

# Applying to the Administrative Appeals Tribunal

## Who is this Infosheet for?

This Infosheet explains the process of applying to the Administrative Appeals Tribunal (AAT) if your application for a Protection Visa is refused by the Department of Home Affairs (DHA).

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### IMPORTANT

- **If you are living in the community, you must submit your application to the AAT within 28 days of being notified of the Department's decision. No extensions or late applications can be accepted, so it critical not to miss this deadline.**
- **If you are in immigration detention you must apply to the AAT within 7 days of being notified of the Department's decision. As above, you cannot apply after this deadline.**
- **The application for review with the AAT must be completed online. This is an official application and must be filled out correctly. You should ensure you follow the steps and don't attempt to submit any false or misleading information, or any documents that are not genuine.**
- **If your case is successful, your case is referred back to the Department usually with the direction that you are entitled to protection as a refugee or under complementary protection. If your case is unsuccessful, you may appeal to the Federal Circuit Court (FCC).**
- **If your contact details or personal circumstances change, make sure you inform the AAT as soon as possible.**

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## What is the Administrative Appeals Tribunal (AAT)?

The AAT is an independent legal decision-making authority that has the power to make a fresh or new decision about your protection claims if your application was refused by the Department. If the AAT has found that you are owed protection, your matter will be sent back to the Department for any further assessment on the remaining criteria.

This means that going to the AAT is a second chance for your case to be heard. The AAT will consider the information you provided to the Department as well as any additional information about your personal circumstances and your country of origin. In most cases you will be given a hearing to provide more information to the AAT before a decision is made.

## Who has access to the AAT?

The AAT is generally only available for asylum seeker applicants who have arrived in Australia by plane and some people who arrived by boat on Ashmore Reef. The Department's decision will tell you whether you can apply for review at the AAT. If you are not able to apply to the AAT, you may be subject to the 'Fast Track' process and your case will be reviewed at the Immigration Assessment Authority (IAA).

## Is there a time limit to apply to the AAT?

If you are living in the community, you must apply to the AAT **within 28 calendar days** from the date that you are **notified** of the DHA decision. If the decision record is sent to you by post, you have an extra 7 working days from (and including) the date on the notification letter to apply to the AAT. If the decision record is sent to you by email, then the 28 day period starts from (and includes) the date of the email.

If you are in detention you must apply to the AAT **within 7 days** of being notified. This includes the date of notification.



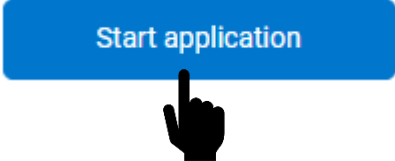
**The date that you receive the decision is included in the above time limits. If you miss the deadline to apply to the AAT you lose your chance to have your case reviewed by the AAT, so do not leave it to the last minute. Make sure you tell the DHA in writing if you change your address or contact details so that you will receive the decision and any other important letters.**

## How do I apply?

You must lodge your application **online**.<sup>1</sup> You can also lodge your application by post or in person by using the paper form. You can access this form here:

<https://www.aat.gov.au/AAT/media/AAT/Files/MRD%20documents/Forms/R1.pdf>.

See below for a step-by-step guide to filling out the online form.

Accessing the Online Form	
<b>Step 1</b>	Navigate to: <a href="https://online.aat.gov.au/">https://online.aat.gov.au/</a>
<b>Step 2</b>	<p>If you have an account with the AAT on their old system, you can log-in to that account here by resetting your password.</p> <p>If you don't have an account, click 'Continue without account'.</p> 
<b>Step 3</b>	<p>Click 'Apply online'.</p>  <p>Then, in the first window, click on 'Department of Home Affairs (Immigration)'. In the window that pops up below, click 'Visa refusal'. Check your decision letter to see whether you should answer 'Yes' or 'No' to the next question.</p> <p>Click 'Start application' to start your application.</p> 

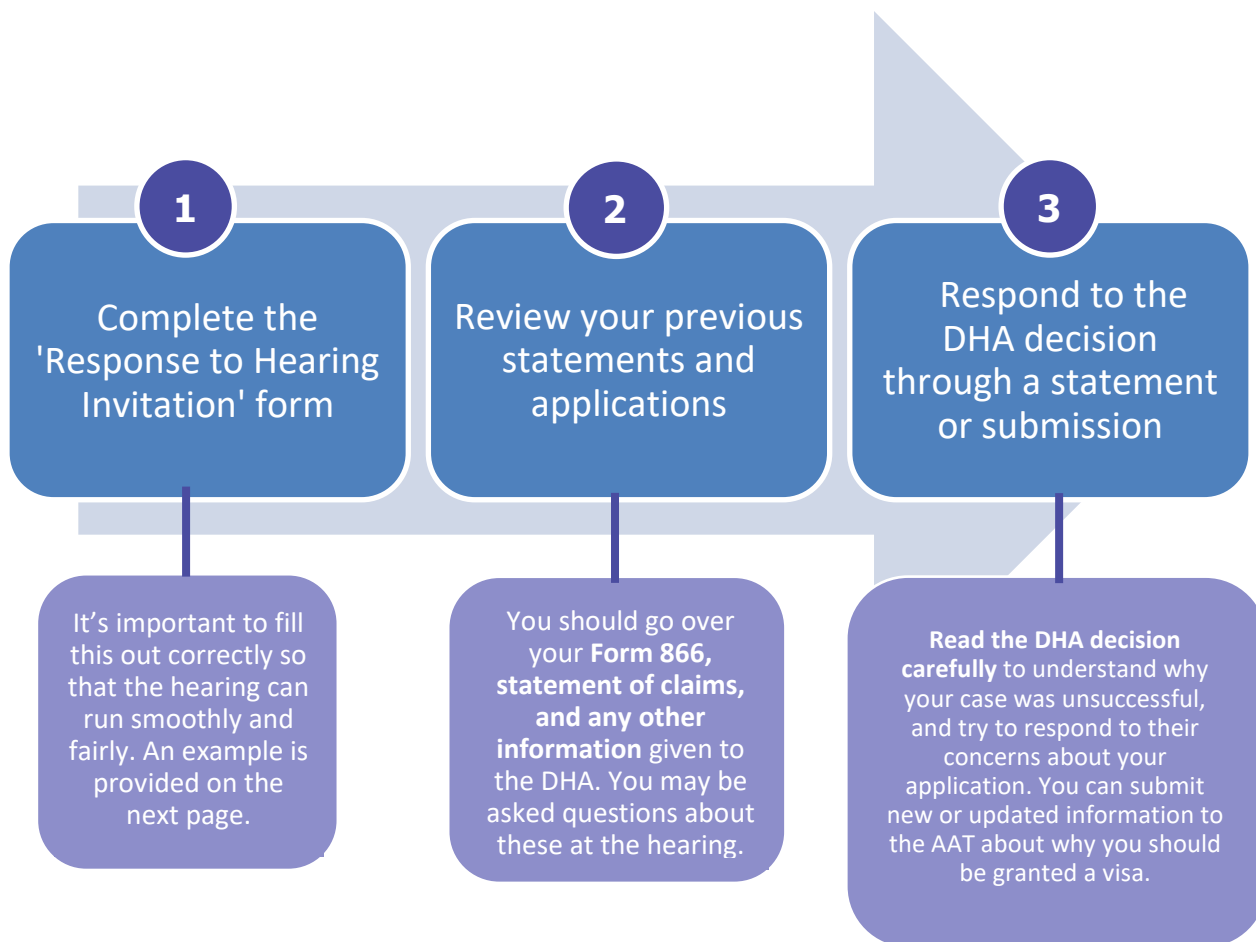
Section of Form	Notes
<b>Decision</b>	<p><b>If you applied for a Temporary Protection Visa (TPV) or Safe Haven Enterprise Visa (SHEV) and your application was refused, click ‘Yes’.</b></p> <p>In the boxes below, input your details. You should be able to find most of this information on the decision letter sent to you by the DHA.</p>
<b>Applicant</b>	<p>In the boxes on this page, fill in your personal details. <b>Make sure your details under ‘Contact address’ and ‘Contact numbers in Australia’ are correct to ensure the AAT can contact you about your application.</b></p> <p><u>If you are applying for review with other people (e.g. your children or family), click ‘Yes’ and fill in the details of <b>each person</b> you are applying with.</u></p> <p>In the last box, select ‘Visa applicant(s)’.</p>
<b>Documents</b>	<p>This section of the form allows you to upload documents that support your application.</p> <p>You <b><u>must upload</u></b>:</p> <ul style="list-style-type: none"> <li>● The <b>notification letter</b> from the DHA - this is the cover letter from the Department that explains that your visa has been refused.</li> </ul> <p>Click ‘Yes’ to open the document upload window.</p> <p>The below is a step-by-step guide for uploading documents using this window.</p> <ul style="list-style-type: none"> <li>● Click ‘<b>Upload</b>’. This will open a window on your computer where you can see all your files. Find the document you want to upload and click on it twice (or right-click and left-click ‘Open’ after clicking on it).</li> <li>● Next, click ‘<b>Document type</b>’ and select the option that describes what type of document you are uploading. Remember – you <b>must</b> upload the notification letter from the Department. If you are uploading these, select ‘Notification and decision from department’.</li> <li>● Next, <b>type a short description</b> of the document (e.g. “Notification letter received from Department of Home Affairs on 1 January 2021).</li> <li>● Click ‘<b>Add another Document</b>’ to upload a new document. This will open a new window below the one you just filled out.</li> <li>● <b><u>Repeat these steps until you have uploaded all of your documents.</u></b> To delete a document, click ‘Delete this Document’.</li> </ul>

	<p><b>Document 1</b></p> <p>File *</p> <div style="border: 1px solid #ccc; padding: 5px; width: 150px; margin-bottom: 5px;"> </div> <p style="text-align: center;"><b>Upload</b></p> <p>Document type *</p> <div style="border: 1px solid #ccc; height: 20px; width: 100%;"></div> <p>Description</p> <div style="border: 1px solid #ccc; padding: 5px; min-height: 50px;"> <p><i>[Type your description of the document you are uploading here]</i></p> </div>
<p><b><i>Declaration and email confirmation</i></b></p>	<p>This section of the form shows you a summary of the information you have provided. This is your <b>last chance to check if the information is correct</b>, so go through each box and double-check.</p> <p>Once you are sure all of your information is correct and you have uploaded all of the necessary documents, scroll down, and <b>carefully read the declaration</b>. This is a declaration saying that the information you have provided is complete and correct, so do not agree to this declaration unless you are sure that you have filled out the form correctly.</p> <p>If you have confirmed and declared all of your information is correct, click the <b>'Submit'</b> button to submit your application to the AAT.</p> <div style="text-align: right; margin-top: 20px;"> <div style="border: 1px solid #ccc; border-radius: 15px; background-color: #0056b3; color: white; padding: 10px 20px; display: inline-block;"> <b>Submit</b> </div> </div>


**How much will it cost?**

There is no fee to apply to the AAT to have your Protection visa application considered again. If your case is unsuccessful, however, and the AAT finds that you are not a refugee or entitled to complementary protection, you will have to pay a fee after the decision. The fee if your case is unsuccessful is \$1,846. If your case is successful then you do not have to pay any fee.

## How do I prepare for my case?



## How do I complete the 'Response to hearing invitation' form?

The form is important for the AAT to be able to run your hearing in a way that is efficient and fair to you. In the following document, you will see this symbol:  **If you see this symbol, that section must be filled out by you, your migration agent or legal representative.**



### Administrative Appeals Tribunal

Migration & Refugee Division

## Response to hearing invitation - MR Division

Please complete and return this form to us.

Please read the attached **Information about hearings - MR Division** carefully before completing this form. If more space is needed to answer any of the questions, please attach a separate sheet.

Case number: **1891762**

### Part 1 - Who will take part in the hearing?

Please note that if you select 'No' in response to the following question, we may make a decision on the application for review made by that person without taking any further action to allow or enable that person to appear before us.


**Will you take part in the hearing scheduled for [date of hearing] ?**

(Please indicate 'Yes' or 'No' for each review applicant.)

  Yes  No

[your name]

**Will your representative be attending?**

  Yes  No

[name of representative]

Indicate whether you and/or your representative (e.g. lawyer, migration agent) will be attending the hearing.

### Part 2 - Interpreter and other issues at the hearing

**Do you or any other person attending the hearing need an interpreter?**


  No  
 Yes (please specify below)

Indicate whether you and/or any of your witnesses require an interpreter.

Please specify the language/s:.....

Is there any issue that may affect your ability, or that of any other person attending, to take part in the hearing (e.g. a health problem or disability)? If so, please provide details.

.....  
.....  
.....

Contact telephone number:..... 

Write your phone number. **Make sure this is correct, or else the AAT may not be able to contact you.**


(This number will be used by us if we need to speak to you about arrangements for your hearing)

### Part 3 - Witnesses

You may request that we take oral evidence from a person or persons. If you make such a request, we will consider your request carefully but may decide that it is not necessary to take oral evidence from a person you nominate.

Unless you advise us otherwise we will assume that you will make arrangements for any witness to be available to give evidence.

I/we request that the Member takes oral evidence from another person.

-   No  
 Yes (Please specify below)

Indicate whether you have any witnesses that will attend the hearing to support your case. If you don't have any witnesses, this Part does not need to be filled out.

#### Witness 1

Full name:.....

Relationship to you (e.g. spouse, partner, mother, father, brother, sister, employer, social worker etc.):  
.....

Address:  
.....

If this witness cannot attend the hearing in person, please provide his/her telephone number: .....

(We will contact the witness on this number during the hearing if necessary)

Describe this person's evidence and how it is relevant to your case:  
.....  
.....  
.....

Insert the details of any witnesses you intend to bring to the hearing. **Provide a brief description of what evidence the witness will provide to the AAT.**

### Part 4 - Signature and submission

**Signed on behalf of, and with the consent of, all applicants**

Name (please print): **[write your name]** . Date: **[write the date]**

Signature: **[sign here]**

#### Do I need an interpreter?

It can be a good idea to have an interpreter with you at the hearing even if you speak English well. It is very important that the AAT Member understands everything you say properly and that you can express yourself clearly.

#### What to expect during the AAT hearing?

Before the AAT hearing starts you, the interpreter and any witnesses will be asked to make a promise to tell the truth. This promise can be made on the holy book of your religion or you can simply make a promise to tell the truth.

Usually there will be one AAT Member who will sit in the hearing room to hear your case. The AAT Member will ask you questions about your personal details and background and why you are afraid to



go home. It is important that you take the opportunity to tell the AAT your whole story as they will assess your case based on what you tell them during the hearing.

The AAT will be deciding whether or not they think you are a refugee or entitled to complementary protection.

If anything has changed in your situation since you submitted your application for a Protection visa you should make sure that you let the AAT know about this. If you have any documents, evidence, witnesses or information you have not told the DHA it is important to give this information to the AAT. The AAT can consider any new material you give them, even if you did not give it to the DHA.

#### **Important tips:**

- **You can have legal representation at the hearing but you must be ready to explain your story to the AAT Member yourself.**
- **Address the AAT Member by calling them 'Member', or any other specific title the Member has.**
- **You can ask witnesses to support your claim during the AAT hearing, so either bring witnesses with you to the hearing, or bring their names and contact details (phone numbers). Make sure that you let the AAT know about the witnesses before the hearing.**
- **You can ask the AAT Member to repeat or explain questions if you do not understand. Tell the AAT Member if you do not know the answer to a question. Do not try to guess an answer.**
- **If you feel distressed or tired during the AAT hearing you can ask for a break at any time.**
- **The AAT hearing is confidential and not open to the general public. The hearing will be recorded, and you will be able to get a copy of the recording at a later date if you ask for it.**
- **Supporting documents and witness statements are very important to proving your case. Make sure you have these ready well before the date of your hearing.**

#### **What are the possible outcomes?**

If your case is successful at the AAT, it will be sent back to the Department for final processing of your Protection visa. On your decision it will say that the AAT has "remitted" the case to the DHA. The DHA may ask you to then provide further character (police) checks or complete health checks.

If your case is rejected by the AAT you may be able to appeal to the Federal Circuit Court if there was an error of law in the AAT's decision. An error of law means that the AAT wrongly applied the law. Alternatively, you can ask the Minister for Home Affairs to intervene in your case, although the Minister only intervenes in very few cases. You should seek legal advice about your options if your case is unsuccessful at the AAT as soon as you receive the AAT's decision.

**Disclaimer:** This fact sheet provides general information to people seeking asylum in Australia through the onshore protection visa application process according to the law in July 2021. This fact sheet is not legal advice. You should not rely on this fact sheet to make decisions about your immigration matter. We strongly recommend that you get independent advice from a qualified legal practitioner or a registered migration agent. For information please visit: <https://www.mara.gov.au>.

**Date: 5 July 2021**