



PROTECTION VISA REFUSALS

This fact sheet answers questions about an AAT review of a Department of Home Affairs (the Department) decision to **refuse** to grant a protection visa.

What does the AAT need to decide?

The AAT needs to decide whether it is satisfied you are a 'refugee' under the Migration Law.

If the AAT is not satisfied that you are a 'refugee', it will then decide whether the visa can be granted under 'complementary protection'. If not, the AAT will consider whether you are a family member of a refugee or a person who is owed complementary protection.

This fact sheet does **not** apply to a review of a decision to refuse a protection visa on security or character grounds.

What is a refugee?

To be found to be a 'refugee' the AAT must be satisfied you have a well-founded fear of being persecuted because of race, religion, nationality, membership of a particular social group or political opinion.

For protection visa applications made on or after 16 December 2014, you must also show that the persecution you fear relates to all areas of the country, and that the authorities in that country cannot protect you.

What is complementary protection?

If the AAT is not satisfied you are a 'refugee', it might decide to grant you 'complementary protection' if it is satisfied there is a real risk that you will suffer significant harm if you are returned to your home country.

'Significant harm' refers to:

- an arbitrary deprivation of life
- the death penalty
- torture
- cruel or inhuman treatment or punishment
- degrading treatment or punishment.

The significant harm you fear, must relate to a real risk to you personally, not one faced by the population generally. You must show that there is nowhere else in the country that you can reasonably relocate to, and that the authorities in your home country cannot protect you.

This fact sheet provides general information only. It is not legal advice about your case. If you have a question about the law or how it applies to your case, you should seek legal advice.

How does the AAT decide?

The AAT looks at all information before it that is relevant to your application. This includes:

- the decision letter from the Department setting out the reasons why they refused to grant you the visa
- any evidence you have given to the Department and the AAT to support your case
- other information that the Department thought was relevant to your application.

What information can I give the AAT to support my review?

You can give us any information that supports your case. You are not limited to the information listed below, and the information you give us will depend on your individual circumstances.

Examples of helpful information to give us might include:

- A statement that is signed by you about your circumstances, including your reasons for applying for a protection visa
- Country information about the situation in your home country
- Any other information that supports your claims.

When should I give my information to the AAT?

You should give us the information as soon as possible. If we are satisfied with the information you give us, a favourable decision might be possible without the need for a hearing. This means you might be able to get an outcome on your application sooner.

Giving evidence at a hearing

If you are required to attend a hearing, an AAT Member will ask you about your application and consider all of the information that you present. Generally, this will include the documents you have given us about your case. You should give us any information no later than 7 days before the hearing, or if we ask you to give us any information earlier, by the date we tell you.

Any information you present to the AAT Member is important evidence. Preparing this evidence well in advance of the hearing can assist you to present your case and help the AAT Member to make a decision.

CONTACT US IF YOU HAVE ANY QUESTIONS

- Telephone: **1800 228 333**
- Email: mrdivision@aat.gov.au
- www.aat.gov.au
- National Relay Service www.relayservice.gov.au
- Translating and Interpreting Service (TIS): 131 450

When this Fact Sheet refers to "You" it means the applicant, and includes his or her nominee, representative or support person. When it refers to "We" or "Us" it means the AAT.

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