



PUBLIC INTEREST CRITERION 4020

This fact sheet answers questions about an AAT review of a Department of Home Affairs (the Department) decision to refuse a visa on the basis that the visa applicant does not satisfy the requirements of 'PIC 4020'.

What is Public Interest Criterion (PIC) 4020?

PIC 4020 is a requirement for the grant of most visas. Under PIC 4020, a visa might be refused if bogus documents or information that is false or misleading is given to the Department or the AAT.

What does the AAT need to decide?

The AAT will need to decide whether or not it is satisfied the visa applicant meets the below requirements under PIC 4020:

- (1) there is no evidence they have given, or caused to be given, a bogus document or information that is false or misleading in relation to a visa application or a visa held by them in the 12 months before the application was made
- (2) they or a family member have not been refused a visa on the basis of (1) in the period starting 3 years immediately before the visa application was made and ending when the visa was granted or refused
- (3) they satisfy the decision maker as to their identity
- (4) they or a family member have not been refused a visa on the basis of (3) in the period starting 10 years before the visa application was made and ending when the visa was granted or refused.

Can the requirements relating to bogus documents and false or misleading information be waived?

If the AAT is **not** satisfied that the visa applicant meets both (1) and (2), it will first decide whether there are:

- compelling circumstances that affect the interests of Australia, or
- compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen that justify the granting of the visa.

The AAT will then decide whether to waive PIC 4020 in light of the above circumstances.

Compelling or compassionate circumstances only apply to (1) and (2) and the circumstances should already exist rather than be related to something that might happen in the future.

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.

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 documents listed below, and the information you give us will depend on your individual circumstances.

Examples of helpful information to give us in relation to bogus documents or misleading information might include:

- Statements that are signed by you and/or the visa applicant
- Evidence that the information or documents were not given by the visa applicant
- Evidence that any false or misleading information is not relevant to the visa criteria
- Evidence that a document has not been counterfeit or altered, and was not obtained because of a false or misleading statement
- Evidence that information was not false or misleading at the time it was given.

Examples of helpful information to give us in relation to compelling and compassionate circumstances might include:

- Statement that is signed by you and/or the visa applicant
- Evidence of serious family situations, such as the death of a family member
- Evidence family members in Australia would be left without financial or emotional support
- Evidence that a parent in Australia would be separated from their child
- Details of how Australia's trade or business opportunities or relationship with a foreign government would be impacted if the visa was not granted
- Evidence that if the applicant were not granted a visa then Australia would be deprived of a significant business, economic, cultural, or other development
- Medical reports or welfare issues affecting an Australian citizen, permanent resident or eligible New Zealand citizen.

When should I give my information to the AAT?

You should give us the information as soon as possible. If the AAT is 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 to 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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