



Administrative Appeals Tribunal

Migration & Refugee Division

Information for migration review applicants – MR Division

We are a statutory body with the power to review decisions made under the *Migration Act 1958* by the Minister, or by officers who are delegates of the Minister in the Department of Home Affairs.

In conducting a review, we must consider the case afresh and make a decision that is correct in law. We have the power to overturn decisions and to substitute another decision, or return a case to the department for reconsideration with directions. We are required to provide a review that is fair, just, economical, informal, quick and proportionate.

Visa criteria and matters relating to the cancellation of visas, to sponsors, employer nominations and the points system are set out in the Migration Act and associated regulations.

How long will the review take?

We generally review cases in date order, but give priority to cases where:

- a person is in immigration detention
- there is a question as to whether or not we have jurisdiction to conduct a review
- an authorised person decides there are compelling reasons for priority
- a visa has been cancelled
- a court has remitted or returned a matter for us to reconsider
- the applicant has made a further application, following the initial application being remitted to the department and again refused
- there is a close family visitor refusal (in limited circumstances).

As each case is different, it is difficult to say how long it will take for us to make a decision on your case. The length of a review can depend on a variety of factors. Our website has further information on how cases are prioritised and average processing times.

You can request that priority be given to allocating and processing your case, if you believe that there are compelling reasons to warrant it. Any request should be in writing and accompanied by supporting evidence. We will advise you of our decision about priority in writing.

Where will my application be processed?

We process applications at our offices (registries) in NSW, Victoria, Queensland, South Australia or Western Australia, based on the residential address of the applicants at the time of lodgement of the review application. Where applicants are

located in NSW or the ACT, their applications are processed in NSW. Where applicants are located in Victoria or Tasmania, their applications are processed in Victoria. Where applicants are located in South Australia or the Northern Territory, their applications are processed in South Australia. Where applicants are located in Queensland, their applications will be processed in that state. Where applicants are located in Western Australia, their applications will be processed in that state. If an applicant has moved interstate after lodgement of the review application and before their case is allocated to a Member, their review file will be automatically transferred to and processed by the relevant registry as listed above.

What happens next?

We will now ask the department to provide any documents or files it has that relate to the decision you want reviewed.

We can only review a decision if a valid application has been made. We will advise you if it appears that your application is not valid.

Our review process varies according to the circumstances of each case. We may:

- seek further information, if it is considered necessary
- invite you to comment on any information that we believe would be (part of) the reason for affirming the decision you want reviewed
- invite you to appear to give oral evidence and present arguments at a hearing (in some cases, this may be by telephone or videoconference) if a decision cannot be made based solely on your application and other documents submitted
- invite you to nominate other people who could give or provide evidence, and
- invite you to suggest other evidence or materials that we might obtain.

In some cases, the Member may announce the decision at the end of the hearing. The Member may decide to send you written reasons for the oral decision, in which case you will be sent the reasons within 14 days after the hearing. Alternatively, the Member may announce the decision and make an oral statement of the reasons for the decision at the hearing. If this occurs, you are entitled to make a written request within 14 days of the hearing for us to provide you with a written version of the decision and reasons which were stated at the hearing. However, in most cases a decision will not be made at the end of the hearing, and when the Member makes a decision, we will send you and the department a written statement of decision and reasons.

Can I provide further information or evidence?

If you have not already provided a copy of the department's decision, or any other material which you believe supports your application, including a statement explaining why you disagree with the department's decision, please do so as soon as possible.

You can lodge forms, documents and submissions through the online lodgement facility if you are a registered user, or by email, in person, by post, or by fax. Wherever possible, we would prefer if this material is sent electronically. There is no requirement for a copy of documents that have been sent electronically to also be sent by post, unless you are submitting original documents or certified copies of documents

(such as birth certificates, marriage certificates, or qualifications). If you provide documents in person, please also have available a copy of those documents for us.

You should provide an English translation by an accredited translator of any documents written in other languages. Please send both the documents and the translations to us.

Can I get access to information you hold?

You can request access under the *Freedom of Information Act 1982* (FOI Act) to access any documents that we hold in relation to your application, subject to some restrictions. If we cannot disclose some information, we will let you know and how you can seek review of our decision not to grant access. Access to written material is also available under the Migration Act where the case is active. Further details regarding access under both the FOI Act and the Migration Act are available on our website at www.aat.gov.au.

How will we correspond with you?

You can choose to have correspondence sent to you, or you can nominate a person to receive correspondence on your behalf (this person is known as your *authorised recipient*).

If you nominate an authorised recipient, we will send all correspondence to them. There are two circumstances where we will send a copy of any correspondence to you, as well as to your authorised recipient. The first is if the review relates to a decision to refuse or cancel a bridging visa and you are in detention as a result of that decision (a 'bridging visa (detention)' case). The second is if you have nominated a migration agent as your representative or authorised recipient, and that migration agent's registration has been suspended or cancelled or has lapsed.

Please promptly let us know of any change in your contact details and, if you have an authorised recipient, of any change in theirs. You should also inform your authorised recipient (if you have one) and the department of any changes. If we do not receive a response to correspondence, your case may be decided without further notice.

Advice, assistance and representation

Our procedures are designed to be simple so that outcomes do not depend on whether or not a person receives professional advice or assistance. However, you may choose to seek advice and assistance. We do not endorse or recommend any service provider.

Under the Migration Act, only certain people can assist you to prepare for, or represent you in, an application at the AAT. They include a registered migration agent, an Australian lawyer who holds a practising certificate, a close family member and a visa nominator or sponsor. Only a registered migration agent or an Australian lawyer with a practising certificate can ask you to pay a fee for immigration assistance. The Office of the Migration Agents Registration Authority allows you to check whether a migration agent is registered (phone 1300 226 272 or 02 9078 3552; or visit <https://www.mara.gov.au/>).

You can get more information about finding help with your review from the '[Assistance](#)' page on our website at www.aat.gov.au.

If you appoint another person to represent you in your dealings with us they can:

- communicate with us on your behalf
- give us written evidence and written submissions on your behalf
- request access to documents relating to the review, and
- attend the hearing (but cannot present oral arguments, unless the Member permits this).

Generally, a person is appointed as both representative and authorised recipient. If you change your representative during the course of the review, you should immediately tell us the name and contact details of your new representative. Unless you do this, we will continue to correspond and deal with the previous representative.

What if my personal circumstances change?

If your personal circumstances change, or the visa applicant's change (such as they get married, divorced, have a child, or your relationship with the visa applicant changes) and this is relevant to the review of the decision, you should immediately advise us.

If you wish to travel overseas while you have a review application before us, you should contact the department to ensure you have the appropriate visa to enable you to return to Australia. If you decide to travel overseas, you should advise us in writing and provide the approximate dates for your travel and your overseas contact details.

What if I decide to withdraw my application?

An application can be withdrawn at any time. If you do so, we will not take any further action and the decision under review will remain unchanged. A refund of the application fee on withdrawal is only available in very limited circumstances, such as the death of the visa applicant or a member of that applicant's family unit, or following the grant of a visa of the same class (other than on a reconsideration of the points score, applicable to the assessment process for certain skilled visa subclasses). Where a refund applies, a refund cheque will be made payable to you. If you would like the refund cheque to be made payable to another person, you must provide us with your written authorisation. The refund cheque will be sent to you or, if you have nominated an authorised recipient, to that person.

What if I want to make a comment or a complaint?

You can help us by telling us what you like about your dealings with us or where you think we can improve. If you wish to provide us with feedback you can tell the officer who is dealing with your case. Alternatively you can complete the online Feedback form available on our website under [Contact us](#), or forward a written complaint marked 'confidential' to us at GPO Box 9955, Sydney NSW 2001.