

OPTIONS IF REJECTED BY IAA

If your protection visa application was rejected by the Immigration Assessment Authority (IAA) you have three options:

1. LEAVE VOLUNTARILY

Call IOM (International Organisation for Migration) on 3211 1396 or 1300 116 986

2. REQUEST TO LODGE NEW PROTECTION VISA APPLICATION

If you have significant **new** protection claims that could not be raised before, the Minister for Home Affairs might allow you to apply for a new protection visa.

3. GO TO COURT (Judicial Review)

If you think the IAA process was unfair, or your claim was not properly heard, or there is some other legal error, you can ask the **Federal Circuit Court (FCC)** to review it.

The court looks at whether the IAA followed the right legal process. It does not look at whether Australia should give you a protection visa.

If you win at court, your case will be sent back to the IAA to make a new decision on whether you are owed protection by Australia. If unsuccessful at court, you will have to pay large legal costs.

HOW TO APPLY TO COURT

You must **apply to the FCC within 35 days** from the date of the IAA decision, or apply for an extension if you are outside that time. Once you have lodged a judicial review application you are eligible for a new bridging visa, however you have to **apply for a new bridging visa on Form 1008 within 28 days** of being notified about the IAA decision.

So for the best chance to avoid being detained, you should apply to the court (for judicial review) and the Department of Home Affairs (for a Bridging visa) well before 28 days of the IAA decision.

Forms to give to the court

You can lodge your application by paper or online. The forms to give to the court are:

'Migration Act Application' to the Federal Circuit Court (FCC) - list all family members on the protection visa application that were refused by IAA. Note down if you need an interpreter.

Affidavit - this is a statement about your situation, signed before a Justice of the Peace (JP) or lawyer, used in court as evidence. Attach a copy of the IAA decision to it.

Make at least two copies of the forms and give them to the court registry. They will stamp the copies which you then deliver to the government lawyers and to the IAA.

Court fees

If you have little money you can apply to pay no fees. Each person on the application must fill in either the **financial hardship exemption form** (for adults) or **the general exemption form** (for children). These must be signed in front of a lawyer, JP or officer of the court.

Requests for information from DHA and IAA

It will help your case if you can get copies of all the information that the Department of Home Affairs (DHA) and IAA considered while deciding your application for protection. Use **Form 424A** (DHA documents) and **Form 6** (IAA documents).

AFTER YOU HAVE APPLIED TO THE COURT

The court will give you a first court date. If you do not attend, your application may be dismissed and you will have to pay legal costs.

If you don't have a lawyer at the first court date you should request eight to twelve weeks from the date you receive the Court Book to file an updated improved application. This will give time to try to find a free (pro bono) lawyer to advise you on the chance of success.

When you receive the Court Book and if you don't have a lawyer then contact Indooroopilly Uniting Church or RAILS (see below).

If your contact details change you must advise the Court and the government lawyers in writing on the 'Notice of Address for Service' form. Also advise DHA on Form 929.

LEGAL HELP

If your protection visa has been refused, you should get legal advice urgently. If you don't have money to pay a lawyer you can get free advice and maybe a pro bono (free) lawyer for court. **If your case has no chance of success in court then you won't get a pro bono lawyer for court.** You can get help from:

Refugee and Immigration Legal Service (RAILS) Give Legal Advice. Phone 07 3846 9300.

Indooroopilly Uniting Church (IUC) Help you fill in court forms, Bridging Visa and FOI forms and refer you to Salvos Legal. Turn up any Thursday or Saturday at 74 Station Road, Indooroopilly from 2-5pm.

Salvos Legal Humanitarian Try to get a free lawyer for your court case BUT only if you first go to the IUC clinic and are referred to Salvos by IUC. Phone 07 3280 8860.

Federal Circuit Court Registry is at Level 6, Harry Gibbs Commonwealth Law Courts Building, 119 North Quay, Brisbane. Enter building from Tank Street. Court forms - search online '[Federal Circuit Court Application – Migration Act](#)' and [Federal Circuit Court- Preparing an Affidavit](#). Online lodging of application at www.fedcourt.gov.au/online-services/elodgment

A more detailed information kit is at www.rails.org.au/publications

This is not legal advice. See a migration agent/lawyer for specific advice

