



**Australian Government**

**Migration Review Tribunal · Refugee Review Tribunal**

**TRIBUNAL GUIDELINE – 3/2011**

**[Date of issue: 6/06/2011]**

Tribunal Guideline 3/2011 (in effect from 6 June 2011). This guideline applies to both the Migration Review Tribunal and the Refugee Review Tribunal.

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**ATTENDEES AT HEARINGS**

**Introduction**

1. The purpose of this guideline is to provide guidance to members and staff in relation to how to deal with attendees at hearings.
2. The MRT must conduct proceedings in public unless the tribunal is satisfied that it is in the public interest not to do so or if it is impractical to do so (section 365, Migration Act).
3. The RRT must conduct proceedings in private (section 429 of the Migration Act). The requirement of privacy will be met as long as those at the hearing are ‘persons reasonably required for purposes of or in connection with the performance of the tribunal’s functions’.<sup>1</sup>
4. The tribunals publish a daily list of hearings on the tribunal website.
5. The tribunals recognise that the way in which it deals with attendees at hearings must comply with the obligations under the Migration Act and the Privacy Act.

**MRT hearings**

6. All MRT hearings are open to the public unless the presiding member has determined that it is in the public interest to conduct a hearing in private, or that it is impractical to conduct the hearing in public.
7. Members of the public may attend any MRT hearing open to the public.
8. Persons attending a MRT hearing as a member of the public, including those persons known to and accompanying an applicant and who only wish to observe the hearing, are ordinarily not required to provide their name or proof of identity, and should not be asked to do so. However the member may, at his or her discretion, request such information if it is reasonably required for the safe and efficient conduct of the hearing.

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<sup>1</sup> *SZAYW v MIMIA* (2006) 230 CLR 486 at [23] – [25].

9. Persons attending a MRT hearing as an assistant, representative or witness should be informed that they are required to provide their name and proof of identity (if they have not already done so) and other information the presiding member may request for the efficient conduct of the hearing. They should be provided with or informed of the availability of information sheet MR16.
10. A person accompanying an applicant, who wishes to do no more than observe the hearing, or members of the general public observing the hearing, are not required to provide their name or proof of identity, and should not be asked to do so.

### **RRT hearings**

11. All RRT hearings must be held in private and are closed to the public.
12. In order to ensure RRT hearings are conducted in private and only those who are reasonably required to attend as outlined above are in attendance, the tribunal should be satisfied of the identity and relationship to the applicant of all persons attending RRT hearings. Officers should consult with the presiding member to determine what proof of identity, such as a driver's licence or passport, he or she requires to satisfy the tribunal of the identity of attendees and/or their relationship to the applicant. Attendees should be provided with information sheet MR16.

### **Proof of identity**

13. It is important that the tribunals identify and retain sufficient details to identify or contact a person who was an assistant, representative or witness in an MRT proceeding or any person who attends a RRT hearing. If the tribunal requires proof of identity, such as a driver's licence or passport, officers may make copies or record the evidence presented.
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