

HEARING PREPARATION: ADMINISTRATIVE REVIEW TRIBUNAL



This information is to assist people who have an application with the Administrative Review Tribunal (**ART**) to review the Department of Home Affairs' (**Department**) refusal of their protection visa application to prepare for a hearing before the ART.

We strongly recommend that you obtain legal advice about your individual situation as soon as possible if you have an application before the ART, and that you get legal representation if possible. You can find information about getting legal assistance from ASRC [here](#), and from other services [here](#).

The role of the ART

The ART is an independent review body, separate from the Department. The ART reviews decisions made by the Department to decide if they are correct. The ART will conduct a fresh review of your case, including at a hearing, and can make a different decision from the Department about whether you meet visa criteria and are owed protection.

The ART can take into account all the evidence you provided to the Department earlier, including at interview, as well as the Department's decision. You can ask the Department for a full copy of your file so you can understand all the information being considered by the ART.

As part of the ART process, including before and at the hearing, you can provide new evidence and country information, and address any issues the Department raised with your case.

You should ensure you keep your contact details up-to-date and respond to requests from the ART as best you can. Missing a deadline can have serious consequences, including dismissal of your case.

What if I am unable to attend my hearing?

If you do not attend your hearing, the ART has the power to dismiss your case without considering your claims to protection. While you can request reinstatement of your case, it may not be granted. You should contact the ART as soon as possible if you cannot attend your hearing, and provide evidence of the reason. If something happens on the day of the hearing, you should contact the ART immediately to let them know, and provide supporting evidence.

Understanding hearings

See our fact sheet on responding to ART requests for hearing information [here](#).

A hearing is a chance to present your case to a decision-maker and to answer any questions that they may have.

The ART will send you an invitation to attend a hearing. The invitation will include the date, time and location of the hearing.

The invitation will state whether an interpreter has been arranged. If one has not been arranged, contact the ART and request an interpreter. Even if you have strong English skills, it is important that you are able to understand and communicate clearly. Interpreters are bound by confidentiality, and will not share your information outside of a hearing.

You should carefully consider evidence you could provide to support your case, as well as any witnesses who could support your claims at hearing or with documentation.

Hearings are typically before one Member, who will ask you questions, hear your evidence, and make the decision about your case. An ART hearing attendant may also be present to assist with setting the hearing up and taking oaths or affirmations to tell the truth from you, any interpreter, and any witnesses.

Hearings are private and confidential and will not be shared with authorities in your country of birth. They can take up to a full day, but typically take less than 4 hours. They are recorded, and you are able to ask for a copy of that recording after the hearing.

You should call the Member 'Member', or by their specific title.

At the beginning of the hearing, the ART Member will introduce themselves and discuss introductory information with you. This includes confirming the role of the interpreter and confirming if you consent to the interview being recorded. If you cannot understand the interpreter, you should let the ART Member know straight away.

If you noticed any errors in the information or documents you previously provided to the Department or the ART, you should ask to correct this at the beginning of the hearing where possible.

You can also let the Member know at the beginning of the hearing if you intend to raise new protection claims which were not included in your written application and/or statement already provided to the Department and/or ART.

It is important that you have a meaningful opportunity to make your case. If there are issues with technology, interpretation, your health, or you feel your ability to participate is impaired, you should raise it as soon as possible.

Giving your evidence

Here are three key 'rules' to keep in mind when responding to the Member's questions:

1. Always tell the truth. It is important to give accurate information about your identity and the events which happened to you in your home country. Do not provide documents unless you are sure they are genuine and unaltered. If you provide inaccurate or misleading information or documents, there can be serious consequences including visa refusal, visa cancellation in the future, and criminal sanctions.
2. If you don't understand the question or it is confusing, say 'I don't understand' and the Member will re-phrase the question. It is very important to avoid misunderstandings.
3. If you don't know the answer, it is okay to say 'I don't know' or to explain you can only provide an estimate. This includes if you cannot remember a particular date.

Try to answer the ART's questions as directly and with as much information as possible, and provide details if you know and can remember them.

If you need a break at any time, you can ask the Member. This includes if you are feeling overwhelmed, upset, or need a bathroom break.

You are responsible for telling the ART about all of your protection claims. This means you must clearly tell the ART about all the reasons you left your country of birth and are unable to return.

Some people are unsuccessful because they do not provide the ART with enough information about the events that led them to leave their country of birth.

If you have new claims or information that you did not provide the Department, this is your last chance to raise those claims. For example, there may have been changes to your personal situation (including change of religion or political affiliation) or the situation in your country of birth.

You should also explain why you did not raise the claims at the Department stage. **If you do not have a reasonable explanation about why you did not raise the claim at the Department stage, the Tribunal will draw a negative inference about the claim**, so it is important to carefully explain your reasons for delay.

You should not assume that the ART has a deep understanding of your home country, your community, your religion, your culture or your ethnicity. It is your responsibility to fully explain to the ART all the factors and events which caused you to leave your home country.

Even if you have already given the information and detail in a statement, you should still explain it in detail at the hearing.

Common questions

Common questions that the Member may ask you include:

- Questions to establish your identity (name, date of birth, where you were born, gender, ethnicity, religion).
- Questions about any identity documents you have provided with your application (when you obtained them, how you obtained them). If you did not provide any identity documents, they will probably ask you to confirm whether you have any identity documents and ask you to provide them. You should not provide documents unless you are confident they are genuine and unaltered.
- Questions about your family (names, dates of birth, where they are living now). The officer will ask you detailed questions about any family members you have in Australia.
- Questions about your life in Australia, e.g. if you are working, who you are living with.
- Questions about why you left your home country. They may ask you to tell your story from the beginning, or they may ask you specific questions based on what you said in your application and/or statement. If it is easier for you, you can explain the events in the order they happened.
- Questions about why you are afraid of returning to your home country.
- Questions about why you cannot live safely somewhere else in your home country.

The Member may ask for further details about the events that you described in your statement or application and/or any events you discuss during the hearing.

The Member will ask questions to test if you are telling the truth.

The Member will be listening very closely to see if you say anything in your interview that is different to what you said previously. If there is a difference, then the Member will discuss it with you and ask you to explain why you gave different information.

Adverse information

The Member may tell you that the ART has information that is negative to your case and that this information may lead them to refuse your case. This is called 'adverse information' under Australian law.

Examples of adverse information are:

- Internal ART/Department records which suggest you have provided incorrect information about one or more aspects of your case.
- Social media or other public records that conflict with your case.

- News articles and government reports about your home country that suggest it is safe for you to return.

The ART must tell you about this information and must give you an opportunity to respond. However, the ART does not have to tell you about any adverse information that they believe you already know – for example, issues that the Department raised in their refusal decision.

You can respond to the information at the hearing if you are able to do so. However, you do not have to respond during the hearing if you would like time to think about your response and/or seek legal advice before responding. You can ask the Member to provide your response later in writing.

At the end of the hearing

At the end of the hearing, you can ask the Member whether there are any issues with your case so that you can have an opportunity to address them.

You will also usually be asked if there is anything you wish to add. It is very important that you communicate everything important about your case to the ART, even if you were not specifically asked about a matter.

After your hearing

If something happens or you get more information or material after your hearing, you can provide it to the Tribunal for consideration any time before the Tribunal makes a decision.

It can take some time to get a decision after your hearing. The decision will usually be sent to you in a letter.

If the ART finds that you are owed protection, then your case will be sent back to the Department. The Department must follow the decision of the ART, but must also consider if you meet health, security and character requirements. If you do not meet these criteria, your visa application may be refused.

If the ART *affirms* the Department's decision, you have the right to court review. Strict timeframes apply, and you should seek legal assistance without delay.

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 October 2024. It does not constitute legal or migration 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 legal practitioner.*