



Australian Government

Migration Review Tribunal • Refugee Review Tribunal

TRIBUNAL GUIDELINE 2/2008

[Date of issue: 16 April 2008]

Tribunal Guideline 2/2008 was previously referred to as Tribunal Policy and Procedures Guideline 2/2008 and was re-named on 4 October 2011.

GUIDING PRINCIPLES FOR QUALITY DECISION MAKING

1. INTRODUCTION

- 1.1 This paper sets out guiding principles for quality decision making in the Migration Review Tribunal and Refugee Review Tribunal.
- 1.2 The paper was developed in a workshop session with tribunal members at the 2008 National Members Conference.

2. FAIRNESS

- 2.1 A tribunal decision should be the end product of a review process in which:
 - (a) the tribunal has demonstrated an open mind to the applicant's case;
 - (b) in accordance with s.359A/424A (or, at the tribunal's option, s.359AA/424AA), the applicant has been given an opportunity to address information which is adverse to his or her case; and
 - (c) the tribunal has identified to the applicant all relevant issues arising in the review and has given the applicant sufficient opportunity to give evidence and present arguments relating to those issues.

3. CONTENT

- 3.1 The decision statement should correctly state the law applicable to the review.
- 3.2 The decision statement should address all the claims made by the applicant and reflect genuine consideration of them and should set out clear findings on all questions of fact that are material to the tribunal's decision.
- 3.3 Evidence or other material on which findings of fact are based is required to be referred to, not set out, in the decision statement. This means that generally it is unnecessary to set the material out verbatim, although sometimes it may be appropriate to quote a key part of it.

- 3.4 The “Evidence” section of the decision statement should refer to any response made by the applicant to material adverse to his or her case. Generally, a summary will suffice.
- 3.5 If evidence is conflicting, the decision statement should explain why the tribunal prefers one piece of evidence over another.
- 3.6 A finding should identify the evidence on which it is based and should be supported by reasons explaining why the finding has been made.
- 3.7 If a submission is made to the tribunal on a material question of fact, the decision statement must explain why the submission was accepted or rejected.
- 3.8 The tribunal’s reasons should contain all the steps of reasoning linking its findings of fact to its ultimate decision.

4. STRUCTURE

- 4.1 Evidence or other material on which findings of fact are based and submissions on material questions of fact should not be referred to for the first time in the “Findings and Reasons” section of the decision statement.
- 4.2 Evaluation of conflicting evidence and of submissions made to the tribunal should be left to the “Findings and Reasons” section of the decision statement.

5. LAY OUT, FORMAT AND LANGUAGE

- 5.1 Decision statements should use headings and should be appropriately paragraphed. Paragraphs should be consecutively numbered.
 - 5.2 Decision statements should use indents and quotes, italics or different font size to delineate quoted material from the text of the decision statement.
 - 5.3 A plain English drafting style should be used for decision statements; “legalese” should be avoided.
 - 5.4 Decision statements should demonstrate that they have been carefully proof read by the member concerned.
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