



Protection Visas

The Application Process

Who can get protection?

A person who arrives in Australia and claims they fear returning to their country can apply for protection to the Department of Home Affairs (DHA).

The government must give protection if you can show DHA you are a 'refugee' - that means that if you are returned to your country you will suffer serious harm because of your race, religion, nationality, political opinion or membership of a social group.

If you don't fit the refugee definition you will be assessed for 'Complementary' Protection – this is given if you show you will suffer serious human rights abuses against international law if returned to your country.

You must also prove there is no safe area in your country, that there is no other safe country in which you can live, and that you haven't done any serious crimes.

If you prove you are owed protection AND pass health, character and security checks you can get a:

- Permanent protection visa (PPV) if you had arrived in Australia with a valid visa and then asked for asylum.
- Temporary Protection Visa (TPV) or a Safe Haven Enterprise Visa (SHEV) if you arrived in Australia without a visa.

What forms to use

A person who arrives in Australia with a valid visa and then seeks asylum can apply to DHA for a permanent, protection visa on a Form 866.

Asylum seekers who arrive in Australia without a visa must lodge an application for protection with DHA and must decide whether to apply for a TPV or a SHEV. They should apply on a Form 866-

People who already have a SHEV or TPV can reapply for a further TPV or SHEV online on a Form 1505. They must apply before their current TPV or SHEV expires.

To apply for a SHEV you need to sign a declaration that you or a family member intend to work or study in a 'designated regional SHEV area' while getting 'minimal social security benefits'. This means that you or a family member will try to get a job or study in those regional areas.

The cost for an application is \$40 or, if you are in detention, there is no fee. Application forms can be lodged online, or if can't do online then can lodge a paper form 866 posted to Onshore Protection NSW, DHA, GPO Box 9984, Sydney, NSW 2001

Completing the application

Get advice from an experienced migration agent before you complete and lodge your application.

Some information about to how to apply is available online: from RAILS [here](#); from Refugee Advice and Casework Service [here](#); and from DHA [here](#).

The Department Interview

After your application is lodged you will be interviewed by a DHA officer. They will have all the information you have given them before, even overseas applications if you've made any. They will ask many questions to check your identity, your credibility (whether you are telling the truth) and your refugee claims. If you get any new information you can put it in before the interview. Once the decision is made you probably won't be able to put in new information

For people reapplying for a further TPV or SHEV, DHA say they will closely check these things:
Has the situation in the home country changed; Have there been any criminal charges or security issues; Has there been overseas travel to the home country; Are there changes to the family group; Have the reasons for claiming protection changed.

What happens after the Department Interview?

You will either get a letter saying your application is refused, or that Australia owes you protection. Before a visa grant is made DHA must complete health, character and security checks for you and others who are part of your application. This can take a long time. If you apply online, you will be able to check the status of your application through ImmiAccount including any correspondence sent to you

What if my application fails?

If your application was for a TPV or a SHEV and it is refused by DHA, then you will get a letter which says why it is refused and whether your case has been sent to the IAA (Immigration Assessment Authority) to be reviewed. You then have 21 days to write to the IAA saying why you disagree with the DHA decision, and provide any new information. The IAA will only accept new information if there are 'exceptional reasons'. So it's very important to put all information about your claims fully at the very start.

If you arrived in Australia with a valid visa and your application was for a permanent protection visa, and is refused, then you will get a letter which says why it is refused. If you want this reviewed then you **must** put in an application to the Administrative Appeals Tribunal within 28 days.

If you are refused you also may be able to seek review by a court (called 'judicial review') but this is complex and can be very costly.

You should **urgently** get legal advice about any refusal.

*This Fact Sheet is legal information, not legal advice.
See a registered migration agent/lawyer for specific advice.*