landline phones, however calls from mobiles may be charged).

Non-English speakers can call the Translating and Interpreting Service on **131 450** and ask them to call the AAT.

If you are deaf or have a hearing or speech impairment, contact us through the [National Relay Service](#). For more information, visit [www.relayservice.gov.au](http://www.relayservice.gov.au).

**Website:** [www.aat.gov.au](http://www.aat.gov.au)