



**Australian Government**  
**Migration Review Tribunal**

## INFORMATION ABOUT TRIBUNAL PROCEDURES FOR REVIEW APPLICANTS

The Migration Review Tribunal (the tribunal) is an independent body, which can review decisions made by the Minister for Immigration and Citizenship or by officers who are delegates of the Minister.

In conducting a review, the tribunal must reconsider the case and make a decision that is correct in law. It has the power to overturn decisions and to substitute another decision or return a case for reconsideration with directions. The tribunal is required to provide a review that is fair, just, economical, informal and quick.

The tribunal is established under the *Migration Act 1958* (the Act) and its jurisdiction, powers and statutory procedures are set out in that Act and the Migration Regulations 1994 (the Regulations). The criteria for visas and provisions relating to the cancellation of visas, sponsors, employer nominations and the points system are contained in the Act and the Regulations.

### **In what order does the tribunal process applications?**

The tribunal currently has a large number of cases to consider and not all cases can be considered immediately. The tribunal grants priority to the following cases:

- Cases involving persons being held in immigration detention.
- All visa cancellation cases (including non-revocation student cancellation cases).
- Close family visitor refusal cases.
- Cases involving vulnerable persons.
- Cases remitted or returned from a court for the tribunal to reconsider.
- Cases which have been remitted to the department and which have again been refused, resulting in the applicant making a further application for review.
- Cases which involve jurisdiction issues.
- Any case which the Principal Member, or a member or officer authorised by the Principal Member, decides should be given priority because of special circumstances.

All other cases are considered in order of date of lodgment.

We will contact you when consideration of your application for review commences. If you consider that there are special circumstances that would warrant the tribunal giving your case priority, you can request that the tribunal give your case priority. Any such request should be in writing and should be accompanied by supporting evidence, if any. The tribunal will consider the request carefully and advise you of its decision in writing.

### **What does the Tribunal do with my application when it is received?**

Tribunal staff will immediately request the Department of Immigration and Citizenship (the department) to provide any documents or files it has that relate to the decision you want reviewed.

The tribunal will also assess the validity of your application. The tribunal can only review a decision if a valid application for review has been made. The tribunal will advise you if it appears that your application may not be valid.

The tribunal's review process varies according to the circumstances of each case. However, the tribunal will generally:

- seek further information;
- invite you to comment on any information that the tribunal considers would be the reason, or a part of the reason, for not changing the decision under review;
- invite you to appear to give oral evidence and present arguments (in some cases, this may be by telephone or by videoconference); invite you to nominate other persons who could give or provide evidence; and invite you to suggest other evidence or materials that the tribunal might obtain;
- provide you with a statement of the tribunal's decision and reasons.

As each case is different, it is difficult to say how long it will take for the tribunal to make a decision on your case. The length of a review can vary depending on the type of case, the investigations that might be required, the overall workload of the tribunal, and the priority given to the case by the tribunal. The tribunal website, [www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au), has further information on how cases are prioritised and average processing times.

### **Can I give the tribunal further information or evidence?**

When lodging your application, you should provide a copy of the Department's decision, any evidence supporting your application, and a statement setting out why you disagree with the department's decision. If this is not possible, you should send these materials as soon as possible.

Where possible, you should provide the tribunal with the originals of official documents and a certified copy of other documents. If necessary we can arrange for original documents to be copied and returned to you. You should provide an English translation by an accredited translator of any documents written in other languages. You should send both the documents and the translations to the tribunal.

You may lodge forms, documents and submissions with the tribunal in person, by post, or by facsimile. There is no requirement for a copy of documents sent by facsimile to also be sent by post, unless you are submitting original documents or certified copies of documents (such as birth certificates, marriage certificates, qualifications).

### **Can I get access to information the tribunal holds?**

You are entitled to have access to, or a copy of, any papers that the tribunal receives in relation to your application, subject to some restrictions. If we cannot disclose some information, we will advise you of this and how you can seek review of our decision.

### **How will the tribunal correspond with me?**

You may choose to have correspondence sent to yourself, or you may nominate a person to receive correspondence on your behalf (this person is known as your authorised recipient).

If you nominate an authorised recipient, the tribunal will send all correspondence to that person. The tribunal only sends copies of correspondence to an applicant who has nominated an authorised recipient where the applicant is in immigration detention. If you, or your authorised

recipient, provide the tribunal with a fax number, the tribunal may send correspondence by facsimile.

You may have lodged a combined application for review form covering several family members. Unless stated otherwise, all correspondence applies to each family member who is included in a combined application for review.

You must inform the tribunal of any change in your contact details and, if you have an authorised recipient, of any change in the contact details of your authorised recipient. You should also inform your authorised recipient (if you have one) and the department of any change in your contact details. If the tribunal does not receive a response to important correspondence, your case may be decided without further notice.

### **Advice, assistance and representation**

The tribunal procedures are designed to ensure that outcomes do not depend on whether professional advice or assistance has been obtained. However, you may seek advice and assistance from a wide range of organisations and individuals. The tribunal does not endorse or recommend any service provider and therefore you should be very careful in selecting someone, and ask him or her to confirm whether he or she is a registered migration agent or is otherwise legally able to assist you. The Migration Agents Registration Authority (MARA) allows you to check a Migration agent that you are considering using is registered (phone 1300 226 272 or 02 9078 3552; or visit [www.mara.gov.au](http://www.mara.gov.au)). Further information can be obtained from fact sheet 'MR2: Immigration Assistance', which is available from any tribunal office or from the tribunal website: [www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au).

You may choose to be represented by another person in most of your dealings with the tribunal. A representative can forward written submissions and written evidence to the tribunal, contact the tribunal on your behalf, and accompany you to any meeting or hearing arranged by the tribunal. However, a representative cannot present oral arguments when you appear before the tribunal, unless the tribunal considers that exceptional circumstances exist.

Generally, the tribunal would expect that if you nominate a representative, that person would also be nominated as your authorised recipient.

If you change your representative during the course of the review, you should immediately advise the tribunal of the name and contact details of your new representative. Unless you do this, the tribunal will continue to contact the previous representative and will not be able to work with your new representative.

### **What if my personal circumstances change?**

If your personal circumstances, or those of the visa applicant change (such as the visa applicant gets married, divorced, or has a child, or your relationship with the visa applicant changes) and this is relevant to the review of the decision, you should immediately advise the tribunal.

If you wish to travel overseas while you have a review application before the tribunal, you should contact the Department of Immigration and Citizenship to ensure you have the appropriate visa to enable you to return to Australia. If you decide to travel overseas you should advise the tribunal in writing and provide the approximate dates for your travel and your overseas contact details.

## **What if I decide to withdraw my application?**

An application can be withdrawn at any time. If you withdraw your application, the tribunal will not take any further action and the decision under review will remain unchanged. A refund of the application fee on withdrawal is only available in limited circumstances, such as the death of the visa applicant or a member of that applicant's family unit, or following the grant of a visa of the same class (other than on a reconsideration of the points score). Where a refund is applicable, the refund cheque will be made payable to you. If you would like the refund cheque to be made payable to another person, you must provide the tribunal with your written authorisation. The refund cheque will be sent to you or if you have nominated an authorised recipient, to your authorised recipient.

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