



# Seeking protection in Australia

Each year several thousand people already in Australia apply for protection (or asylum).

People in Australia are granted permanent Protection (class XA) (subclass 866) visas because they have been found to be a person Australia has protection obligations for under Australian migration law and satisfied health, character and security requirements.

## Things to know before applying for a protection visa

If you are thinking about applying for a protection visa it is important that you understand and consider the following information.

### Who is a protection visa for?

A protection visa is for people who are found to be a person Australia has protection obligations for. A person may be found to have protection obligations by Australia either under the Refugees Convention or the complementary protection criteria.

The Refugees Convention states, a person is owed protection if that person is outside their country and is unable or unwilling to go back because they have a well-founded fear that they will be persecuted because of their race, religion, nationality, political opinion or membership of a particular social group.

The complementary protection criteria states, a person is owed protection by Australia if there are substantial grounds for believing that, as a necessary and foreseeable consequence of being removed from Australia to a person's home country, there is a real risk that the person will suffer significant harm.

For further information on complementary protection, see *Fact Sheet 61a Complementary Protection* which can be found on the department's website at [www.immi.gov.au/media/fact-sheets](http://www.immi.gov.au/media/fact-sheets)

### Is a protection visa the right visa for me?

If you are in Australia and believe you are owed protection, then you should consider applying for a protection visa. If that is not your situation, a protection visa is not the right visa for you. If you apply for a protection visa merely because you want to stay longer or work in Australia, your protection visa application will be refused and you will be prevented from applying for most types of visas while in Australia. Help in choosing the right visa can be found by calling the Department of Immigration and Citizenship enquiry line on 131 881 or on the department's website at [www.immi.gov.au](http://www.immi.gov.au)

### Where can I get help with my protection visa application?

A range of people in Australia can help you with your protection visa application, however the department recommends that you use a migration agent who is registered with the Office of the Migration Agents Registration Authority (Office of the MARA). Only a registered migration agent is allowed to charge you a fee for helping you with your protection visa application.

**Warning:** Unfortunately some visa applicants have become victims of scams, paying large sums of money to fraudulent immigration advisors who promise guaranteed visas. No one can guarantee you a protection visa, or that your application will be fast-tracked. Avoid people who encourage you to lie in your application. To find out if a person is a registered migration agent, see the Office of the MARA website at [www.mara.com.au](http://www.mara.com.au)

Free migration advice and help with applications is available through the Immigration Advice and Application Assistance Scheme (IAAAS) to applicants in immigration detention or those in the community who are severely disadvantaged. For more information on this service, see *Fact Sheet 63 Immigration Advice and Application Assistance Scheme* which can be found on the department's website at [www.immi.gov.au/media/fact-sheets](http://www.immi.gov.au/media/fact-sheets)

It is your obligation to tell the truth in your application. If you knowingly provide wrong information, your credibility may be questioned and your protection visa may be refused. If your protection visa application form is completed by a migration agent, make sure that you read and understand all the information that is included in the form and any statutory declaration before signing it. It is very important that you do not sign blank pages or documents even if you are asked to do so. You should also keep a copy of your completed application and all supporting documents.

## Applying for a protection visa

### How do I apply for a protection visa?

If you are in Australia and you would like to apply for a protection visa, you need to complete *Form 866 Application for a Protection (class XA) visa*. This form is available free from the department's website at [www.immi.gov.au/allforms/application-forms/](http://www.immi.gov.au/allforms/application-forms/) or by phoning 131 881. You will usually need to pay a \$30 visa application fee when you lodge your application. Family members in Australia can be included in your application, and if they wish, can provide their own claims for protection. Children who are on their own can apply for a protection visa.

When completing your application it is important that you answer all the questions on the form and that you provide all relevant documents so that the department can process your application as quickly as possible. Applications that are incomplete may not be accepted.

If you lodge a protection visa application, you and any family members included in your application will be required to provide personal identifiers (a digital photograph and a scan of your fingerprints) in order to have a valid application.

### What if I need help with my English?

If you do not understand English you should use an interpreter or translator to help you with your application. You can find out how to get help in your language by calling the department on 131 881, from your local Migrant Resource Centre or community groups that provide support to asylum seekers. If you need to speak to the department about your application, the Translating and Interpreting Service (TIS) can provide interpreting services. You can call TIS directly on 131 450 and ask to be connected to the department.

### How is my protection visa application assessed?

An officer of the department will assess your protection visa application against Australian migration law (which includes the Refugees Convention and the complementary protection criteria). The officer may also refer to current information about the conditions in the country in which you fear persecution when assessing your claims for protection. All protection visa applications are considered individually. There are no general approvals for particular groups of applicants.

### Health, character and security checks

Soon after you have lodged your protection visa application you will be asked to undergo health and character checks. Some applicants will also be required to undertake security checks.

All protection visa applicants must have a medical examination that usually includes a chest x-ray, in order to identify and treat any public health concerns. This will protect your health and the health of the Australian community. If you are ill and have agreed to undertake any required treatment, this will not prevent you from being granted a protection visa. To avoid any delays in the processing of your application, it is important that you complete all the required checks and provide any additional information that is requested as soon as possible.

### What personal identifiers do I need to provide and how do I provide them?

Most protection visa applicants will be required to provide a digital photograph and a scan of their fingerprints. To provide your digital photograph and fingerprints, you must attend an office of the department equipped to collect personal identifiers. For more details on personal identifiers, see *Providing a digital photograph and fingerprints* on the department's website at [www.immi.gov.au/visas/humanitarian/onshore/866/applying](http://www.immi.gov.au/visas/humanitarian/onshore/866/applying)

### What if I don't provide my personal identifiers?

If you do not meet the requirement to provide personal identifiers your protection visa application will become invalid. Family members included in your application who do not meet the requirement will also have invalid applications. Having an invalid application means that you are considered not to have applied for a protection visa. If you can not attend an office of the department you may be eligible for a waiver. For more information, see *Providing a digital photograph and fingerprints* on the department's website at [www.immi.gov.au/visas/humanitarian/onshore/866/applying](http://www.immi.gov.au/visas/humanitarian/onshore/866/applying)

## **What happens when I am invited to an interview?**

An officer of the department will invite you to an interview to answer questions about your claims for protection. It is important that you attend this interview to answer these questions, and to give all the information necessary to make a decision on your protection visa application. If you do not attend your interview your protection visa application can be decided on the information available to the department at the time. The department will provide you with an interpreter if you need one, and may allow your friend, relative or migration agent to attend the interview with you, if that is what you want.

## **How long will a decision on my protection visa application take?**

Most protection visa applications will be decided within 90 days. If your decision-maker asks you to provide more information to support your application it is important that you provide this information within the timeframe specified by your decision-maker. Providing this information as soon as possible will avoid delays in processing your application. Please be aware that some checks undertaken as part of your application processing will take longer than 90 days.

## **Can I work while I am waiting for a decision on my protection visa application?**

When you apply for a protection visa, and if you are not in immigration detention, you will usually be given a bridging visa to allow you to stay in Australia while your application is being decided. The type of bridging visa you are given and whether you are allowed to work depends on a number of circumstances, including whether you held a visa (other than a bridging visa, criminal justice visa or enforcement visa) when you made your protection visa application.

It is important that you understand what type of bridging visa you have and the conditions on this visa. If you have a bridging visa that allows you to work, you may also be able to receive medical assistance through Medicare. More information on bridging visas is provided in the information sheet 1024i Bridging visas which can be found on the department's website at [www.immi.gov.au/allforms/booklets](http://www.immi.gov.au/allforms/booklets)

## **Can I get any financial help while I am waiting for a decision on my protection visa application?**

If you have no financial support while you are waiting for a decision to be made on your protection visa application, you may be able to receive assistance through the Asylum Seeker Assistance Scheme (ASAS). This may include financial support or payment of other costs related to your protection visa application. For more information on ASAS and who it is for, see *Fact Sheet 62 Assistance for Asylum Seekers in Australia* on the department's website at [www.immi.gov.au/media/fact-sheets](http://www.immi.gov.au/media/fact-sheets)

## **When should I contact the department?**

You must contact your decision-maker if any of your circumstances change while your application is being decided. You must inform the department if you change your address or contact details by either calling the department's general enquiries line on 131 881 or by completing Form 929 Change of Address and/or Passport Details. You can find this form on the department's website at [www.immi.gov.au/allforms/pdf/929.pdf](http://www.immi.gov.au/allforms/pdf/929.pdf)

## **Where do I lodge my protection visa application?**

You should make an appointment at an office of the department to lodge your protection visa application in person and provide your personal identifiers at the same time. Any family members included in your application should also come with you at this time. This will ensure that validity requirements for all family members are met at the time of lodgement. To make an appointment, phone 131 881 during business hours in Australia.

If you cannot lodge your application in person, someone else (such as your migration agent) can lodge it on your behalf or you can mail it to an onshore protection office. Depending on where you live your protection visa application will be processed in either Sydney or Melbourne. You may wish to mail your application directly to one of these offices.

If you are in Queensland, the Australian Capital Territory, the Northern Territory, or New South Wales you should address your application to:

Onshore Protection New South Wales  
The Department of Immigration and Citizenship  
GPO Box 9984  
Sydney NSW 2001

If you are in South Australia, Tasmania, Western Australia or Victoria you should address your application to:

Onshore Protection Victoria  
The Department of Immigration and Citizenship  
GPO Box 241  
Melbourne VIC 3001

## If your protection visa is refused

If your protection visa is refused, your decision-maker will write to you to inform you of the decision and the reasons for making this decision. You have the right to seek a review of this decision by an independent tribunal, either the Refugee Review Tribunal (RRT) or the Administrative Appeals Tribunal (AAT). The department will provide you with information on how to apply for this review and the timeframe in which you need to apply. If you apply for a review at the tribunal, and the tribunal disagrees with the department's decision, it will send your protection visa application back to the department for reconsideration or make a new decision about your protection visa. If the tribunal agrees with the department's decision, you must make arrangements to leave Australia as soon as possible. If you stay in Australia without a visa you will be placed in immigration detention and removed from Australia. If you wish to leave Australia but are unable to do so without some support, the department's Community Status Resolution Service may be able to assist you and can be contacted on 131 881.

### Can I apply for a protection visa again after I have been refused?

If your protection visa was refused, or you were granted a protection visa and then it was cancelled, you usually cannot apply for another protection visa while still in Australia. You may also be prevented from applying for most other types of visas while still in Australia. The Minister for Immigration and Citizenship may allow a person to make another application for a protection visa if the minister thinks it is in the public interest to do so. This would generally only occur if new information about your claims for protection, and/or changed circumstances in your country, indicate that you may now be owed Australia's protection. If you have new information and/or there are changed circumstances in your country, you should provide your new claims for protection in writing to onshore protection offices in Sydney or Melbourne (addresses on the previous page).

## The protection visa assessment process

