

Refused by the Department (Fast Track – Boat Arrival)

This information is for people who arrived to Australia by boat and are being processed under “Fast Track”. This factsheet explains the options available after receiving a refusal letter from the Department of Home Affairs (the ‘Department’).

What this refusal decision means

Unfortunately the refusal means that the Department has decided you are not owed protection obligations by Australia, and have refused your case.

After a refusal by the Department, your case will ordinarily be referred for review on the papers to the Immigration Assessment Authority (IAA).

Some matters can be excluded from review with the IAA. If you have been told your matter has been excluded, you have **35 days** to appeal that decision.

If this applies to you, get legal advice urgently.

Migration Clinic – Legal Aid ACT

www.legalaidact.org.au

Phone: **1300 654 314**

Email: migration@legalaidact.org.au

What to expect from the IAA

The IAA will take a fresh look at your case, “on the papers”. “On the papers” means you won’t be there, but they will look at your file from the Department.

The IAA won’t be able to consider new information from you unless you can show that:

- The new information was not and could not have been provided to the Department before their decision;

- The information is credible personal information which was not previously known, and had it been known, it may have affected how your case went.

You can still forward to the IAA any information you would like the IAA to look at, and ask for them to consider it.

If possible, you need to show how it meets all of the above criteria. A template is included at the end of this factsheet.

Requests for consideration of new information should be sent by email to: iaa@iaa.gov.au and be no longer than 5 pages.

If you have new information you want considered, you should provide it to the IAA within **21 days** of the Department’s decision. If you have information you are waiting on, you should contact the IAA to ask for additional time and explain how much time you will need.

After your matter has been referred to the IAA, the review and a decision could happen at any time.

What to do if the IAA refuse your case

If you are refused by the IAA you have the right to appeal that decision to a court.

We suggest you get legal advice on your chances of being successful before appealing the decision of the IAA to a court.

Legal Aid ACT

9.00am-4.00pm Monday-Friday

www.legalaidact.org.au

Phone: **1300 654 314**

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You have **35 days** from the date of the decision to appeal. It is important to act quickly.

For Legal Aid ACT to assist you with the appeal of an AAI decision to a court, you will need to apply for a grant of legal assistance. For more information on how to apply for a grant of legal assistance see our other factsheets titled 'Applying for a Grant of Assistance' and 'Filling out the Form – Applying for a Grant of Assistance Guide'. These factsheets are available on our website.

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If you do apply for a grant of assistance, make sure you include:

- The IAA decision;
- A bank statement of the last 30 days;
- Your Department decision;
- Your visa application; and
- If possible include a recording of your Department interview.

If you don't have these documents now, we suggest you seek them under FOI.

Bridging Visa issues

Your current Bridging Visa will expire **28 days** after you were notified of the Immigration Assessment Authority (IAA) decision.

Useful Contacts

Legal Aid ACT

9.00am-4.00pm Monday-Friday

www.legalaidact.org.au

Phone: **1300 654 314**

Migration Agents Registration Authority (MARA)

www.mara.gov.au

Migration Clinic – Legal Aid ACT

www.legalaidact.org.au

Phone: **1300 654 314**

Email: migration@legalaidact.org.au

This factsheet was originally developed by the Refugee Advice & Casework Service Sydney (RACS) (www.racs.org.au).

This factsheet is a guide only and is not legal advice. While due care has been taken to ensure the accuracy of the material contained in this factsheet, Legal Aid ACT and the Refugee Advice & Casework Service Sydney cannot take responsibility for any errors or omissions.

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Template: Request for the IAA to consider new information

[Your contact details and date if sending as a letter]

To whom it may concern,

Provision of new information to the IAA: [your IAA file number]

I would like to provide new information to the IAA which was not before the Department. There are exceptional circumstances to justify considering this new information.

Explain the significance of the new information and the exceptional circumstances in as much detail as possible up to 5 pages in total:

1. *What is the significant new information in your case?*
2. *Why wasn't it available to decision makers at the time of your protection visa application?*
 - a. *Was it not known to you at the time?*
 - i. *Does it relate to a change of conditions in your country of origin since your case was decided?*
 - ii. *Does it relate to changed personal circumstances since your case was decided?*
 - b. *Was the information known to you but there good reasons why you couldn't tell the Department:*
 - i. *Does the information respond to adverse information or reasons to refuse your case that were not properly put to you to allow you to answer them by the Departmental officer at your interview?*
 - ii. *Were you suffering torture and trauma effects which prevented you from disclosing this information? – Medical or psychological reports required.*
 - iii. *Was there any family violence towards you which prevented you from disclosing this information?*
3. *How does the information show that Australia has obligations to protect you?*

I ask that you take the above information into consideration when assessing my case.

Yours sincerely,

[Signature]

[Full name]