

Getting legal assistance for your visa application or renewal

Getting legal assistance for your visa application or renewal

Who is this Infosheet for?

This Infosheet is for anyone seeking asylum in Australia, or who needs help managing or renewing their Protection Visa. You can get legal assistance for your visa application or renewal either from a registered migration agent, or a practising lawyer.

IMPORTANT

- If you need help applying for or renewing your Protection Visa, you may be able to get legal assistance from a lawyer or a migration agent. A migration agent is a person who can give you immigration advice and help you to apply for a visa to visit or to stay in Australia. A lawyer can also help you with your visa application or renewal, as long as they have an unrestricted practising certificate or are supervised in their legal practice.
- There is very limited access to free legal services for immigration matters. You may be able to receive free legal help from some community legal centres or through the IAAAS scheme if you satisfy eligibility criteria in relation to the merit of your case, your financial means and your vulnerability.
- If you are receiving assistance with your immigration matters, make sure the person is appropriately qualified and registered:
 - All migration agents in Australia have to be registered. Make sure your migration agent is registered with the *Office of the Migration Agents Registration Authority (MARA)*: <https://portal.mara.gov.au/search-the-register-of-migration-agents/>. MARA has a code of conduct which all registered migration agents must follow. You can find a copy of the code of conduct here: <https://www.mara.gov.au/tools-for-registered-agents/code-of-conduct>.
 - All lawyers in Australia must have a practising certificate that permits them to provide legal services. Each State and Territory has their own Legal Services Board or Council that issues practising certificates, and regulates the conduct of lawyers in their jurisdiction. Make sure your lawyer is registered with their appropriate Board or Council. If you're in NSW or Victoria, you can use the Australian Legal Profession Register to check your lawyer's registration: <https://www.legalservicescouncil.org.au/Pages/information-resources/australian-legal-profession-register.aspx>.

What is the difference between a migration agent and a lawyer?

A migration agent is someone who can provide you with migration services, including assistance to apply for a Protection Visa. A migration agent has to be registered with MARA. A registered migration agent can also be a practising lawyer, but not all registered migration agents are lawyers.

A lawyer is someone who has special qualifications to practice the law, and provides legal advice and assistance in a range of areas. Some lawyers specialise in migration law, and can help you prepare your Protection Visa application or renewal. A practising lawyer can provide you with migration services without being registered as a migration agent – see the following factsheet for more information: <https://www.liv.asn.au/getattachment/Staying-Informed/Submissions/submissions/March-2021/Factsheet>.

Do I need legal assistance to apply for a Protection visa?

You do not need to have a migration agent or lawyer to apply for a Protection visa. You can apply yourself, but it is very important that you do what you can to obtain advice from a migration agent or lawyer as it is a complex process. You may wish to obtain legal assistance in preparing your initial application, so that it includes all the relevant information in your case. A lawyer or migration agent can help you understand how to best frame your case and what evidence you should submit with your application.

Can I access a lawyer or migration agent through Victoria Legal Aid (VLA) or a Community Legal Centre (CLC)?

You may be able to receive free migration assistance through VLA or a CLC, but it is important to understand that **there is very limited free legal assistance that can be provided, and both VLA and CLCs will only help those who have a very strong case and who are especially vulnerable (either due to age, health or other factors).**

Depending on your case, you may be able to access a range of services from VLA or a CLC, such as:

- **One-off advice or limited assistance:** this is where a lawyer or migration agent provides you with advice on what you should do or assists you with one aspect of your immigration case, such as how to complete your visa application, or whether you should appeal a visa refusal.
 - This may be referred to as 'limited assistance', where there are strict limits on what your lawyer or migration agent can help you with, and the lawyer or migration agent does not act on your behalf or represent you.
- **Ongoing representation:** this is where a lawyer or migration agent acts for you in relation to your immigration matters on an ongoing basis. They may complete your application, correspond with the Department on your behalf or appear before the Administrative Appeals Tribunal (AAT) or Immigration Assessment Authority (IAA) if you are appealing a visa refusal.
 - This may be referred to as 'ongoing legal representation', where a lawyer or migration agent is acting on your behalf. **There are stricter criteria for accessing ongoing legal representation compared to the criteria for receiving limited assistance.**

For more information on accessing VLA or a CLC, see our **'HRLP Infosheet – CLC Referral Sheet (Vic)'**.

Will a migration agent/lawyer charge a fee to help me with my application?

There are three broad fee structures that can be used to provide you with assistance for your application:

1. Your migration agent/lawyer can charge you for their services directly. You should receive a written agreement explaining the fees that you will be required to pay, called a 'costs agreement'. Make sure you understand all aspects of the agreement before signing.
2. Your migration agent can be a registered Immigration Advice and Application Assistance Scheme (IAAAS) provider. If you are eligible for assistance under the IAAAS then you will not have to pay your migration agent for their services. The migration agent's fee will be paid by the Australian Government for you. There are guidelines to determine who can access IAAAS. **Very few people are eligible to receive assistance from the IAAAS.**
 - 2.1. To be eligible, you must satisfy the following:
 - 2.1.1. You must have arrived in Australia legally, with a valid visa; and
 - 2.1.2. You must have not previously engaged a registered migration agent to receive immigration advice, or if you have, you are no longer receiving assistance from them; and
 - 2.1.3. You must have not previously had a Protection Visa application considered in Australia (apart from the one you are currently seeking).
 - 2.2. To be eligible to receive immigration advice, you must demonstrate that you have no or little income.
 - 2.3. To be eligible to receive assistance with completing your application, or to receive assistance with appealing a visa refusal to the AAT or IAA, you must demonstrate that you suffer from an 'exceptional vulnerability', such as a mental disability, mental illness or another serious illness.
 - 2.4. The IAAAS can only assist you up to the merits review stage. They cannot help you with appealing a decision to a court or seeking Ministerial Intervention.
3. Your migration agent can assist you on a 'pro bono' basis. This means that the migration agent will not charge you or receive any financial benefit as a result of representing you. Most CLCs will provide assistance on a pro bono basis.

The quality of the legal advice you will receive does not depend on the amount you pay for a migration agent/lawyer. Some very skilled migration agents/lawyers will assist with applications for Protection Visas without any charge. Paying for a migration agent/lawyer or paying higher fees for a migration agent does not mean that you have a greater chance of getting a Protection Visa.

How much should a migration agent/lawyer charge me for a Protection Visa application?

Every migration agent/lawyer will charge different fees. There is no fixed price for receiving legal assistance with a Protection Visa application. However, most migration agents/lawyers charge between AUD\$1,500 - \$4,000 to assist with a Protection Visa application.

If your migration agent/lawyer is charging you for their services, they must charge you a reasonable fee, and tell you how much this fee will be before starting to work on your application. A migration agent/lawyer should disclose their fees to you in advance and you must receive a written agreement that outlines how much you will be charged (also known as a 'costs agreement'). If your fees change, you must be told about this in writing as soon as possible.

As explained above, in very limited circumstances, you may be able to receive legal assistance on a 'pro bono' basis. This means that you will not need to pay for the migration agent/lawyer's services, but you may still be required to pay for additional costs such as translations and medical reports (called 'disbursements'). **You should make sure you understand the fees that you will incur before agreeing to receive any migration assistance.**

Where can I find a migration agent or lawyer?

Community Legal Centres (CLCs)

You may be able to receive migration advice for free from a CLC.

Asylum Seeker Resource Centre (ASRC)

The ASRC's Human Rights Law Program (HRLP) provides free legal support at all stages of the refugee determination process. The ASRC provides assistance for people in Victoria and South Australia.

Advice line: 0478 700 605 – available Mondays & Thursdays from 10:30am to 12:00pm.

Refugee Legal (formerly RILC)

Refugee Legal specialises in free legal advice and representation in relation to refugee and general immigration matters. Refugee Legal provides free legal advice and representation for people in Victoria and South Australia.

Advice line: (03) 9413 0100 – available Wednesdays & Fridays from 10am to 2pm

Refugee Advice & Casework Service (RACS)

RACS provides free legal advice, assistance and representation to asylum seekers in Australia. RACS provides assistance for people in New South Wales and the Northern Territory.

Advice line: (02) 8355 7227 – available Monday-Friday from 10am-1pm; 2pm-4pm

Email: admin@racs.org.au

Circle Green

Circle Green provides free legal services in employment, tenancy and migration law. Circle Green provides assistance for people in Western Australia.

Advice line: (08) 6148 3648

Email: migration@circlegreen.org.au

Tasmanian Refugee Legal Service (TRLS)

TRLS provides free legal services across all stages of the refugee determination process. TRLS provides assistance for people in Tasmania.

Advice line: (03) 6169 9473 – available Monday-Friday from 9am-5pm

Email: info@trls.org.au

Refugee and Immigration Legal Service (RAILS)

RAILS provides free legal advice in refugee and immigration matters. RAILS provides assistance for people living in Queensland.

Advice line: (07) 3846 9300 – available Monday-Friday from 9am to 5pm

Email (preferred): paralegal2@rails.org.au

Migration agents

You can find information about where to find migration agents who are IAAAS providers here: <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/protection-866/iaaas>.

You can find more information about migration agents here: <https://www.mara.gov.au/using-an-agent/about-agents/how-to-choose-and-find-an-agent/>.

You can find information about where to find migration agents who do not charge to do Protection Visa applications here (select 'Show only Non-Commercial/Not for Profit migration agents, and enter your suburb or location in 'Business Location'): <https://portal.mara.gov.au/search-the-register-of-migration-agents/>.

You can find information about where to find migration agents who charge to do Protection Visa applications here (select 'Show only Commercial/For Profit migration agents, and enter your suburb or location in 'Business Location'): <https://www.mara.gov.au/search-the-register-of-migration-agents/>.

Lawyers

Each State and Territory has their own services that can help you find a lawyer that can help you with your Protection Visa application or renewal. Some immigration lawyers have become accredited migration law specialists, meaning that they have done extra training and have additional experience to assist with particularly complex cases, and are recognised by their Law Society or another body as being specialised to deal with migration law cases. They will usually charge more for their services than regular migration lawyers.

Location	Relevant body	How do I find a lawyer that can help me?
Victoria	Law Institute of Victoria (LIV): http://www.liv.asn.au/	The LIV publishes a Migration Lawyers Directory of immigration lawyers who may be able to help you: https://www.liv.asn.au/LIV-Home/For-the-Community/Find-a-Lawyer-Directories/LIV-Migration-Lawyers-Directory
New South Wales (NSW)	Law Society of New South Wales (LSNSW): http://www.lawsocietynt.asn.au/	You can search for a lawyer here (select 'Immigration Law' under Accredited Specialist): https://www.lawsociety.com.au/for-the-public/find-a-lawyer If you can't find a lawyer, contact the LSNSW's referral service: https://www.lawsociety.com.au/for-the-public/going-court-and-working-with-lawyers/solicitor-referral-service
Queensland	Queensland Law Society (QLS): http://www.qls.com.au/	You can search for a lawyer here (in Search, click 'For an Accredited Specialist', then 'who does', then 'Immigration Law'): https://www.qls.com.au/Directory-Search#
Northern Territory (NT)	Law Society of the Northern Territory (LSNT): http://www.lawsocietynt.asn.au/	You can find law firms in the NT here (look for firms specialising in migration law, immigration, or public law): https://lawsocietynt.asn.au/nt-legal-directory/nt-law-firms-by-area-of-law.html
Western Australia (WA)	Law Society of Western Australia (LSWA): http://www.lawsocietywa.asn.au/	You can search for lawyers or law firms in WA here (in Please select an area of law, select 'Immigration Law'): https://www.lawsocietywa.asn.au/find-a-lawyer/ , or for more information, visit this link: https://www.lawsocietywa.asn.au/for-the-public/ If you can't find a lawyer, submit an application for legal assistance through Law Access: https://lawaccess.org.au/find-legal-help/
South Australia (SA)	Law Society of South Australia (LSSA): http://www.lawsocietysa.asn.au/	You can search for lawyers or law firms in SA here (in Specific area of law, select 'Migration/Citizenship'): https://referral.lawsocietysa.asn.au/search/6
Tasmania	Law Society of Tasmania (LST): http://lst.org.au/	You can search for lawyers or get help finding a lawyer in Tasmania here: https://www.lst.org.au/home/legal-services-and-access-to-justice/legal-advice/
Australian Capital Territory (ACT)	Law Society of the Australian Capital Territory (LSACT): http://www.actlawsociety.asn.au/	You can search for lawyers in the ACT here (in Area of Practice, select 'Migration law'): https://www.actlawsociety.asn.au/find-a-lawyer If you need help finding a lawyer, visit the this link: https://www.actlawsociety.asn.au/for-the-public/legal-help

What to expect when getting legal assistance when applying for a Protection Visa?

Depending on the level of assistance that you are receiving, a migration agent or lawyer should:

- Clearly explain the definition of a refugee and complementary protection; the stages of the refugee process; the costs involved with the process; and the challenges and difficulties of seeking protection.
- Help you complete your Protection Visa application forms.
- Help you to prepare your statement of claims, and advise on submission of documents and evidence to support your application. Your statement of claim should include details about your experiences in your home country and why you cannot safely return home.
- Check that all the information you provide is correct.
- Give you time to read and understand all documents before you sign them.
- Make sure anything you sign is read back to you, and if you don't speak English, that it is translated for you before you sign.
- Keep you informed of the progress of your application.
- Provide information in a language that you understand and provide a translator if you do not understand the information in English.
- Keep all of your information and documents confidential.
- Make sure you are aware of all possible outcomes in the process.
- Always give you realistic advice about whether your case will succeed.
- Make sure that your forms are lodged within all time limits.
- Communicate to you any important information from the DHA, IAA or the AAT.
- Help you to understand your current visa conditions and entitlements.

A migration agent or lawyer should:

- NEVER guarantee that they can get you a visa.
- NEVER encourage you to lie or change your story. This can be very damaging to your application. It is very important you tell your own story honestly.
- NEVER keep your original documentation (e.g. passports) after you've requested they be returned to you.
- NEVER take your statement without using an interpreter, unless you are fluent in English.

- NEVER ask you to sign any document without having read through the document with an interpreter if you do not understand English.
- NEVER request your labour or other favours in order to assist with your Protection Visa application.
- NEVER threaten to report you to the DHA or the police if you do not comply with their requests.
- NEVER tell you not to attend your DHA interview or AAT hearing.
- NEVER share your private information with anyone else without first obtaining your consent.
- NEVER continue to assist you if they have another case or other circumstance which puts them in conflict with acting in your best interests.

What do I do if I am not happy with my migration agent or lawyer?

Migration agents

If you know someone who is providing migration advice and is not a registered migration agent, you should report it to the DHA's Immigration & Citizenship Fraud unit by phone on 1800 009 623, or fill out the online form: <https://www.homeaffairs.gov.au/help-and-support/departmental-forms/online-forms/border-watch?offenceType=immigration>.

If you are not happy with your migration agent's work, you can take the following steps:

- Discuss your concerns with them and give them time to resolve the problem.
- Change to a different migration agent.
 - If you decide to change to a different migration agent, you must communicate to your current migration agent that you no longer instruct them and no longer require their services.
 - You should also request a copy of your file from your migration agent, which should contain all the important documents relating to your case.
- Make a complaint about the migration agent if you believe they have not acted in accordance with the Code of Conduct. Making a complaint against a migration agent does not have any negative impact on your case. However, even if your complaint is upheld, you may not receive a refund of the fees you paid. You may be able to request a refund of fees for services that you paid but which the migration agent did not provide, or where the migration agent did not provide you with a bill or invoice for the fees.

To make a complaint you need to fill in the complaints form issued by MARA here: <https://portal.mara.gov.au/SearchAgent/>.

Lawyers

If you are not happy with your lawyer's work, you can take the following steps:

- Discuss your concerns with them and give them time to resolve the problem.
- Change to a different lawyer.
 - If you decide to change to a different lawyer, you must communicate to your current lawyer that you no longer instruct them and no longer require their services.
 - You should also request a copy of your file, which should contain all of the important documents relating to your case. However, a lawyer is entitled to withhold giving you certain documents until you have paid all of their fees (known as a 'lien').
- Make a complaint about the lawyer if you believe they have not acted in your best interests. Making a complaint against a lawyer does not have any negative impact on your case.

Each State and Territory has their own governing body for lawyers that you can contact to make a complaint about a lawyer. There are a range of orders that can be made if a commission or board finds that your lawyer has acted unprofessionally or unethically. For example, the lawyer may be required to pay a fine to the governing body or they may be suspended from being a lawyer. In exceptional cases, the lawyer may have to pay you - the person who made the complaint - compensation for any loss suffered as a result of the lawyer's conduct.

Location	Relevant body	Complaint mechanism
Victoria	Victorian Legal Services Board + Commissioner (VLSB/VLSC): https://lsbc.vic.gov.au/	You can make a complaint here: https://lsbc.vic.gov.au/consumers/complaints/how-lodge-complaint
New South Wales	Office of the Legal Services Commissioner (OLSC): https://www.olsc.nsw.gov.au/	You can make a complaint here: https://www.olsc.nsw.gov.au/Pages/lsc_complaint/olsc_making_complaint.aspx
Queensland	Legal Services Commission (LSC): https://www.lsc.qld.gov.au/	You can make a complaint here: https://www.lsc.qld.gov.au/complaints
Northern Territory	Law Society of the Northern Territory (LSNT): http://www.lawsocietynt.asn.au/	You can make a complaint here: https://lawsocietynt.asn.au/community/complaints.html
Western Australia	Legal Practice Board (LPB): https://www.lpbwa.org.au/Home.aspx	You can make a complaint here: https://www.lpbwa.org.au/Complaints
South Australia	Legal Profession Conduct Commissioner (LPCC): https://lpcc.sa.gov.au/	You can make a complaint here: https://lpcc.sa.gov.au/clients/complaints/making-a-complaint

Location	Relevant body	Complaint mechanism
Tasmania	Legal Profession Board of Tasmania (LPBT): https://www.lpbt.com.au/	You can make a complaint here: https://www.lpbt.com.au/complaints-process/
Australian Capital Territory	ACT Law Society (ACTLS): https://www.actlawsociety.asn.au/	You can make a complaint here: https://www.actlawsociety.asn.au/for-the-public/making-a-complaint

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 June 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: 28 June 2021