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Onshore Protection Interviews

Practical guidance

Approval Date	25 May 2018
Contact	Protection Assessment Support Section, Humanitarian Program Capability Branch <u>Onpro Programme Office</u>
Trim Reference	ADD2017/1245327

1 Table of Contents

1.	Introduction	4
1.1.	Purpose and scope	4
2.	Policy and principles	4
2.1.	Purpose of the interview	4
2.2.	Interviewing principles	4
3.	Interview arrangements	5
3.1.	Interpreters	5
4.	Interview preparation and plan	6
5.	Conducting the interview	7
5.1.	Building rapport	7
5.2.	Managing other parties at interview	8
5.3.	Questioning techniques for discussing protection claims	10
5.3.1.	Open questions	10
5.3.2.	Probing questions	10
5.3.3.	Closed questions	10
5.3.4.	Silence	11
5.3.5.	Adapt language to applicant	11
5.3.6.	Listen for the 'unsaid'	11
6.	Sensitive interviewing	11
7.	Credibility	13
7.1.	Managing vague responses	14
8.	Discussing relocation or protection in all areas of receiving country	15
9.	Presenting adverse information	15
10.	Documents	16
11.	Applicants with psychological vulnerabilities including mental health conditions	17
11.1.	Evidence of psychological vulnerability	18
11.1.1.	The role of Psychological and Medical evidence	18
11.1.2.	Recognising signs of psychological vulnerability	19
11.2.	Procedural modifications to the assessment process, including the interview, of psychologically vulnerable applicants	20
11.3.	Assessing credibility of psychologically vulnerable applicants	21
11.3.1.	Inconsistencies in an applicant's testimony	22
11.4.	Record keeping and support services	23

11.4.1.	Recording relevant information	23
11.4.2.	Providing information on support services and community groups to psychologically vulnerable applicants	24
12.	Other vulnerabilities and referral to support services	24
12.1.	Domestic and family violence	24
12.1.1.	Identify and respond	25
12.1.2.	Record and report	26
12.2.	Child protection	27
13.	Self-evaluation and self-care	27
14.	Further guidance	28
15.	Sources	28

1. Introduction

1.1. Purpose and scope

This document provides practical guidance on conducting protection visa interviews in an effective and sensitive manner. It provides specific guidance on:

- interview arrangements
- preparing for an interview
- how to investigate protection claims, including key interviewing principles, questioning techniques, presenting adverse information and factors to consider when interviewing vulnerable applicants
- Self-evaluation and self-care for PV officers following the interview.

This guidance relates to, is consistent with and complements the procedural advice on interviews contained in the Procedural Instruction - Refugee and Humanitarian – Protection Visa Processing Guidelines.

2. Policy and principles

2.1. Purpose of the interview

The assessment of protection claims involves consideration of information provided in the application and country information. An interview with the applicant may be required to clarify information that is at the disposal of the officer. The protection visa (PV) interview can provide a further opportunity for an applicant to give detailed evidence about their protection claims, and often constitutes a key component of procedural fairness and the identity and credibility assessment.

During a PV interview, officers must identify and investigate the key issues related to the assessment of the application through a focused and sensitive approach to questioning, particularly as some evidence may relate to instances of persecution or serious harm, torture or sexual violence. Obtaining sufficient information and being able to subject claims to sensitive but rigorous enquiry can be a crucial step in ensuring that protection claims are thoroughly considered.

2.2. Interviewing principles

When conducting protection visa interviews officers must:

- provide a positive and secure environment in which applicants feel able to disclose sensitive information to support their claims
- treat all applicants with respect, humanity, dignity and fairness regardless of age, disability, ethnicity, nationality, race, gender, sexual identity, religion or belief
- ask appropriate and focused questions to encourage full disclosure and gather relevant evidence on key aspects of the claim. This will allow the officer to examine the credibility of the applicant's

statements and provide an opportunity for the applicant to explain anything that appears to be unclear, implausible, inconsistent or relevant 'adverse' information

- focus on the aspects of the case that need further clarification to reach a decision but also provide the applicant with the opportunity to raise any new claims not included in the application.
- refer vulnerable applicants to appropriate services, for example, where there are concerns over physical and mental health, sexual or domestic violence or child protection concerns.

3. Interview arrangements

3.1. Interpreters

Applicants may request a male or female interpreter. Every effort should be made to meet this request. Where no such request is received, but it is apparent from the application that claims are related to sexual orientation, gender identity, sexual violence or other gender related issues, the officer should consider the sex of the interpreter and the interviewer as this may affect how the applicant responds during interview. The Department cannot request an interpreter with specific characteristics other than gender (for example, an interpreter who is Christian) unless there is a business case to do so. Refer to TIS National Policy for further details about TIS services: <https://www.tisnational.gov.au/en/Agencies/Frequently-Asked-Questions-for-agencies>

It may be useful to have a brief discussion with the interpreter to ask:

- how many (if any) protection visa interviews they have done before. If they have no experience of protection visa interviews, the officer should explain the process to them.
- if the interpreter has any questions or concerns.

It is recommended that officers advise the interpreter before the interview if there will be a discussion about sensitive claims, such as sexual assault.

The officer should speak clearly and pause frequently to allow the interpreter to interpret short segments, especially if detailed or complicated questions are asked or explanations given. At the start of the interview, it can also be beneficial to brief the applicant on the use of the interpreter, advising them to pause after a couple of sentences to allow the interpreter the opportunity to interpret everything they are saying. Officers should avoid talking over the interpreter or the applicant, and may need to ask the applicant and interpreter not to talk over each other for the benefit of the recording.

Where an applicant speaks English, but is not able to explain themselves clearly in English, the applicant should be asked to speak through the interpreter in their language to ensure that all information is accurately communicated.

Officers should also request that if the interpreter needs to clarify something with the officer or the applicant during the interview they should do so, as it is critical that all information is interpreted accurately. Interpreters should tell the officer (or applicant) when they need to clarify anything with the applicant (or officer) to avoid confusion. If interpreters are unable to effectively aid communication or if they display unprofessional conduct, such as scoffing at the applicant or declining to interpret something they have said, the interview should be paused so that the interpreter can be removed and an alternative

interpreter engaged over the phone. Unprofessional conduct by interpreters should be reported to the officer's supervisor for escalation to TIS.

An online training course Working with TIS National interpreters is available in OurPeople. Module 4 of the training 'Working with Interpreters' provide tips on how to deal with interpreter in an interview situation.

4. Interview preparation and plan

Preparation is the key to a good interview. It can ensure that all relevant information is obtained from the applicant and assist in making a well-balanced decision. Effective preparation will minimise the risk of exceedingly long interviews, poorly framed questions, unnecessary and ineffective lines of enquiry and officers getting lost in a tsunami of information. Good preparation will ensure that time is spent on the core issues that will assist the officer to assess the case and not upon matters, that the officer has already accepted or issues that will not affect the assessment. To ensure the interview is carried out in a structured and efficient way and all relevant information is gathered, the following steps should be taken:

- Review and analyse all information provided in the application with an open mind, establishing a clear picture of the applicant through biodata, protection claims, family composition and travel history.
- Identify protection claims and integers of claims made out in the application,
- Map relevant details of material facts and key events or incidents (for example, develop a timeline) as this will assist officers to organise the information in their mind. Note and highlight any gaps or long periods of time with no information that may be pertinent to the claims.
- Give key events or incidents a short hand reference (for example, "the 2010 attack" or the "white van abduction"). This is especially helpful where there are multiple similar events. Carry these references through to the interview, with the applicant's agreement, as it is a useful way to bring the applicant to the event officers are questioning them about and avoids confusion.
- Assess the contents of any supporting documents and cross check against the map or timeline of claims to consider whether there are any inconsistencies.
- Consider whether any of the documents appear to be bogus and how the applicant obtained them, allowing an opportunity for a reasonable explanation to be provided.
- Review relevant Country of Origin Information Services section (COISS) products and/or other reports. Conduct country of origin information (COI) research on key issues of each claim. Make note of any inconsistencies with the application.
- Check departmental systems for information relevant to the assessment of the application, in particular additional information or documentation pertaining to the applicant's identity, nationality, family situation, personal circumstances and migration history.
- Refer any inquiries to other areas early to provide sufficient time for response (for example, document examination, character/war crimes, COISS).
- Form an initial impression of future risk of harm. It is entirely permissible to form preliminary views, but officers must maintain an open mind that is capable of persuasion. In many cases, concerns

regarding the applicant's claims could be explained by the applicant when given the opportunity to do so.

- Identify any s57 relevant 'adverse information' that must be put to the applicant for comment.
- The Fast Track Interview preparation worksheet and pro forma (ADD2017/385840) has been developed to assist officers to focus on the core information and issues at interview.

This interview preparation should form the basis of the interview plan that outlines the questions officers intend to ask, groups questions in logical and sequential order and identifies procedural fairness matters.

There may be aspects of the visa assessment that do not need to be discussed at interview. For example:

- There may be enough information in the application, supporting documentation and on departmental systems to make an identity finding.
- There may be claims that can be accepted based on the evidence in the application, including supporting documents, and country information (for example, claims about the applicant's profession). However, where there are concerns a claim could be fabricated, ask the applicant an open question to gauge whether there are any credibility issues needing further questioning.
- Where there is a claimed past event, which seems implausible (such as an applicant's abduction and subsequent escape), but in the applicant's particular case this event does not impact on the assessment of future harm, officers should not spend time challenging whether or not it occurred.
- The claim combined with country information suggests that real chance of persecution in all areas of the receiving country or reasonableness of relocation need not to be explored further.
- The claim combined with country information suggests that effective protection is not available and does not need to be explored further.
- The applicant's claims may indicate that modification of behaviour should not be considered.

5. Conducting the interview

5.1. Building rapport

The interview situation is new and alien to most applicants. Some applicants may have had negative experiences dealing with the authorities and government officials in their countries of origin. It is important to take time, before the formal interview begins, to help the applicant feel at ease and ensure they understand the process of the interview.

The interview pro forma (ADF2016/39862) provides an important introduction to the applicant, including information about the purpose of the interview, confidentiality and the assessment process. Although officers have read through this pro forma many times, it is important that these statements are projected with sincerity, otherwise the applicant may question the sincerity of those statements and lose confidence in the process.

The way in which the officer communicates in the interview can greatly influence both the quality and the quantity of the information obtained. It is a good investment to spend sufficient time on developing a good

'communication atmosphere', in which all relevant persons feel safe and interact in a positive manner. The following techniques can be used by officers to build rapport with the applicant:

- Be flexible, patient, calm and listen actively. The use of neutral utterances, such as 'mm', confirm the officer is listening and invites the applicant to continue talking.
- Be mindful about using 'ok' when discussing credibility concerns as this may give the applicant the impression that the officer has accepted the applicant's statement.
- Maintain awareness of body language and the risk of being perceived as disinterested or aggressive. Displaying open body language and facial expression gives the impression officers have an open mind and are non-threatening.
- Address the applicant directly, rather than speaking to the interpreter. The officer's verbal and non-verbal communication skills should make clear to the applicant that they are the focus of the interview.
- Avoid recording excessive notes on a laptop or a notepad while the applicant is speaking as this can imply the officer is not actively listening. This would only be necessary should the applicant not agree to the interview being recorded. If the interview is being recorded, note down only the pertinent information or record the time on the recording a pertinent statement is made.
- Do not advise the applicant that there is limited time for the interview. This may cause the applicant to feel anxious about the process and assume that they are not being provided with a genuine opportunity to provide their claims. It is the officer's responsibility to prepare for and manage the interview appropriately.
- Foreshadow that it is common for some applicants to become uncomfortable during the interview due to some questions or information discussed. Remind them that this is an opportunity to have a fair chance to comment on the information.
- Reinforce that any new information or claims the applicant provides will be considered and that no final decision has been made on the application.
- Advise the applicant that they are familiar with the applicant's statement of claims and the other information in the application. This reassures the applicant and may prevent them from feeling they need to repeat what has already been stated in the application.
- Step the applicant into the process gently by asking simple identity related questions that they should have the answer to, such as *'What is your full name? Date of birth? Citizenship? Are you married? Do you have children? Where does your family live?'* This can then lead into questions about identity and then into claims for protection. Commencing with neutral topics helps to establish rapport.

5.2. Managing other parties at interview

Officers should manage the conduct of other parties at the interview, such as agents and support persons, in a professional and respectful manner. Officers may seek support from their supervisor or other experienced case officers at any time during the interview if needed.

Prior to the interview, officers should remind agents:

- not to intervene during the interview and that they will be given an opportunity to make verbal submissions at the end of the interview. Alternatively, agents may be given seven days following the interview to provide written submissions
- not to answer any questions directed to the applicant
- that the interview is an opportunity to gather further information and for the applicant to respond to any adverse information
- that at the end of the interview the agents may request a break to discuss any matters they may have with their client
- that a decision will not be made until all the information has been considered following the interview and they are keeping an open mind to the information presented.

s. 47E(d)

The PV interview can be difficult for some applicants and the presence of a support person, such as a friend, relative or independent person at the interview can help applicants feel more comfortable. The 'Important information about your protection visa interview' attachment to the 'Request to attend interview' letter requests that applicants advise the Department prior to the interview if they wish to bring a support person. It also states that they should provide photographic identification as proof of their identity. Officers may still allow a support person to attend the interview without prior notice. However, it is important to identify the support persons, their relationship to the applicant and ensure they are not a PV applicant himself/herself. The decision to allow a support person to attend the interview is at the officer's discretion.

If the support person wishes to record the interview, officers can advise them that the Department, with the applicant's consent, will record the interview and a copy of the recording can be provided to the applicant if requested through FOI. Support persons may sometimes try to answer questions on the applicant's behalf or try to advise them what to say. Officers should remind support persons not to intervene in the interview. If the behaviour continues, they should be removed from the interview.

Applicants might bring babies or small children with them to the interview. Before the interview begins, officers should ask the applicant if there is someone who can supervise their child during the interview. If there are sensitive issues to be discussed during the interview, officers should ask the applicant whether they are comfortable discussing those issues in the presence of their children, agent or other support persons present at the interview. It may be more appropriate to reschedule the interview to a time when the applicant can obtain alternative care for their children. If the interview is able to proceed, case officers should be mindful of their questioning, as some issues, such as sexual violence, are not appropriate for discussion in the presence of children or other support persons present at the interview. Officers can request applicants to provide further information on sensitive issues or respond to adverse information in writing after the interview. Children should not be left unattended in the waiting area.

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5.3. Questioning techniques for discussing protection claims

There is no one way to conduct an interview. Officers may need to adjust their approach as the interview progresses. Below is an explanation of the different questioning techniques that can be used throughout the interview.

5.3.1. Open questions

When discussing protection claims, it is best practice to start by inviting the applicant to talk about a particular part of their claim that is of interest by asking an open, yet focussed, question. For example, *'Tell me about the attack on your village in May 2014'*. This question will prompt the applicant to start a free narrative that is a useful tool in filling in any gaps in the applicant's timeline or obtaining more details about an event which may have been broadly mentioned in the application. It will in most cases give the officer a large amount of information and provide details that they can come back to later, if necessary. Officers should refrain from interrupting the applicant and allow the applicant to finish their story. However, if the applicant seems to be getting off track, it may be necessary to clarify the question. To avoid a long narrative, which may be of little value, officers should ensure the opening question is focussed on a particular aspect of the claim they are interested in, such as *'Tell me about your involvement in the March 2015 demonstration'*.

5.3.2. Probing questions

Officers should probe for further detail on areas of concern identified in the interview plan or any new areas that come to light in the applicant's narrative. Probing questions focus on the 'who', 'what', 'when', 'where', 'why' and 'how'. The substance of what happened during a particular event of key significance is potentially more important than precise dates, which may not always be consistent throughout an account. s. 47E(d)

Throughout the interview, officers can use a combination of open and focussed questions as each topic is discussed.

It is helpful to introduce the topic the officer wishes to cover before posing focussed probing questions. A topic can be introduced by stating, for example, *'I'd like to talk about when you were attacked at work in March 2015'*. Signposting can increase the applicant's sense of security about what is coming next, reduce the likelihood of confusion over which incident is being discussed, and allow the officer to draw to a close a section of the interview where no further questions are needed. Question structures should be kept simple. Trying to clarify two issues in one question should be avoided, for example, *'what happened after he punched you and who else saw him do that'*.

5.3.3. Closed questions

Closed questions are answered with a 'yes' or 'no' answer. Their use should generally be avoided, however, they can be used if the other questioning techniques have failed to draw out the information the officer is seeking on a particular issue, for the officer to check their understanding of information provided or to preclude other scenarios. For example, a closed question would be *'Did you see who attacked you?'*. It is often useful to follow a closed question with a clarifying question such as *'Why couldn't you see them?'*

5.3.4. Silence

s. 47E(d)

However, silence at inappropriate moments or for extended periods can be intimidating and create barriers to communication. s. 47E(d)

5.3.5. Adapt language to applicant

Officers should adapt questions according to the capability, age, background and educational level of the applicant. When asking questions, the officer should use the applicant's own words and phrases when possible.

Officers should be aware of possible cultural or linguistic issues that may arise. The best way to avoid misunderstandings is through the use of open questions, obtaining a free account about a topic or claim, allowing the applicant to present the information in their own way with minimum interference from the officer. It is important that officers clarify any areas that are unclear, by asking a few more clarifying questions. For example:

'Were you ever personally stopped by the terrorist group while driving your truck?'

'No I wasn't personally stopped. I was stopped as part of a group.'

'Can you explain how you were stopped as part of a group but not stopped personally?'

'I mean I was never stopped personally but I was driving in a convoy and it was stopped.'

'So you mean that you were never stopped when you were driving by yourself, but only when you were driving as part of a convoy?'

'Yes, that's correct'.

If the officer had stopped asking questions after the first question, it might have resulted in an adverse credibility finding, but asking the third question confirms that there was a miscommunication or a different translation of the meaning of the word 'personally.'

5.3.6. Listen for the 'unsaid'

Officers should listen out for pauses, phrases or euphemisms (for example 'he hurt me', possibly meaning 'he raped me') suggesting that there may be information difficult to divulge. Interviewers should ask appropriate questions if there are indications of gender-based persecution or where country information shows that such harm is common in certain conditions (for example, rape in detention). The officer may ask, for example, '*I understand it may be difficult to talk about, but can you help me understand what else happened to you in detention?*'

6. Sensitive interviewing

Protection visa interviews are non-adversarial in nature and should be carried out with sensitivity and tact.

Many protection visa applicants have been exposed to traumatic experiences. An interrogatory style of questioning should not be used and officers should maintain an awareness of their tone of voice and body

language to ensure they do not have an intimidating bearing. Officers must be aware of the factors that can inhibit them in obtaining information at interview and consider each applicant's individual circumstances when completing the interview plan, considering the applicant's responses to questions and assessing their demeanour. Some factors, which may pose a challenge to obtaining information, are:

- the applicant's past treatment by, or fear of, authority figures
- the applicant's level of education or literacy
- age, gender, culture, social or economic status
- sexual identity, gender identity or intersex status
- mental and physical health
- effect of traumatic events, including torture and other ill-treatment.
- officers should also keep in mind the fallibility of human memory.

Where an applicant becomes:

- sad or teary
- agitated, tense or aggressive
- short of breath, change in facial colour
- dazed, confused and unable to concentrate
- withdrawn or not verbally responding.

Officers should provide an initial response by assisting the applicant to calm down and bringing them back to the present by using any of the following techniques, as needed:

- Offer them some water or a tissue.
- Use a soft but firm voice, use their name and ask '*Are you ok?*'.
- Encourage them to breathe slowly.
- Allow them to take a break, as they are more likely to come back calm. During this time, officers should reassess what they are trying to achieve in the interview and whether they are asking the right questions. Some applicants may be hesitant to take a break, and it may be helpful for officers to state that they will be taking a five minute break and that it is ok for them to take a break as well.
- Gently remind the applicant of the purpose of the interview and questions.
- Acknowledge their reactions and difficulties by saying, for example, 'I understand that it must be difficult', or 'You might not want to talk about what happened' or 'It must be difficult to answer so many questions'.
- Ask the applicant if they are able to continue. If the applicant agrees to continue, start by asking some easier questions to ease them back into the interview. If the applicant indicates they need more time, provide them with additional time to compose themselves.

The case officer should terminate the interview if the applicant indicates they cannot continue or becomes too distressed or aggressive. The case officer can then decide whether to re-schedule the interview or seek information from the applicant in writing.

For further information about sensitive interviewing techniques for applicants with LGBTI, claims see Procedural Instruction - Refugee and Humanitarian – Protection Visa Processing Guidelines.

For further information about gender issues see PAM 3: Refugee and Humanitarian – Gender Guidelines.

7. Credibility

One of the functions of the interview is to seek an explanation from the applicant about any perceived inconsistency in their story or in information previously provided to the Department. Similarly, if statements appear to be inconsistent with reliable COI or seem implausible, the applicant should be given an opportunity to address these concerns. Officers do not need to prove the applicant wrong or convince them of an alternative view.

It can be helpful to address inconsistencies and concerns as they arise (refer to [Section 9 Presenting Adverse Information](#)). For example, discuss an inconsistency about an applicant's employment timeline while on the topic of work history. This saves time providing extra context about the concern and avoids stating several concerns at the end of the interview.

When exploring credibility concerns officers should:

- ask questions in a non-judgemental way
- explore inconsistencies and gaps
- allow for lengthy or several attempts at explaining an issue
- use follow-up questions and invite clarification.

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Refer to the Procedural Instructions Refugee and Humanitarian – Protection Visa Processing Guidelines and Refugee and Humanitarian – Refugee Law Guidelines for more information about how to assess credibility.

7.1. Managing vague responses

There may be circumstances where an applicant is not forthcoming with information or they are hesitating when providing an answer. Repeatedly asking the question the same way is unlikely to elicit the information the officer requires and can come across as aggressive. Instead, officers should ask whether the applicant understands the question. Officers can ask that they repeat the question back to them or rephrase the question to the applicant, without losing the original meaning. The hesitation may be due to confusion, which can then be clarified.

Officers should also be aware that in some cultures people are very literal in the way they answer questions. Officers may need to rephrase the question or break it down into sub-questions to be more specific. For example:

'Tell me about your involvement in the March 2015 demonstration.'

'I was at the demonstration.'

'But what was your involvement?'

'I took part in the demonstration.'

'What did you do during the demonstration?'

'I held a placard and we chanted slogans.'

'What slogans did you chant?'

'We said 'down with the head of government'.'

'Did you help to organise the demonstration?'

'No, I came with my friends who told me it was happening.'

Where the applicant understands the question being asked and is continuing to provide vague answers, it may be useful to address this by asking *'I can see you are hesitating, why?'* or *'The answers you are giving me are vague, why?'*. This provides an opportunity for the applicant to explain how they feel. The officer can then explain why this information is needed and the level of detail required. It may be that the applicant is distressed or does not want to talk about a sensitive matter. See [Section 6 - Sensitive interviewing](#) and [Chapter 11 Applicants with psychological vulnerabilities including mental health conditions](#) for more information on how to handle these situations.

Where these strategies have been used and the applicant continues to provide vague answers the officer should put the applicant on notice that this may have an adverse impact on their application.

8. Discussing relocation or protection in all areas of receiving country

The issue of relocation or protection in all areas of the receiving country can create some difficulty in the interview as applicants may react defensively or become upset at the suggestion that they could be returned to their country of origin to live in an area that is not familiar to them. s. 47E(d)

If an officer is considering it in the decision, it is best to put the topic to the applicant squarely. Prior to asking specific questions, it may be helpful for officers to explain that:

- they are required to consider what would happen to the applicant if they were to live in another area of the country as part of their decision
- they want to get as much information as possible and have not made up their mind.

s. 47E(d)

For example, officers could ask:

- 'What do you think would happen if you moved to a different area of [country]?'
- 'Why do you think that would happen?'
- 'Are there any other personal reasons why you cannot move to another area?'

Refer to [Chapter 11 Applicants with psychological vulnerabilities including mental health conditions](#) 1 for advice on how to respond and manage applicants who may become distressed during this discussion.

9. Presenting adverse information

The purpose of seeking comment on adverse 'relevant' information is to get an explanation from the applicant on matters material to the assessment of their application. Depending on the circumstances of the case, adverse information can be presented to the applicant prior to, during or after the interview.

If a case officer identifies 'relevant' adverse information before the interview, it is recommended that this information, which may include documents that can be disclosed to the applicant, be put them prior to the interview in writing (in a section 57 letter) and the applicant is invited to respond to the information at the interview or in writing. This will give the applicant an opportunity to consider the issues carefully, and discuss it with their agent if they have one, before providing a response.

During the interview adverse information can be presented to the applicant at the end or while discussing a relevant topic. If adverse information relates to a topic that can be discussed in isolation, then it should be presented to the applicant towards the end of the interview as raising this issue may cause the applicant to feel uneasy and, therefore, become a barrier to communication. In other cases, it might be more practical to present adverse information and seek the applicant's comment while discussing a relevant topic during the interview rather than waiting until the end of the interview.

When presenting adverse information during the interview, care should be taken not to appear as trying to “catch” the applicant out. It can be helpful to introduce the discussion by explaining that the applicant will be notified of the adverse information and why it is important to the decision and will then be invited to comment either at interview or within seven days. Refer to the interview pro forma for suggested wording.

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Officers should remind the applicant that, as mentioned at the start of the interview, some applicants become uncomfortable when presented with adverse information but to remember they have not yet made up their mind and, that they are required by law to give the applicant this opportunity to provide any further information that may be relevant. As an example, an officer could say:

‘I am required to put to you information that I might consider to be the reason or part of the reason for refusing to grant a visa. I would like to provide you with an opportunity to comment on this information.’

‘I need to make you aware of information that may be adverse to your claims for protection. The Department has credible information that indicates [summary of information].’

‘I have concerns about [outline the concern] and this could potentially form part of the reason for a negative outcome. In your claims, you have stated that [claims] and in light of this information it is open to me to make a finding that [finding].’

Officers may need to ask further questions following the applicant’s account if it seems implausible or inconsistent – see [Section 7 - Credibility](#). These should not be framed in a judgemental or dismissive way, as officers should merely seek to better understand the issue. At the end of the discussion, officers are not required to state whether they accept the applicant’s explanation.

When putting adverse information to an applicant, which is based on a document that can be disclosed to the applicant, a copy of that document could be provided to the applicant, if it has not already been provided.

Refer to [Chapter 11 Applicants with psychological vulnerabilities including mental health conditions](#) for advice on how to respond and manage applicants who may become distressed during this discussion.

10. Documents

Where the officer asks questions about a document, a brief description of the document they are referring to should be provided for the recording. When discussing a document, officers should make it clear in the recording what part of the document is being discussed. For example, *‘The applicant has produced a taskera and has pointed to X part of the document’*. This is especially important for the IAA who rely on the audio recording.

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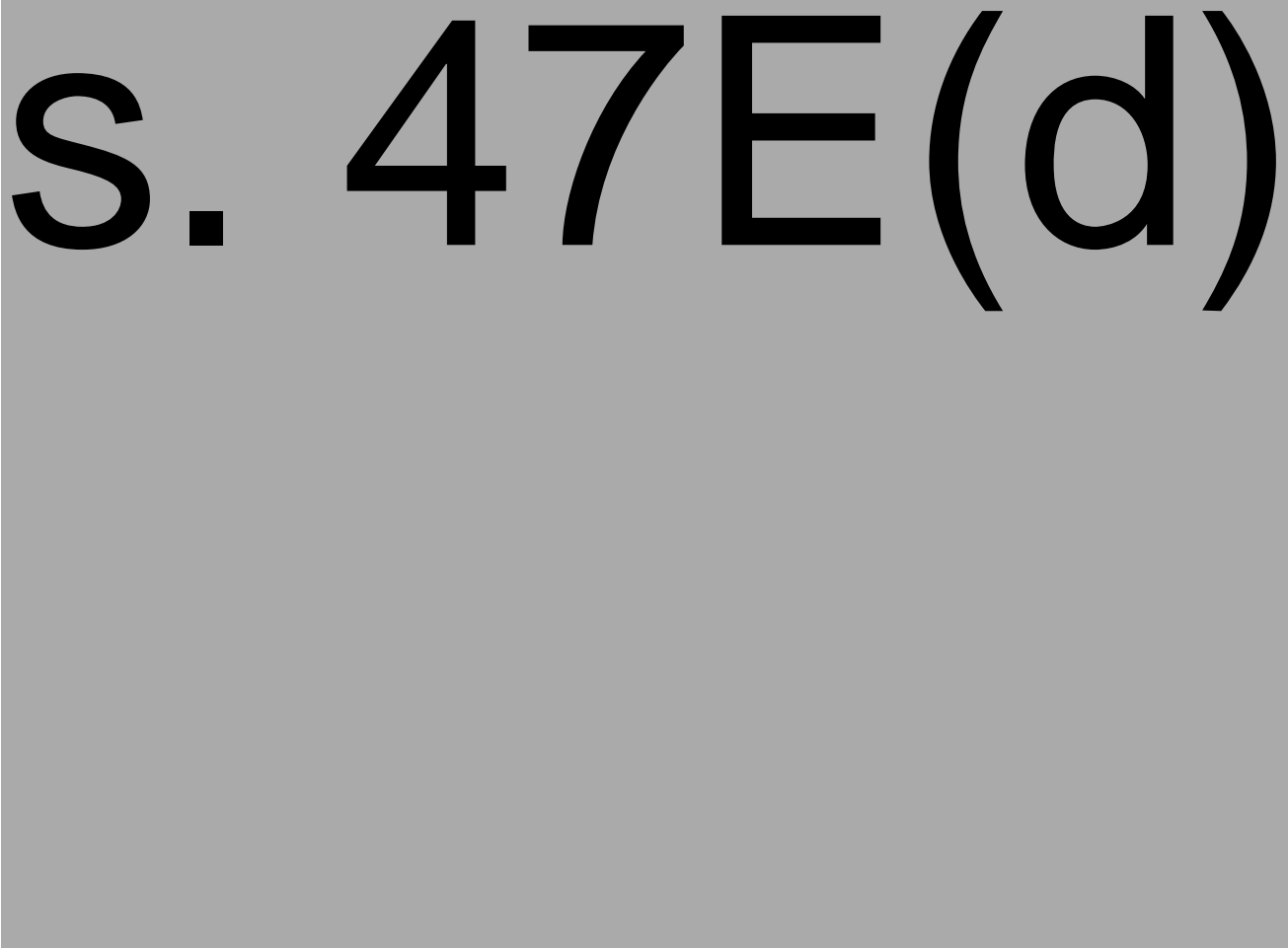
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S. 47E(d)

12. Other vulnerabilities and referral to support services

At the interview, an officer may identify a potentially vulnerable applicant who may require referral to support services. Officers should be able to effectively identify risk factors, which may become apparent during the normal course of the interview indicating, for example, that the applicant may have serious physical or mental health issues, be a victim of sexual or domestic violence, or that there may be child protection concerns in the applicant's family. Officers are not expected take on a role of a social worker or a counsellor. The officer's role is to provide initial support and refer applicants to information about appropriate services.

12.1. Domestic and family violence

Domestic and Family violence (DFV) involves conduct that is violent, threatening, coercive or controlling, or intended to cause a family or household member to be fearful. It can include:

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- physical, verbal, emotional, sexual or psychological abuse
- neglect
- financial abuse
- stalking
- harm to an animal or property
- restricting spiritual or cultural participation
- exposing children to the effect of these behaviours.

For a full definition of what behaviours are considered domestic and family violence, see [Domestic and Family Violence Strategy 2016-20](#).

Departmental contacts who can provide support and guidance on dealing with DFV issues

The [Domestic and Family Violence Contact Officer Network](#) has been developed to improve the safety of DIBP clients, staff and the Australian community by:

- providing timely information, advice and guidance to staff to assist them in responding practically and appropriately to DFV issues
- ensuring consistency and quality in our responses to incidents of DFV
- increasing awareness of DFV across the Department.

DFV contact officers have specialist training in DFV issues and can provide subject matter expertise, guidance and information about appropriate services. The role of the DFV Contact Officer is not one of counsellor or case officer.

A number of other areas in the Department can also provide support and advice in relation to cases involving DFV.

External support services

For information on external support services, including state and territory support services, refer to <https://bordnet.immi.local/hr/manage-myself/employee-assistance/domestic-family-violence/external-support-services>

Family Safety Pack in community languages

Protection visa applicants who may be at risk of DFV can be given a Family Safety Pack in their own language. The Family Safety Pack contains information on DFV, sexual assault, forced and early marriage, and family violence and partner visas and have been translated into 46 languages.

12.1.1. Identify and respond

Officers should be aware and look for clues or warning signs at interview that an applicant is a victim or perpetrator of domestic or family violence. Applicants may have obvious injuries such as bruises, black eyes, broken bones, hearing loss. These are often attributed to 'falls', being 'clumsy', or 'accidents'.

Where an applicant shows sign of an injury or indicates during the interview that they are or have been a victim of the above behaviours from their partner or other family or household members, officers should take the following actions:

- Ask to talk to the applicant who may be a victim of domestic or family violence without other family members being present.
- Advise the applicant that they would like to ask them a question and that their response is voluntary and will be treated as confidential.
- Ask the applicant *'Are you concerned about your or a member of your family's safety at home?'*
- Where an applicant confirms that they are a victim of domestic or family violence, acknowledge that they are in a difficult situation and that they appreciate the applicant telling them about it. Advise the applicant that there are many confidential support services available for them to talk to. Provide them with domestic violence referral card that includes the contact details of the range of support organisations.
- If an applicant is in immediate danger, ask the applicant to contact the police immediately on 000, or contact the police on their behalf.
- Encourage the applicant to contact police if they ever feel that their personal safety is at risk.

For more information on responding to DFV situations, refer to the below departmental resources:

- [First response assistance for clients](#)
- [Responding to DFV situations](#) (six scenarios with information on such issues as possible disclosure required and record keeping).

A referral card with contact details of DFV support services should be provided to applicants who claim to be victims or perpetrators of DFV. Where an applicant indicates that they are or have been a victim or a perpetrator of domestic or family violence and a domestic violence referral card is not available, advise them that they can seek support from the below organisations.

1800RESPECT: 1800 737 732 or www.1800RESPECT.org.au

FAMILY RELATIONSHIPS ADVICE LINE: 1800 050 321 or www.familyrelationships.gov.au

MENSLINE AUSTRALIA: 1300 789 978 or www.mensline.org.au

FINANCIAL COUNSELLING AUSTRALIA: 1800 007 007 or www.financialcounsellingaustralia.org.au

The above contact details on support services is also available at [ADD2018/481674](https://www.add2018/481674)

12.1.2. Record and report

Record a case note in ICSE, detailing the information provided by the applicant and what referral information was provided. The ICSE note should be flagged "Not for disclosure to third party" to reduce the risk of inadvertent disclosure to alleged perpetrator. An incident report may be required for applicants receiving SRSS, refer to your supervisor for advice.

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For further information about assisting an applicant who is a victim of domestic or family violence and reporting protocols, see Bordernet: <https://bordnet.immi.local/border-ops/policy/domestic-family-violence-client>

12.2. Child protection

An applicant may disclose at interview that their child has been abused since arriving in Australia, either by another member of the family or others. An applicant's statements could indicate that their child may be suffering abuse, for example, if they are a witness to family violence or if there is a history of violence. If officers have a suspicion about a child at risk, they do not need to accurately define the form of abuse they suspect. Officers should familiarise themselves with the information contained on the 'child safeguarding' page on Bordernet (<https://bordnet.immi.local/border-ops/policy/child-protection>) in order to respond to disclosures of child abuse and appropriately record and report any information in accordance with the 'reporting child-related incidents policy'.

13. Self-evaluation and self-care

Self-evaluation and reflection is important for interviewers to practice in order to maintain an open mind and sincerity when communicating with applicants. Also, to protect self against vicarious trauma. If multiple interviews are scheduled one after the other, officers should take a sufficient break to clear their minds of residual impressions from the previous interview.

Interviewers can consider the following after each interview:

- Were the aims and objectives of the interview met?
- Were there any aspects of the interview that could be improved?
- How could this improvement be achieved next time? Officers may wish to discuss different techniques and approaches with their supervisor.

Protection visa interviews can be challenging and emotionally draining on officers. It is important that officers take the time to debrief with a colleague or their supervisor after each interview and seek support from the [Employee Assistance Programme](#) (EAP) when needed.

In conjunction with EAP services, the Department's Fit and Well programme offers *MindWell* services to DIBP staff. *MindWell* offers two avenues of support:

- *Employee MindWell*: is focused on resolving an individual's mental health concerns with help from a qualified *MindWell* Consultant. The Consultant will discuss strategies to help build mental fitness and decide on a course of action. The programme aims to provide staff with a sense of direction in developing and maintaining their mental fitness.
- *Manager Mindwell*: is an advisory service for managers, team leaders and other individuals responsible for managing staff. *Manager Mindwell* is designed to assist with situations which involve issues with workplace communication, behaviours or performance.

For further information, please refer to the following [link](#) on Bordernet and [MindWell information sheet](#).

14. Further guidance

For further guidance, please refer to:

- Refugee and Humanitarian – Protection Visa Processing Guidelines
- Refugee and Humanitarian – Refugee Law Guidelines

15. Sources

The following sources were used in the development of this guidance:

- United Kingdom Home Office, 'Asylum Policy Instruction, Asylum interviews', March 2015.
- European Asylum Support Office, 'EASO Practical Guide: Personal interview', December 2014.
- STARTTS, 'The Effects of Refugee Trauma, Culture and Anxiety on the Interview Process' (Training handout for DIPB decision makers), 2014
- UNHCR, 'Interviewing Applicants for Refugee Status', 1995
- Steel, Zachary, Frommer, Naomi and Silove Derrick, 'The mental health impacts of migration: the law and its effects, Failing to understand: refugee determination and the traumatized applicant', 2004
- Mills Oakley panel firm, recording of a training delivered to PV case officers, 2016
- Child safeguarding, Bordernet <https://bordernet.immi.local/border-ops/policy/child-protection>
- Domestic and family violence, Bordernet <https://bordernet.immi.local/border-ops/policy/domestic-family-violence-client>
- Department of Human Services, 'Enough' (Family and Domestic Violence Package), 2016
- Monthly feedback from IAA, 2016, 2017
- New Intelligence, 'Art and Science of Interview, foundations PV decision makers' (Training participant guide), 2005
- 'Guidance Note on the Psychologically Vulnerable Applicant in the Protection Visa Assessment Process', prepared by UNHCR in consultation with a panel of Mental Health Experts, 2017.

The following areas of the Department were consulted:

- Humanitarian Program Operations Branch
- Humanitarian Program Capabilities Branch
- Health Policy Section
- Citizenship Support Section
- Student and Graduate Visas section
- Family Migration Programme Management Section
- 457 and Bridging Visa ABC Management Section

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- Community Programme Delivery Section
- ELO network.

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Protection visa interview pro forma

KEY FOR THIS PRO FORMA

- The *blue italicised text* is information to assist the interviewing officer and is not to be read to the applicant.
- **Black text** is information that is to be conveyed by the interviewing officer to the applicant.
- **Bolded black text** is a closed question the interviewing officer is to ask the applicant.
- The *[red italicised text in brackets]* is text that needs to be amended by the interviewing officer in light of the applicant's particular circumstances and subsequently read aloud, to the applicant.

BEFORE INTERVIEW COMMENCES

1. *Ensure that you have a copy of the relevant 'translated' version of the 'Important information about your protection visa interview' sheet (TRIM: ADF2016/5935) with you, before the start of the interview.*
2. *Introduce yourself.*
3. *Request that the applicant and any other person taking part in the interview, eg. support person, get their identity documents out, before the start of the interview.*

Released by Department of Home Affairs
under the Freedom of Information Act 1982

1. RECORDING OF THE INTERVIEW

I am recording this interview to make sure the Department of Home Affairs (the Department) has an accurate record of what we discuss.

Q. Do you consent to the Department making an audio recording of this interview?

If no, explore why the applicant does not want the interview to be recorded. Where possible, attempt to alleviate their concerns, as it is preferable to have a recording for review purposes. If the applicant still prefers not to have the interview recorded, then explain that the interview will not be recorded and that you will take notes.

If yes, start recording and turn on recorder.

2. INTERVIEW OPENING

Please confirm your consent to the Department making an audio recording of the interview.

The following is a record of interview held on [date/month/year] [in person at [location] / by [video conference/ telephone] at [interviewing officer location] and [applicant location]].

The time is [time].

My name is [interviewing officer's name]. I am an officer of the Department of Home Affairs. I am interviewing [applicant's name], who has applied for a [permanent Protection visa/ Temporary Protection visa/ Safe Haven Enterprise visa].

3. OTHER PERSON(S) IN THE INTERVIEW

<<START OPTION 1 – if applicant has representation or support person>>

Also [present at/ on the line for] the interview is the applicant's migration agent [name of agent] from [agency].

Also [present at/ on the line for] the interview is the applicant's support person [support person's name].

A copy of their identity document[s] is on TRIM file [CLF20XX/XXXX].

<<END OPTION 1 – if applicant has representation or support person>>

<<START OPTION 2 – if applicant has no representation or support person>>

You are participating in this interview without a migration agent or support person. Is that correct?

<<END OPTION 2 – if applicant has no representation or support person>>

<<START OPTION 3 – if no interpreter is required>>

You have told us you that you do not need an interpreter for this interview.

Q. Can you understand and speak English?

Q. Do you want to continue this interview in English?

If you do not understand something I am saying, or you do not know the English words to respond fully to a question, please let me know and I will reword the question.

<<END OPTION 3 – if no interpreter is required>>

<<START OPTION 4 - if an interpreter is required>>

We are using an interpreter in the *[name of language]* language to assist with the interview. The interpreter has been provided by *[name of interpreting provider]*, identity number *[interpreter ID number]*.

The interpreter is bound not to discuss any information they hear during this interview. The interpreter is only here to assist with language interpretation.

If you do not understand the interpreter, or you think they do not understand you, please let me know immediately by raising your hand.

Q. Do you understand the interpreter?

Q. Have you met the interpreter before?

If 'yes', ask where they have met the interpreter before.

Q. Do you have any objection to us using this interpreter for this interview?

If you do not understand anything that I say, please ask me to repeat or reword the question.

<<END OPTION 4 – if an interpreter is required>>

4. PROTECTION OBLIGATIONS

<<START OPTION 1 – general purpose of interview>>

The purpose of this interview is to ask you questions regarding your application for a protection visa and to give you the opportunity to provide further information in support of your application.

<<END OPTION 1 – general purpose of interview>>

<<START OPTION 2 – for TPV holders who have applied for a SHEV and an interview is required>>

The purpose of this interview is to ask you questions regarding your Safe Haven Enterprise visa (SHEV) application and to give you the opportunity to provide further information in support of your application. Whilst you were previously assessed as engaging Australia's protection obligations for a Temporary Protection visa, you have now applied for a SHEV and therefore your claims in this application need to be assessed.

<<END OPTION 2 – for TPV holders who have applied for a SHEV and an interview is required>>

Before this interview you were provided with an information sheet, called 'Important information about your Protection visa interview.' This information sheet includes an explanation of 'Australia's protection obligations'.

Q. Did you read and understand the information in this sheet?

If the applicant's answer is no, provide the applicant and the interpreter with a copy of the translated 'Important information about your Protection visa interview' sheet (ADF2016/5935) and give them an opportunity to go through the information. If an information sheet in the applicant's language is not available provide a description of the assessment process.

It is your responsibility to raise all your claims for protection and provide evidence in support of those claims. If your application is refused, you may not have another chance to provide further information to support your claims or to raise new claims.

Q. Do you have any questions about this interview?

5. CLIENT INFORMATION CHECKS

The officer who makes a decision on your application may not be me, and may decide your application without further contact with you.

Your personal information, including information you provide during this interview, will be treated with confidentiality and will only be given to officers of other agencies who are authorised and need to know this information. Details of your claims or any of your other personal information will not be given to the authorities in [insert country/ies] or the public.

6. IMPORTANCE OF PROVIDING COMPLETE AND TRUTHFUL INFORMATION

It is very important that you tell the truth and provide the Department with complete and accurate protection claims as early as possible, including during this interview. Giving false or misleading information to the Department is a serious offence under Australian law and may result in criminal penalties and the refusal of your visa.

If you would like to provide additional information to the Department as part of your protection visa application, or if you wish to correct some information you provided previously, please do so during the interview

Q. Is there anything in your application that you may like to add or change?

If yes – ask the applicant what information needs changing. You may also ask the applicant why they neglected to provide this information with their application. Record any new information and make amendments to the applicant's PV application, as necessary, ensuring that the applicant initials the changes after they have been interpreted back to them.

If no – continue to Part 7: Oath and Affirmation.

7. OATH AND AFFIRMATION - DISCRETIONARY

The applicant may be requested to make either an oath or affirmation. Provide the interpreter with a copy of the Oath and Affirmation translated sheet in the relevant language.

I am going to request that you make an oath or an affirmation.

An 'oath' is a solemn undertaking to tell the truth, referring to a god or religious belief.

An 'affirmation' is an undertaking to tell the truth, without referring to a god or religious belief.

You must choose whether you would like to make an oath or an affirmation. An oath or affirmation is treated as the same by the Department. It will make no difference to your application, whether you choose to make an oath or an affirmation.

We may question whether your claims can be believed, if you refuse to make an oath or affirmation.

Please answer 'Yes' or 'No' to the following question:

Q. Are you willing to make an oath or affirmation, that the information you have provided, or will provide to the Department is true?

You may wish to refer to section 91V(1) of the Migration Act 1958 (the Act), which provides that an officer may request the applicant to make an oral statement, on oath or affirmation, to the effect that the information provided by a protection visa applicant, is true.

Q. Do you want to make an oath or an affirmation?

<< START OPTION 1: Oath >>

I promise by *[almighty god/name of deity]* that the information I have provided, or will provide regarding my claim for protection is true and complete in every respect.

<<END OPTION 1: Oath >>

<<START OPTION 2: Affirmation >>

I solemnly and sincerely declare and affirm that the information I have provided, or will provide regarding my claim for protection is true and complete in every respect.

<<END OPTION 2: Affirmation >>

8. INTERVIEW

Refer to your interview plan and consider matters to be discussed, in order to assess whether the applicant engages Australia's protection obligations. This may include, but is not limited to, country of reference/receiving country, well-founded fear of persecution, effective protection measures, persecution, protection in another country, exclusion / ineligibility and character and security considerations.

I will now ask you some questions regarding the claims you have raised in your protection visa application.

9. RELEVANT (ADVERSE) INFORMATION

Under s57 of the Act, decision makers are required to give particulars of any information that is 'relevant information' to the applicant for comment. Decision makers must turn their mind to the definition of 'relevant information' under s57(1), before they put the information to, and invite the applicant to comment under s57(2), including when considering refusal under s91W or s91WA of the Act. See section 3.10.3 - 'Documentation pillar' in the Protection Visa Processing Guidelines.

<<START OPTION 1 – fast track applicants only - general invitation to comment on adverse information during the interview>>

I am required to put information to you for comment, where that information would be the reason, or part of the reason, for deciding that you are not eligible to have your decision reviewed by the Immigration Assessment Authority.

Provide the applicant with the adverse information.

You can provide further comments during this interview or within *[7 calendar days for applicants not in immigration detention / 3 working days for applicants in immigration detention]*. You should provide your comments *[in writing by email / post OR in person OR by telephone]* to *[address / location / phone number]*.

If you require more time to provide this information you must contact me *[in writing by email / post OR in person OR by telephone]* at *[address / location / phone number]* before the due date to request an extension.

<<END OPTION 1 – fast track applicants only - general invitations to comment on adverse information>>

<<START OPTION 2 – general invitation to comment on adverse information during the interview>>

I am required to put information to you for comment, where that information would be the reason, or part of the reason, for refusing to grant you a protection visa.

Provide the applicant with the adverse information

You can provide further comments during this interview or within *[7 calendar days for applicants not in immigration detention / 3 working days for applicants in immigration detention]*. You should provide

your comments *[in writing by email / post OR in person OR by telephone]* to *[address / location / phone number]*.

If you require more time to provide this information you must contact me *[in writing by email / post OR in person OR by telephone]* at *[address / location / phone number]* before the due date to request an extension.

<<END OPTION 2 – general invitation to comment on adverse information>>

Raise any other concerns or information you have, that may require the applicant's comments.

10. DOCUMENTARY EVIDENCE OF IDENTITY (s91W and s91WA) – requesting 'reasonable explanation'

Q. Do you have any identity documents with you today?

Examine any documents provided and ask whatever questions you may have about them.

<<START OPTION 1 – s91W opportunity to provide an explanation during an interview>>

On *[date]* you were requested in writing to produce documentary evidence of your identity, nationality or citizenship for inspection by an officer of the Department. When the request was made you were notified that you could not be granted a protection visa if you refused or failed to comply with the request or produced a forged or fraudulently obtained document in response to the request, unless you provide a reasonable explanation for doing so.

You have *[refused/ failed to comply with / produced a bogus document in response to]* this request. Therefore the grant of your protection visa is prevented by s91W of the Act, unless you have a reasonable explanation for *[refusing/failing to comply with the request / producing a bogus document]*.

Q. Please explain why you have *[refused / failed to comply with the request / produced a bogus document]*?

You can provide further explanation and information within *[7 calendar days for applicants not in immigration detention / 3 working days for applicants in immigration detention]*. You should provide this information *[in writing by email or post / in person / by telephone]* to *[address / location / phone number]*.

<<END OPTION 1 – s91W opportunity to provide an explanation>>

<<START OPTION 2 – s91WA opportunity to provide an explanation>>

You have *[destroyed or disposed of documentary evidence of your identity, nationality or citizenship / you have caused such documentary evidence to be destroyed or disposed of / you have provided a bogus document as evidence of your identity, nationality or citizenship]*.

The grant of your protection visa application will be prevented by section 91W of the Act unless you have a reasonable explanation for *[destroying or disposing of such documentary evidence/ causing such documentary evidence to be destroyed or disposed of / providing a bogus document as evidence]*

of your identity, nationality or citizenship] and either provide documentary evidence of your identity, nationality or citizenship, or demonstrate that you have taken reasonable steps to do so.

Q. Please explain why you have [produced a bogus document, destroyed or disposed of such documentary evidence, or caused such documentary evidence to be destroyed or deposited off]?

Q. Are you able to provide documentary evidence of your identity, nationality or citizenship?

Q. What steps have you taken to try provide documentary evidence of your identity, nationality or citizenship?

<<END OPTION 2 - s91WA opportunity to provide an explanation >>

Note: If the applicant has not previously been issued a s91W(1) request in writing, provide them with a s91W(1) request in writing, at the interview, ONLY if required.

11. INTERVIEW BREAK

I will now give you time to consider what we have discussed. Take this time to make sure we have covered everything you wish to talk about. I will *[turn off the recorder and leave the room / turn off the recorder]* during this time.

A break of at least ten minutes should be given, unless the applicant would like to commence sooner or requests a longer break

Turn recorder off.

For in-person interviews, if the applicant or their representative gives you or tries to give you any supporting documentation during the interview break while the recorder is off you will need to note it for the record (including whether you accepted the documentation) after you turn the recorder on.

12. INTERVIEW CLOSING

Turn recorder on.

Q. Do you have any comments in response to the concerns I have raised, or in regard to the information I have provided?

Q. Before we finish this interview, is there anything else you would like to say in regard to your protection visa application?

If the applicant answers 'no', you may provide them with an opportunity to put more evidence and submissions to you, in a prescribed manner.

Otherwise state:

Any additional information provided to the Department, before a decision is made on your application, will be considered.

I now conclude your interview.

The time is *[time]*.

Turn off recorder.

DRAFT



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Identifying and considering Protection visa applications that lack particulars of the applicant's protection claims or information relating to such claims

Section 5AAA(4) of the *Migration Act 1958* ('the Act') provides that the Minister is not obliged to specify, or assist in specifying, any particulars of a Protection visa (PV) applicant's claim or establish, or assist in establishing, the claim. Instead, under s5AAA(2), it is the responsibility of the applicant to specify the particulars of their claims and provide sufficient evidence in support of their claims.

There are some PV applications that lack particularised protection claims or sufficient information about such claims to enable an assessment of whether the applicant engages protection obligations to be made. In such circumstances, it may be determined, solely on the basis of the lack of particularised protection claims or information relating to such claims, that the applicant does not engage protection obligations and is therefore unable to satisfy the criteria in s36(2)(a) or s36(2)(aa) of the Act.

When determining whether an application lacks particularised protection claims or sufficient information relating to such claims to enable an assessment of the relevant criteria to be made, the decision maker must still consider the application in its entirety. Therefore, they must consider and evaluate all facts and claims, including any claims that are not expressly raised by the applicant but which clearly arise on the material before them, such as the applicant's religion, ethnicity or profession. For example, if an applicant states in their application form that they belong to a minority religious or ethnic group and country of origin information (COI) indicates that it is a group which might be facing persecution or discrimination, this must be considered by the decision maker along with the claims that are made by the applicant. Any supporting documents provided with the application must also be considered.

Applications where it may be appropriate to find that the applicant does not engage protection obligations due to a lack of particularised protection claims or information about such claims will usually have at least one of the following features:

- the claimed source of persecution or significant harm is defined in very vague terms so that it is not possible to identify them, even after conducting COI searches,
- the applicant claims fear of a particular type of harm (eg. being killed, being beaten) but does not specify why they fear that harm or the person or organisation that will be its source, or
- the reason(s) provided by the applicant for not wanting to return to their home country is/are not based on any fear of harm.

A finding that a PV applicant does not engage protection obligations, where their application lacks particularised protection claims or information about such claims, may be made without interviewing the applicant or seeking further information in writing.

However, the decision maker must still comply with the procedural fairness requirements in Subdivision AB of Part 3 of the Act. Therefore, before assessing whether a PV applicant engages protection obligations and making a decision, they should consider whether it would be appropriate to seek further information from the applicant under s56 of the Act. For guidance on some of the provisions in Subdivision AB of Part 3, including s56, refer to the Protection Visa Processing Guidelines in Part 10 – Further information/comment and procedural fairness requirements.

Use of social media in PV decision making FAQ and Reference Guide


1. What is social media? What is open source information?

Social media refers to websites and other online means of communication that are used by large groups of people to share information and to develop social and professional contacts.

Open source information refers to external data sources or information that is publicly available and not classified. This can include information that can be obtained by purchase, through a relationship, or through publicly accessible platforms such as media content or the internet.

2. Why do we use social media?


s. 47E(d)



However, information sourced from social media has a range of limitations. The accuracy of information on social media can vary, and as such there is a need to stringently quantify its veracity for use in influencing a decision. Access to information may also be limited due to security settings on an applicant's social media profile.

3. How to use social media

s. 47E(d)



Refer to policies in the links below on how to create, use, manage and when to delete an online persona.

4. How to present adverse information located through social media to the applicant

Information obtained through social media can and should be presented to the applicant if:

- It is adverse and relates specifically to the applicant; and
- Creates concerns over their credibility (either of their claims and/or their identity) or contradicts the applicant's claims; or
- Will be referenced in the decision record for any reason as part of an adverse finding

This information must be treated as *relevant information* in line with s57 of the Migration Act.

This means that you must give the applicant an opportunity to comment of the information whether at interview or in writing through a s57 letter. Relevant response timeframes are outlined in Reg 2.15 – 7 days for invitation to respond at interview, 14 days when invitation is provided in writing.

Note however, there is no need or obligation to inform the applicant of the source of the information.

5. How do we record and store social media information?

s. 47E(d)

Social media sites change over time, and information used to support an assessment can be removed or changed. s. 47E(d)

Note: s. 47E(d)

. Staff must abide by the applicable departmental standards and policies on removable media outlined in the [ICT Security Guidelines - Removable Media – July 2014](#).

6. How to reference social media in a decision record

If information sourced from social media will be referred to in the decision record, s. 47E(d)

7. Dos and Don'ts of social media use in decision making

DO	DON'T
s. 47E(d)	Assume all information on social media is accurate, reliable and true
	Draw adverse conclusions from the information presented until you have a full explanation from the applicant

s. 47E(d)	Consider social media content as hard evidence
	Reference information located on social media in your decision record if it has not been presented to the applicant for comment
	Engage with an applicant in any way through social media (friend, chat, comment or like posts, etc)
	Communicate, message, 'like', share or post anything on Facebook via the persona.
	s. 47E(d) any social media information that is not relevant to the decision
	Refer any social media information that is not relevant to the decision to the IAA or AAT.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Document 6

Protection Assessment Team



VACCU

s. 47E(d), s. 37(2)(b)

Yes-transfer to
Protection Assessment team

No.
Adverse security assessment.
Transfer to Protection Assessment team

Refuse - PIC 4003A not
met

Refuse - s36(1B) not
met

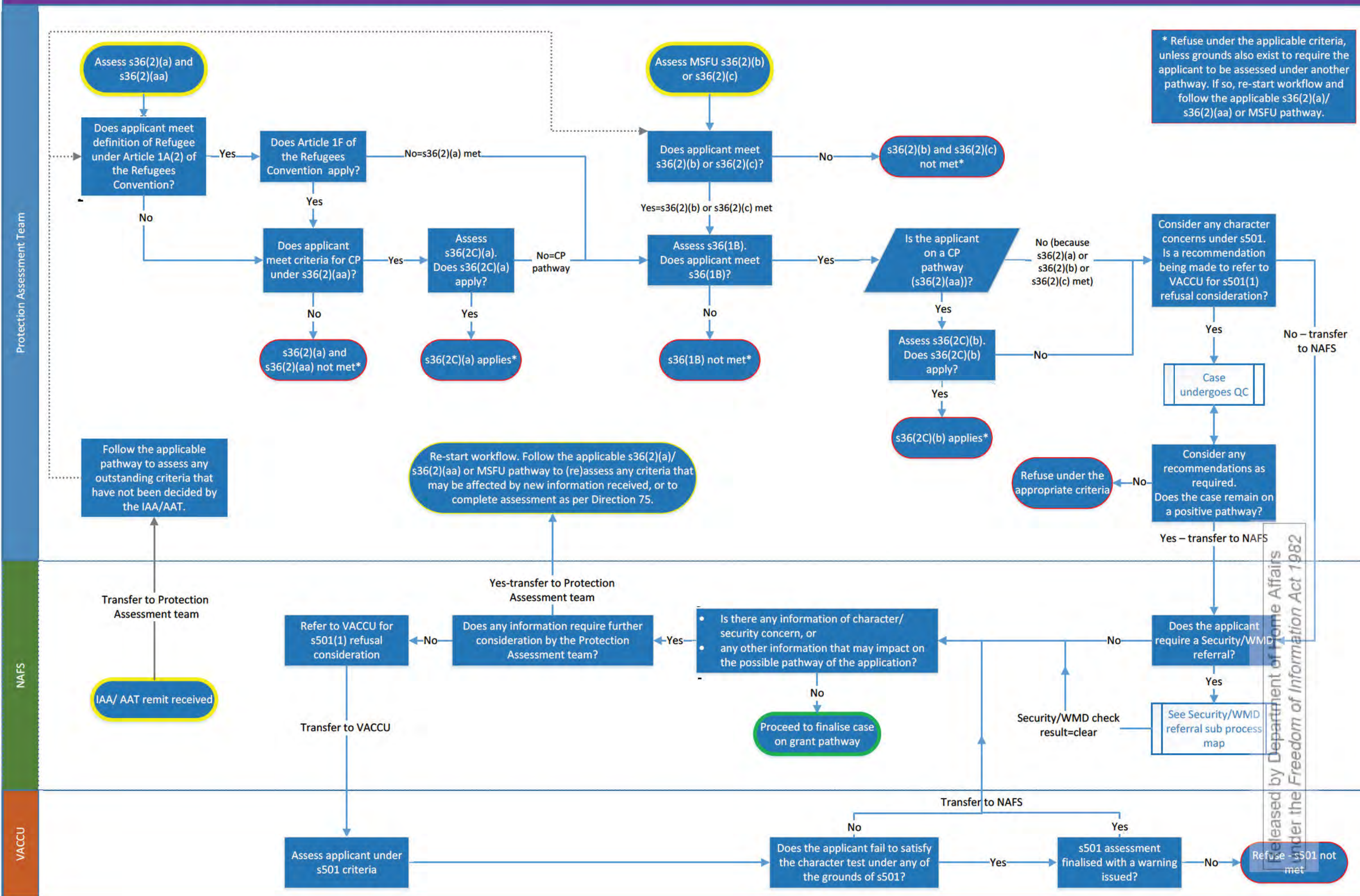
Re-assess case based on information
in QSA, in accordance with procedure
at ADD2018/1588076

Protection Assessment team

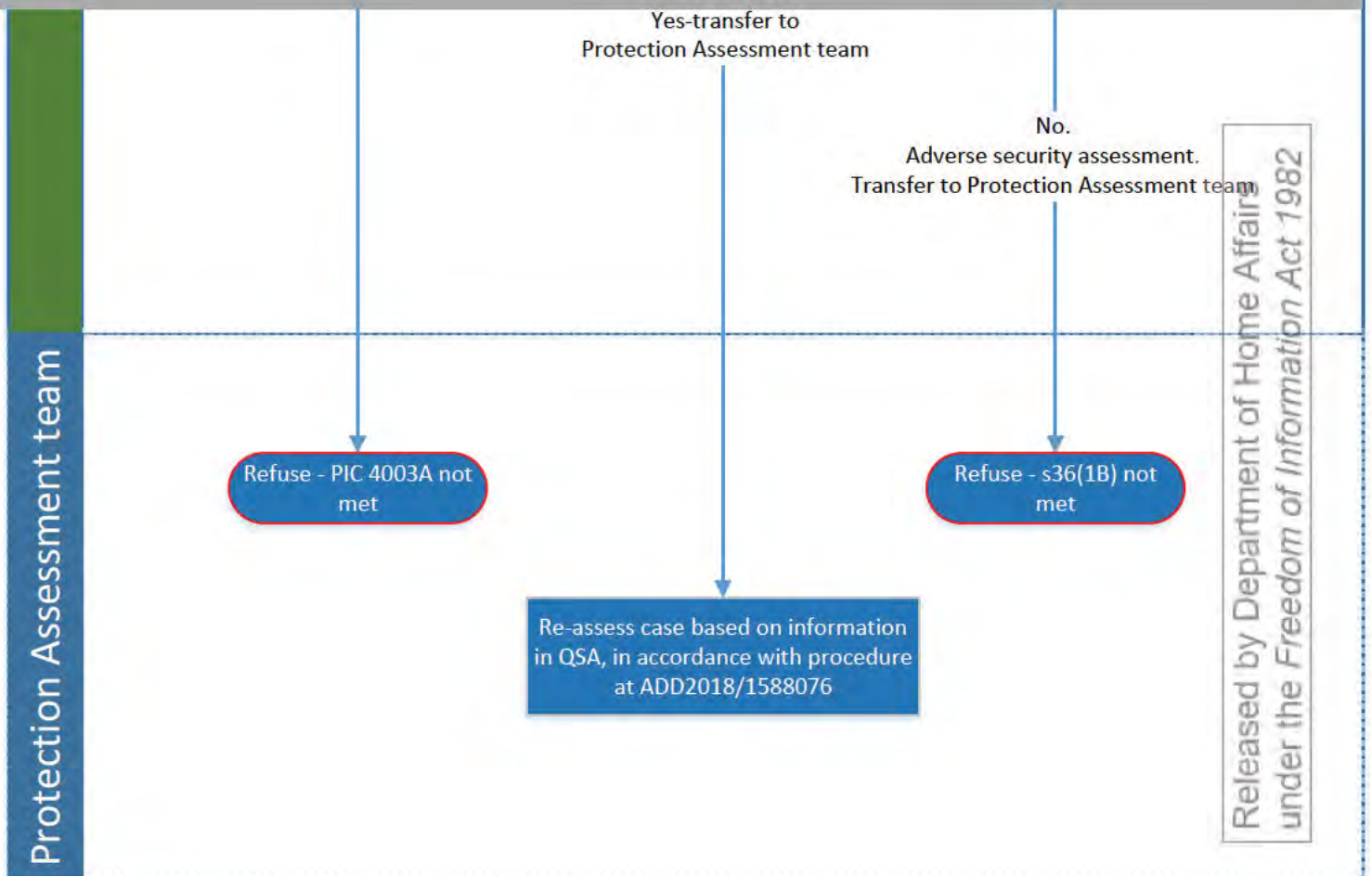
Released by Department of Home Affairs
under the Freedom of Information Act 1982

Flow chart for cases continuing on a positive pathway, for Protection visa applications made BEFORE 18 April 2015.

NOTE: This chart provides a simplified overview of the steps involved for cases continuing on a positive pathway. The detailed steps required to process a case on a refusal pathway are out of scope of this chart. Decision makers must ensure that all assessment criteria described in relevant policies and procedures are considered before refusing a protection visa application.



s. 47E(d), s. 37(2)(b)





Section 499 Direction No.75 and its interaction with the RALC Act – additional guidance

The *Migration and Maritime Powers Legislation (Resolving the Asylum Legacy Caseload) Act 2014* (the RALC Act) introduced a range of provisions into the *Migration Act 1958*, including provisions referred to in Ministerial Direction No. 75. Part 2 of Schedule 5 of the RALC Act had the effect of codifying Australia's obligations under the Refugee Convention and other International Conventions into the *Migration Act 1958*. These provisions commenced on 18 April 2015. Certain provisions relating to the assessment of protection visa applications do not apply to applications made before that date.

Protection visa applications made on or after 18 April 2015

These cases must be assessed according to Direction 75, as outlined in:

- Ministerial Direction 75
- PVPGs section 4.54.3
- The flow chart for cases continuing on a positive pathway (Post-RALC) at ADD2019/2366163.

Where Protection Obligations Decision Makers (PODMs) have considered the available guidance and, following discussion with their manager, require further advice in relation to the application of Direction 75, they should forward their query to the Protection Visa Helpdesk: s. 22(1)(a)(ii)

Protection visa applications made prior to 18 April 2015

Because s36(1C) was introduced into the Migration Act by the RALC Act on 18 April 2015, s36(1C) must not be assessed for any applications made before that date.

1. Where a decision maker is satisfied an applicant is owed protection because they meet the definition of a refugee and they are not excluded (meets s36(2)(a)), or is satisfied Australia has protection obligations on complementary protection grounds under s36(2)(aa), then all applicable elements of Direction 75 except s36(1C) must be considered.
2. In addition to s36(1C), the RALC Act introduced a number of other provisions which amended the assessment criteria for s36(2)(a) for all protection visa applications made on or after 18 April 2015. Most applications made prior to 18 April 2015 should be finalised. However in the unlikely event that a PODM has an application that was made before 18 April 2015, and where the assessment of s36(2)(a) has not been conducted or is not complete (e.g. exclusion criteria have not been assessed), an assessment of s36(2)(a) will need to be conducted in accordance with the legislation that was in effect at the time the application was made.

Typically, this will require a determination as to whether the applicant meets the definition of a refugee as defined in Article 1A of the Refugee Convention. The flow chart for cases continuing on a positive pathway for pre-RALC applications at ADD2019/2366149 provides an overview. It is suggested that if a case is any more complex than as indicated in the 'pre-RALC' flowchart, it should be referred to the Protection Visa Helpdesk: s. 22(1)(a)(ii)