



## Practice Direction for Applicants, Representatives and Authorised Recipients

This direction is given under section 473FB of the *Migration Act 1958* (Migration Act).

### About this direction

1. The Immigration Assessment Authority (**IAA**), in carrying out its functions under the Migration Act, is required to provide a mechanism of limited review that is efficient, quick, free of bias and consistent with Division 3 of Part 7AA of the Migration Act.
2. The President of the Administrative Appeals Tribunal (**AAT**) may give directions as to the operations of the IAA and the conduct of reviews by the IAA.
3. This direction sets out the requirements to be followed by applicants (**you**) and their representatives and authorised recipients when dealing with the IAA (**us**).
4. In this direction:  
**Department** means the Department of Home Affairs  
**writing** and **correspondence** include email.
5. This direction has effect from 1 May 2020.
6. The *Practice Direction for Applicants, Representatives and Authorised Recipients* executed on 17 December 2018 is revoked.

### Communication with the IAA

7. Communication with us will be primarily by electronic means.
8. Where you give us an email address, all communication will generally be via email. Attachments to an email must be provided as Word documents or pdf files that can be opened and copied.
9. It is your responsibility to ensure that you give us a current email address and tell us immediately if your email address changes.

## **Representatives**

10. You may engage a person to represent or assist you in relation to the review.
11. If you notified the Department that a person was acting on your behalf during the primary application process, that notice does not apply to our review. If the person continues to act for you during the review, you must notify us as soon as possible after the matter is referred to us.
12. Your representative must also notify us in writing as soon as they commence or cease representing you.
13. A form for appointing a representative is available from our website [www.iaa.gov.au](http://www.iaa.gov.au). In the case of family groups, a form should be submitted for each family member for whom the representative is acting in relation to a review.
14. Generally, we expect that if you appoint a representative, that person will also be nominated as your authorised recipient.
15. If we are reconsidering your case following remittal by a court, the IAA will continue to correspond with your representative unless you tell us otherwise.

## **Authorised recipients**

16. You may appoint a person to receive correspondence on your behalf.
17. If you appoint a person to receive your correspondence, we will send correspondence about your review to that person and not to you.
18. To appoint a person to receive your correspondence, you must notify us in writing of the person's name and contact details.
19. If you appointed a person to receive correspondence from the Department on your behalf, that appointment does not apply to our review. If you want the person to continue to receive your correspondence during the review, you must notify us in writing as soon as possible after the matter is referred to us. You must also give us an email address for your authorised recipient.
20. A form for appointing an authorised recipient is available from our website [www.iaa.gov.au](http://www.iaa.gov.au). In the case of family groups, a form should be submitted for each family member for whom an authorised recipient is to be appointed.
21. If we are reconsidering your case following remittal by a court, the authorised recipient will continue to receive correspondence on your behalf unless you tell us otherwise.

## **Submissions and new information**

22. Reviews are generally conducted on the papers provided by the Department. However you may provide written submissions. Additionally, in exceptional circumstances, we may consider 'new information' (paragraph 30 of this direction).

23. If you have made a combined visa application with family members and you wish to provide a submission or new information, you must identify which applicant(s) the submission or new information relates to.
24. Subject to the requirements of the Migration Act, a decision may be made at any time after referral from the Department.
25. If we are reconsidering your case following remittal by a court, reviews are expected to be completed promptly, and a decision may be made at any time after a court order is made.

### *Submissions*

26. For the purposes of the review, you may provide a written submission on the following:
  - why you disagree with the decision of the Department
  - any claim or matter that you presented to the Department that was overlooked.
27. Any submission must be concise. It should identify and address the issues you want us to consider in our review. Your submission should:
  - be no longer than 5 A4 size pages (or no longer than a total of 5 A4 size pages combined if more than one submission is provided),
  - use a font size of at least 11 point with standard margins of at least 2.54cm,
  - be easily legible (including footnotes) when printed, and
  - be provided to us within 21 days of your case being referred to us by the Department.
28. We may not accept submissions that do not comply with these requirements.
29. If we are reconsidering your case following remittal by a court, we will have regard to any compliant submissions already provided, but will generally not accept any further submissions.

### *New Information*

30. 'New information' is information that was not before the Departmental decision maker. We can only consider new information in very limited circumstances as set out in section 473DD of the Migration Act. We must be satisfied that there are exceptional circumstances to justify considering the new information provided by either you or the Department.
31. If you give us new information, you must clearly identify which parts of the material you give to us is new information, including any new information referred to in submissions.
32. You must also provide an explanation in writing as to why:

- the information could not have been given to the Department before the decision was made, or
  - the information is credible personal information which was not previously known and may have affected consideration of your claims, had it been known, and
  - the information is relevant to the review.
33. Your explanation should be no longer than 5 pages and must accompany any new information you give to us. This explanation, and any other explanations concerning matters of IAA procedure, is regarded as additional to the 5 page allowable limit provided for submissions (see paragraph 27 of this direction).
34. If you provide or refer to new information such as country information reports or media articles, you must:
- attach a copy of that document,
  - identify which parts of the document you rely on, and
  - identify the source and date of the document.
35. Lists of publicly available documents or hyperlinks to publicly available documents are not acceptable.
36. All documents that are not in English should be translated into English by a translator with a 'Translator' level accreditation from the National Accreditation Authority for Translators and Interpreters (NAATI). Both the documents and the translations should be provided. Documents not in English which are not accompanied by a translation may not be accepted.
37. Any new information you give to us that we have not requested of you, must be given to us within 21 days of the date on which your case was referred to us by the Department. Any new information given to us by the Department that has not been requested, must also be given to us within 21 days of the referral.
38. If we are reconsidering your case following remittal by a court, any further new information you wish to provide must comply with the requirements in paragraphs 31-36 of this direction and should be given to us as soon as possible, as a decision may be made at any time after a court order is made.
39. At our discretion, we may decide not to accept new information that does not comply with these requirements.
40. We may separately invite you to provide new information or to comment on new information that may be adverse to your case.
- If we invite you to provide new information, you must provide that information within the period specified in the invitation.
  - If we invite you to make comments on new information, you must provide those comments within the period specified in the invitation.

41. You do not need to give us any information or document that you previously gave to the Department in connection with your protection visa application, or any other document the Departmental decision maker considered.

### **Giving documents to the IAA**

42. Where possible, you should give us documents by emailing them to: [iaa@iaa.gov.au](mailto:iaa@iaa.gov.au).
43. For the purposes of section 473HF(1)(a) of the Migration Act, if you are required or permitted to give us a document or thing, you may do so by one of the following methods:
- by emailing it to: [iaa@iaa.gov.au](mailto:iaa@iaa.gov.au), or
  - by posting it to: GPO Box 9955, Sydney NSW 2001.
44. Unless we specifically ask you to do otherwise, you:
- may give us a copy of a document rather than the document itself, and
  - are not required to send the original of a document by mail if sending a document by email.

### **Interviews**

45. Interviews may be held in very limited circumstances in accordance with the provisions set out in the Migration Act. An interview may be held for us to obtain specific new information from you or another person. An interview may also be held to allow you to comment on new information that we have considered that may be adverse to your case. We will not conduct a full rehearing of the evidence or information that was before the Department.
46. Interviews may be conducted by telephone, in person or by videolink.
47. All interviews will be audio recorded. A suitably qualified interpreter will be engaged by us for the interview if one is required to assist with communication.



**Justice David Thomas**  
**President**

**Dated: 1 May 2020**