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Medically Incapable UMAs and PV Applicants

STANDARD OPERATING PROCEDURE

Process for managing people who are medically incapable of applying for a protection visa or participating in the protection visa assessment process

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1. Purpose

The purpose of this Standard Operating Procedure (SOP) is to provide procedural guidance for resolving the cases of persons who:

- are medically incapable¹ of applying for a protection visa (PV) where there are indications that they have protection claims;
- have lodged a PV application and are medically incapable of participating in the PV assessment process; or
- are Temporary Protection visa (TPV) or Safe Haven Enterprise visa (SHEV) holders who are medically incapable of:
 - lodging a subsequent TPV or SHEV application, or
 - participating in the reassessment process.

This SOP provides procedures for assessing Australia's protection obligations for these cases.

2. Scope

2.1. In Scope

This SOP is intended to assist in resolving the status of persons who are incapable of applying for a protection visa or participating in the protection visa assessment process for medical reasons, where there are indications they have protection claims (for example a person may have indicated they are seeking protection in their entry/screening interview with the Department). This SOP is also intended to assist in resolving the status of TPV or SHEV holders who are medically incapable of applying for a subsequent TPV or SHEV or participating in the reassessment process. Therefore, this SOP provides procedures for status resolution officers and PV decision makers to follow to facilitate the lodgement of PV applications or subsequent PV applications for these persons so that Australia's protection obligations can be assessed for them.

2.2. Out of Scope

This guidance does not cover status resolution activities that may occur after a decision on a PV application is made or activities related to the provision of support services to applicants.

This guidance also does not apply to:

- minors,
- vulnerable people who are assessed as medically capable of making reasonable decisions,
- people who are medically incapable and there are no indications that they may have protection claims, or
- people who refuse to engage with the Department.

3. Procedure to determine capacity

3.1. Identifying potential incapacity

A non-citizen may be identified as potentially medically incapable of engaging with the Department at any stage after arriving in Australia. Information indicating a possible medical incapacity could come from a range

¹ For the definition of the term 'medically incapable' refer to the Glossary on page 3.

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of sources, including a Status Resolution Support Services (SRSS) provider, medical reports, a migration agent, an officer of the Department of Home Affairs or a member of the public.

Some conditions that may indicate a person's incapacity to make decisions and participate in the PV process (lodgement and assessment) include:

- acquired brain injury (for example as a result of an accident or a stroke)
- a severe intellectual disability
- significant cognitive impairment
- severe enduring mental health condition such as severe clinical depression or schizophrenia.

Indicators of medical incapacity may include:

- repeated inability to understand the nature and consequences of a decision,
- inability to freely and voluntarily make decisions,
- demonstrated difficulty with recall or sustained memory loss,
- regularly appearing disoriented or erratic,
- that the person is receiving long term care or treatment for a serious medical condition at a hospital or a care facility, or
- that the person has been allocated a guardian by the relevant state or territory administrative body,

even if there are no issues with understanding the language being spoken to them, such as:

- an ongoing inability to communicate, or
- a repeated inability to understand questions

These indicators point to the need for further investigation but they are not exhaustive or conclusive so should **not** be used as grounds for determining that the person is medically incapable. The entirety of the person's circumstances should be considered when determining whether they may be medically incapable, as a combination of factors may affect an individual's capacity to engage with the Department.

3.2. Escalating the case

Once an incapacity issue has been identified the person should be allocated a Status Resolution Officer (SRO). If a person already has a SRO, the officer who becomes aware of a potential medical incapacity of an unauthorised maritime arrival (UMA) who is seeking protection or a PV applicant must ensure the SRO is aware of the issue. The SRO should then notify others who may have an involvement in the case, including but not limited to:

- the Sensitive Cases Register Team, managers of the Protection Sensitive Case Register (at [s. 22\(1\)\(a\)\(ii\)@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au))
- Complex Case Resolution Section (CCRS) (at [s. 22\(1\)\(a\)\(ii\)@border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)),
- the IAAAS provider or migration agent for the applicant, or
- the SRSS provider.

3.3. Seeking medical evidence of incapacity

Once a capacity issue has been identified, the SRO should seek medical evidence of the person's incapacity. Medical evidence of incapacity in most cases will be a written medical report completed by a specialist medical professional stating that the person is not capable of making reasonable judgements and decisions. In some cases, the Department may already have sufficient evidence of a person's incapacity. For details of what constitutes sufficient evidence, refer to Medical Evidence for guardianship applications below.

If the person has been allocated a guardian by the relevant state or territory administrative body, further medical evidence is not needed. For procedures to follow to confirm whether the guardianship powers cover immigration matters, refer to subsection 5.1.1 - Condition permanent - appoint guardian.

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Held Detention

If the person is in held detention the SRO should seek medical evidence from the International Health and Medical Services (IHMS) provider.

Community

If the person is in the community or under a residence determination arrangement (community detention) the SRO should seek medical evidence from a qualified medical specialist. Where the person is accessing Status Resolution Support Services (SRSS) the SRO should engage with the SRSS provider who can provide assistance in organising an appointment and assist the person to attend the appointment.

Who can conduct a medical assessment

Evidence of medical incapacity from a qualified medical specialist² in the appropriate field should be obtained for persons in detention or the community.

Evidence of mental incapacity may be provided by a:

- psychiatrist who is a fellow of the Royal Australian and New Zealand College of Psychiatrists, or
- specialist who is a fellow of the Australian Society of Psychological Medicine, or
- psychologist who is registered with the Psychology Board of Australia, has a practice endorsement in an area relevant to the medical problem, and is registered with Medicare for these purposes. Examples of psychologists who are likely to have a relevant area of practice endorsement are clinical psychologists, forensic psychologists and clinical neuropsychologists.

The specialist's qualifications can be confirmed by using the credentials which appear on the medical certificate or by contacting the specialist concerned. For example, a psychiatrist who is a fellow of the Royal Australian and New Zealand College of Psychiatrists should have FRANZCP on the evidence provided.

Accessing specialists in rural and regional areas should be addressed on a case by case basis. In some instances, where accessing specialists may not be a viable option, the SRO could obtain medical evidence from a general practitioner who is a fellow of the Australian College of Rural and Remote Medicine.³

Medical assessment - evidentiary requirements for determining incapacity

The medical assessment should:

- include information about the capability of the person to make reasonable judgments and decisions
- include a diagnosis of the person's medical condition and how this affects the person's capacity to make decisions
- provide advice regarding the permanency of the condition, treatment and the timeframe for recovery (if any)

Note: A medical report by a specialist is also needed when applying for guardianship. To avoid multiple appointments to gather the required information, if the specialist assesses a person to be incapable of making reasonable judgements and decisions, it is recommended that the specialist either completes or considers the medical report form of the relevant State or Territory administrative body (see Table 1) when writing their report. These medical report forms include the required information for a guardianship application, which is the same information the Department requires when assessing incapacity.

² The specialist must be a fellow of a specialist organisation as defined in Schedule 4 of the *Health Insurance Regulations 1975* (which may be found on the AustLii website (www.austlii.edu.au/) or the Federal Register of Legislation website (www.legislation.gov.au).

³ This medical evidentiary requirement has been adopted from the Citizenship programme. It is currently being used for citizenship applicants who have a permanent or enduring physical or mental incapacity. See 'Permanent or enduring physical or mental incapacity' in Citizenship Policy.

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Permanent or enduring incapacity

Incapacity may be permanent or enduring. An enduring incapacity is one for which there cannot be predicted recovery or, where there may be predicted recovery, the incapacity is long-term and it would be unreasonable to expect the person to recover enough to participate in the PV application and assessment process. If a person's condition is not assessed to be permanent or enduring, refer to subsection 5.1.4 – Condition temporary - wait until recovered.

Guardianship application

If the medical specialist advises that the person has a permanent or enduring incapacity, the appointment of a guardian to act on the person's behalf for the resolution of the person's immigration status should be considered.

Medical evidence for guardianship applications

All applications for guardianship orders must be accompanied by medical evidence, which is predominantly provided in the form of a medical report. Evidentiary requirements of capacity for a guardianship application differ between the States and Territories. It is recommended that the SRO ask the specialist to either completed or considered the medical report form from the relevant State or Territory administrative body during the initial medical assessment. These forms contain the required information for guardianship applications. The following table provides details of the relevant medical report form for each State and Territory and of whether the completion of the form is compulsory.

Table 1

State or Territory administrative body	Form	Form Compulsory?	Other evidence accepted
New South Wales Civil and Administrative Tribunal (NCAT)	Health Professional Report Form - Attachment A	No	NCAT will also accept evidence containing the information in an alternative format for example as a report, statement, statutory declaration or affidavit.
Queensland Civil and Administrative Tribunal (QCAT)	Report by Medical and Related Health Professionals - Attachment B	No	QCAT will accept evidence in an alternative format as long as it contains all the relevant information requested in the Report by Medical and Related Health Professionals form.
Victorian Civil and Administrative Tribunal (VCAT)	Guardianship List Medical Report - Attachment C	No	VCAT will accept other evidence if it is recent and provides the information sought in the Guardianship List Medical Report form.
State Administrative Tribunal (SAT), Western Australia	Medical Report - Attachment D	No	SAT will accept evidence in an alternative format as long as it contains all the relevant information asked in the Medical Report form.
Northern Territory Civil and Administrative Tribunal (NCAT)	Report by Medical Practitioner or other Health Practitioner - Attachment E	No	NTCAT will accept evidence in an alternative format as long as it contains all of the information requested in the Report by Medical Practitioner or other Health Practitioner form.

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South Australian Civil and Administrative tribunal (SACAT)	Medical or Psychological Report Form - Attachment F	No	SACAT will accept an alternative medical report if it is recent and covers the same criteria as the Medical or Psychological Report Form.
ACT Civil and Administrative Tribunal (ACAT)	Nil	No form required	Application must be accompanied by a medical report which details: – the full name, qualifications and contact details of the medical practitioner conducting the assessment – a diagnosis of the person's condition – how the person's condition affects their capacity to understand and make decisions about their personal circumstances – whether the persons is capable of making reasonable decisions freely and voluntarily – the impairment(s) that affect the person's receptive or expressive communication – the extent the person appreciates the consequences of a decision or lack of decision.
Guardianship and Administration Board, Tasmania	Health Care Professional Report - Attachment G	Yes	n/a

4. UMAs barred from lodging a valid application

If aUMA does not have a valid application with the Department and is barred from lodging a TPV or SHEV application but has been identified as potentially having a medical incapacity, the SRO should discuss the case at the relevant Detention Review Committee or Community Review Committee meetings and consider raising it for discussion in the National Case Conferencing Forum. They may also seek advice about status resolution options from Complex Case Resolution Section.

5. Assessing protection obligations

Note: If an application for a PV has not been lodged, refer to section 5.1 - No application lodged. If an application for a PV has been lodged, refer to section 5.2 - Application on hand.

5.1. No application lodged

Note: If the incapacity is found to be permanent or enduring, refer to subsections:

- 5.1.1 - Condition permanent - appoint guardian,
- 5.1.2 - Application assessment, and
- 5.1.3 - Visa granted or refused.

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If the incapacity is considered temporary, refer to subsection 5.1.4 – Condition temporary - wait until recovered.

5.1.1. Condition permanent - appoint guardian

Where there is an indication that a person may have protection claims and the person's condition is permanent or enduring, the Department can apply for the appointment of a guardian who can act on the person's behalf for the resolution of their immigration status, including making decisions on whether to lodge a PV application. A guardian may be a friend or relative of the medically incapable person. If there is no suitable person such as a friend or relative, the Tribunal can appoint the Public Advocate as a guardian.

Guardianship applications are managed by Civil Litigation and Compensation (CLCS) on behalf of the Department. The SRO should refer the case to CLCS and include the medical evidence of the person's incapacity (refer to Medical evidence for guardianship applications) and any information known to the Department about interested family members or friends who the relevant Tribunal may consider appointing as guardian. CLCS will assess the matter and where appropriate, appoint an External Legal Services Provider to represent the Department in the application for legal guardianship. CLCS will provide regular updates on progress to the SRO. If the SRO has particular concerns about the person's broader welfare that might indicate a guardian is needed for other matters, such as financial and healthcare, this should be raised when referring the case to CLCS.

Once a guardian has been appointed, CLCS will notify the SRO and provide the SRO with the outcome and any relevant details. If the person already has a guardian, CLCS will assist the SRO to source advice in relation to whether the guardianship powers cover immigration matters.

Appointing a guardian for immigration matters ensures that the best interests of the medically incapable person are considered each time a decision is made on their behalf and assists the Department to comply with any procedural fairness obligations.

A guardian can consent to the appointment of a migration agent if the applicant does not already have one; apply for a visa on the applicant's behalf; and, where needed, engage with the Department in relation to section 56 of the Act invitations for further information or section 57 of the Act invitations to comment on adverse 'relevant' information.

5.1.2. Application assessment

When assessing PV applications of medically incapable applicants a flexible approach to assessing protection obligations should be adopted. This may involve a closer examination of their background by using any outside sources of information that are available to the Department. If the medically incapable applicant arrived in Australia with a group of asylum seekers from the same country and region, the case officer should consider that they are likely to have been subject to similar treatment or shared a similar experience in their home country. Other information that is available to the Department, such as country information, entry interviews or previous applications should also be considered when assessing the application.

Medical Claims

The onus is on the applicant (or their guardian) to make out all claims for protection. However, the decision maker needs to consider all integers of a claim, even if they have not been expressed as such by the applicant (or guardian) but can be inferred from the circumstances known and information provided. Therefore, any information about the applicant's medical condition that is before the Department must be considered as part of their protection claims, otherwise there may be the risk of jurisdictional error.

The PV officer should address whether an applicant has a well-founded fear of persecution or a real risk of significant harm under section 36(2)(a) or 36(2)(aa) of the Act (either under the refugee assessment or complementary protection assessment) if returned to their home country as a result of their medical condition.

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Interview

If a PV applicant is assessed to be medically incapable of reasonable making decisions it would not be appropriate to interview them. If needed, PV officers can issue an invitation in writing to the guardian to provide additional information (under section 56 of the Act) or comment on adverse 'relevant' information on behalf of the applicant (under section 57 of the Act). Under the Department's current policy, in most cases, a PV interview should not be conducted where it is possible to make a decision based on information available to the Department, including information in the application.

5.1.3. Visa granted or refused

The PV officer will advise the SRO of the outcome of the visa decision. Where the applicant is refused a PV, the SRO may discuss the case at the relevant Detention Review Committee/ Community Review Committee meetings and consider raising it for discussion in the National Case Conferencing Forum. They may also seek advice about status resolution options from Complex Case Resolution Section.

5.1.4. Condition temporary – wait until recovered

There may be circumstances where a person's incapacity is temporary and, with appropriate treatment, the person may be able to participate in the PV assessment process. In such circumstances, the SRO should obtain updates from the medical professional every three months.

Where the person's recovery is prolonged or progress is slow, for example recovery is expected to take over six months, the SRO should consider proceeding with applying for guardianship by following the procedures in subsections:

- 5.1.1 - Condition permanent - appoint guardian,
- 5.1.2 - Application assessment, and
- 5.1.3 - Visa granted or refused.

5.2. Application on hand

An applicant may be identified as being medically incapable of participating in the PV assessment process after they have lodged a PV application or, if a TPV or SHEV holder, during reassessment.

If medical evidence confirms the incapacity is permanent or enduring and there are no procedural fairness matters, the procedures in subsection 5.2.1 - Condition permanent - no procedural fairness matters should be followed.

If the incapacity is permanent or enduring and there are procedural fairness matters, the procedures in subsection 5.2.2 - Condition permanent - procedural fairness matters should be followed.

If medical evidence states that the medical incapacity is temporary, the procedures in subsection 5.1.4 - Condition temporary - wait until recovered should be followed.

5.2.1. Condition permanent – no procedural fairness matters

Where there is no adverse 'relevant information' which must be put to the applicant for comment under section 57 of the Act, and there is sufficient information available to the PV officer to make a decision, the PV officer can proceed to making a decision on the application without applying for a guardian. For more information, refer to subsections:

- 5.1.2 - Application assessment, and
- 5.1.3 - Visa granted or refused.

OFFICIAL**5.2.2. Condition permanent – procedural fairness matters**

Where additional information is required in order to make a decision or adverse 'relevant information' (under section 57 of the Act) must be put to the applicant for comment, the appointment of a guardian to act on the person's behalf should be considered. For more information, refer to subsections:

- 5.1.1 - Condition permanent - appoint guardian,
- 5.1.2 - Application assessment, and
- 5.1.3 - Visa granted or refused.

6. What happens if this Standard Operating Procedure is not followed?

SOPs are issued under the Policy and Procedure Control Framework are lawful and reasonable directions under section 13(5) of the *Public Service Act 1999*. For departmental employees and Australian Public Service employees seconded to the Department, failure to comply with this SOP may be referred as a breach of the Code of Conduct and may result in disciplinary action being taken.

For other secondees, contractors and consultants, failure to comply may constitute a breach of the working agreement, contract and/or a direction under the *Australian Border Force Act 2015*.

7. References and legislation

For more information about matters covered in this SOP, refer to:

- the Protection Visa Processing Guidelines - PI (VM-4825),
- the Refugee Law Guidelines - PI (LS-1814), and
- the Complementary Protection Guidelines - PI (LS-1815).

8. Accountabilities and Responsibilities

Role	Description
Protection Assurance and Assessment Support Section	Responsible for: • ensuring this SOP remains current and accurate; • identifying and drafting updates as required; and • obtaining legal, PPCF and document owner clearance for updates.
Protection visa officers	Complying with all lawful and reasonable directions contained in this SOP.

9. Version Control

Version number	Date of issue	Author(s)	Brief description of change
01	15 June 2017	Protection Assessment Support Section	New Standard Operating Procedure issued.

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Version number	Date of issue	Author(s)	Brief description of change
02	26 October 2017	Protection Assessment and Learning Support Section	Minor changes to this Standard Operating Procedure.
03	27 September 2024	Protection Assurance and Assessment Support Section	Amendments to this SOP needed because of merits review changes and other legislative changes commencing 14 October 2024.

Attachment A – Definitions

Term	Acronym(s) (if applicable)	Definition
ACT Civil and Administrative Tribunal	ACAT	ACAT deals with a broad and diverse range of matters in the Australian Capital Territory, including decisions on guardianship.
Status Resolution Officer	SRO	SROs work with persons to assist them in resolving their immigration status. SROs are alert to issues which may impede status resolution and engage with relevant stakeholders and service providers to remove or reduce barriers to achieving an immigration outcome.
Civil Litigation and Compensation Section	CLCS	CLCS manages guardianship applications on behalf of the Department.
International Health and Medical Services	IHMS	IHMS is contracted by the Commonwealth of Australia, represented by the Department of Immigration and Border Protection, to provide primary and mental health care services within the Australian and offshore detention network.
Immigration Advice and Application Assistance Scheme	IAAAS	IAAAS gives free migration advice and visa application assistance to people who meet specific criteria.
Unauthorised maritime arrival	UMA	Under s5AA of the Act, a UMA is a person who: - entered Australia by sea at an excised offshore place at any time after it was excised; or - entered Australia by sea at any other place on or after 1 June 2013; and - became an unlawful non-citizen because of that entry. Under s5AA(1A), a person born in the migration zone or, under s5AA(1AA), a person born in a regional processing country to a parent who was a UMA at the time of their birth is also a UMA, provided they were not an Australian citizen when born.
Medically Incapable person		For the purposes of this standard operating procedure, a 'medically incapable person' is a person who lacks the mental or physical capacity to apply for a Protection visa or participate in the Protection visa assessment process and there is medical evidence from a qualified specialist to support this.

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Term	Acronym(s) (if applicable)	Definition
New South Wales Civil and Administrative Tribunal	NCAT	NCAT deals with a broad and diverse range of matters in New South Wales, including decisions on guardianship.
Northern Territory Civil and Administrative Tribunal	NTCAT	NTCAT deals with a broad and diverse range of matters in the Northern Territory, including decisions on guardianship.
Onshore		In Australia (specifically, in the migration zone).
Protection visas		There are three types of protection visas: - Persons who are not unauthorised maritime arrivals, have never held a temporary protection visa and held a visa that was in effect on their last entry into Australia are eligible to make applications for a Protection (Subclass 866)(Class XA) visa. - Persons who arrived in Australia as unauthorised maritime arrivals are only eligible to make applications for a Temporary Protection (Subclass 785) (Class XD) visa or a Safe Haven Enterprise (Subclass 790) visa (Class XE).
Queensland Civil and Administrative Tribunal	QCAT	QCAT deals with a broad and diverse range of matters in Queensland, including decisions on guardianship.
Section 56 of the Migration Act 1958		Section 56 of the Act provides that when considering an application for a visa the decision maker may invite the applicant to provide further information orally or in writing. This includes the discretion to invite an applicant to provide additional information in a specified way.
Section 57 of the Migration Act 1958		Provides that information which is relevant information must be given to applicant. Under s57(1), <i>relevant information</i> means information (other than non-disclosable information) that the Minister considers: (a) would be the reason, or part of the reason for refusing to grant a visa; and (b) is specifically about the applicant or another person and is not just about a class of persons of which the applicant or other person is a member; and (c) was not given by the applicant for the purpose of the application. Under s57(2), the Minister must give particulars of the relevant information to the applicant in the way the Minister considers appropriate in the circumstances, ensure (as far as possible) that the applicant understands why the information is relevant, and invite the applicant to comment on it.
South Australian Civil and Administrative Tribunal	SACAT	SACAT deals with a broad and diverse range of matters in South Australia, including decisions on guardianship.
State Administrative Tribunal	SAT	SAT deals with a broad and diverse range of matters in Western Australia, including decisions on guardianship.
Status Resolution Support Services	SRSS	The SRSS programme provides services to certain non-citizens while they cooperate with the Department to resolve their immigration status.

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Term	Acronym(s) (if applicable)	Definition
Guardianship and Administration Board, TAS		The Guardianship and Administration Board deals with a broad and diverse range of matters in Tasmania, including decisions on guardianship.
Victorian Civil and Administrative Tribunal	VCAT	VCAT deals with a broad and diverse range of matters in Victoria, including decisions on guardianship.

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Attachment B – Assurance and Control Matrix

1.1 Powers and Obligations

Note: Staff exercising any powers, delegations or authorisations outlined in this SOP (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this power delegated?	If delegated, state the relevant instrument of delegation
Legislation	Reference (section)	Section heading/provision description		
<i>Migration Act 1958</i>	s5(1)	Definitions of terms	No	
<i>Migration Act 1958</i>	s5H(1)	Meaning of <i>refugee</i>	No	
<i>Migration Act 1958</i>	s5H(2)	Ineligibility for a PV - grounds for an applicant not to satisfy the criterion in s5H(1)	No	
<i>Migration Act 1958</i>	s5J(1)	Meaning of <i>well-founded fear of persecution</i>	No	
<i>Migration Act 1958</i>	s36(2)(a)	Criterion for a PV - refugee criterion	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>
<i>Migration Act 1958</i>	s36(2)(aa)	Criterion for a PV - complementary protection criterion	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>
<i>Migration Act 1958</i>	s36(2A)	Definition of significant harm	No	

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Legislative Provision			Is this power delegated?	If delegated, state the relevant instrument of delegation
Legislation	Reference (section)	Section heading/provision description		
<i>Migration Act 1958</i>	s36(2B)	When there is taken not to be a real risk of significant harm		<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>
<i>Migration Act 1958</i>	s36(1C)	Ineligibility for grant of a protection visa	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>
<i>Migration Act 1958</i>	s36(2C)(a)	Ineligibility for grant of a protection visa - grounds for an applicant not to satisfy the criterion in s36(2)(aa)	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>
<i>Migration Act 1958</i>	s36(2C)(b)	Ineligibility for grant of a protection visa - further grounds for an applicant not to satisfy the criterion in s36(2)(aa)	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>

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Legislative Provision			Is this power delegated?	If delegated, state the relevant instrument of delegation
Legislation	Reference (section)	Section heading/provision description		
<i>Migration Act 1958</i>	s36A	Consideration of protection obligations	Yes	<i>Migration (Minister) (Protection visa decisions) Delegation 2021 (ADMIN 21/054)</i>
<i>Migration Act 1958</i>	s65(1)	Power to grant, or refuse to grant, a visa	Yes	<i>Home Affairs Legislation (Minister - Decision-making powers for Immigration and Settlement Services Group and Social Cohesion and Citizenship Group) Delegation and Authorisation 2021 (ADMIN 21/051)</i>

1.2 Controls and Assurance

Related Policy	Nil.
Procedures / Supporting Materials	The following instructions provide further legal and policy guidance on Australia's protection obligations and on managing and deciding applications for visas relating to those obligations: • Refugee Law Guidelines - PI (LS-1814), • Complementary Protection Guidelines - PI (LS-1815), • the Protection Visa Processing Guidelines - PI (VM-4825), • Offshore Humanitarian Program Management and Class XB (Refugee and Humanitarian) Visa Processing - PI (VM-6236), • Sch2 Visa 800 - Territorial Asylum - PI, • Use of Country of Origin information - PI (VM-3245), • Notification requirements - PI (LS-1818), and • GenGuideA - All visas - Visa application procedures - PI (LS-1849).
Training/Certification or Accreditation	Departmental Induction Phase 1 Visa and Citizenship Vocational Training Pathway (VCVTP) Foundation Program Phase 2 Essentials Training Phase 2 Essentials Training Phase 3 Continuing Professional Development Phase 3.
Other job role requirements	Nil.

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Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	After considering the guidance in this PI and these other sources, and consulting their supervisors, officers may send requests for further advice: - in relation to persons in Australia, to the Protection visa help desk at: s. 22(1)(a)(ii) @homeaffairs.gov.au. - in relation to persons overseas, to the Humanitarian help desk at: s. 22(1)(a)(ii) @home.affairs.gov.au.
Escalation arrangements	Any queries relating to matters in this Procedural Instruction should be sent, by email, to Protection Assurance and Assessment Support Section in Onshore Humanitarian Program Management Branch at: s. 22(1)(a)(ii) @homeaffairs.gov.au.
Recordkeeping (e.g. system based facilities to record decisions)	TRIM and ICSE. All records created as a result of this instruction must be managed in accordance with the <u>Records Management - Policy Statement (TI-1094)</u>. Records created as a result of this instruction must be saved in TRIM (or another approved business system if applicable).
Program or Framework (i.e. overarching Policy Framework or Business Program)	The Refugee and Humanitarian Program Quality Management Plan 2021-23 (s. 22(1)(a)(ii)) provides assurance to the program manager that relevant controls such as legislation, regulations and policy guidance are being appropriately implemented. The Plan assists in assessing, controlling and mitigating risks in program delivery, and in prioritising training needs for visa decision makers.
Job Vocational Framework Role	Program Management Program Advice and Support Visa and Citizenship Decision Maker.

Attachment C – Consultation

The following internal stakeholders were consulted in the review of this Procedural Instruction:

- Humanitarian Policy and Child Wellbeing Branch,
- Humanitarian Program Operations Branch, and
- Onshore Humanitarian Program Management Branch

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Department of Home Affairs

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Onshore Protection Interviews

Practical guidance

Approval Date	25 May 2018
Contact	Protection Assessment Support Section, Humanitarian Program Capability Branch Onpro Programme Office
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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 both 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 both 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 affording procedural fairness to the applicant and conducting identity and credibility assessments.

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 relevant 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

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- 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 or relevant details 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, gender-based claims or lesbian, gay, bisexual, transgender or intersex (LGBTI) related claims. Interpreters should be asked if they are comfortable being the interpreter for the interview and are familiar with LGBTI terms, if relevant.

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.

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

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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.

Agents can sometimes take an adversarial approach during the interview. This can be confronting for applicants who may think their interview is not going well or that the officer is biased, and in turn become a barrier for disclosing relevant information. Officers should be careful not to engage in an argument or lengthy discussions with agents or be goaded into making findings at the interview.

If the agent intervenes or tries to answer questions directed to the applicant during the interview, the case officer should remind the agent that they will be given an opportunity to raise questions at the end of the interviews. The case officer has the discretion to ask the agent to leave the interview if they hinder the proceeding or engage in unprofessional behaviour, such as using abusive language or appearing to coerce the applicant.

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 asked to leave 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.

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. It is, for example, more important to obtain details of a person's political affiliations, organisation they belong to, the nature of the governing regime, prison location and conditions than to focus narrowly on the precise dates of detention which may be hard to for the applicant to recall accurately or for the officer to verify.

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

Silence in conjunction with questioning can act as a powerful tool to elicit more information on a subject. A pause after the applicant has answered a question may influence the applicant to volunteer more information in order to 'fill the space'. However, silence at inappropriate moments or for extended periods can be intimidating and create barriers to communication. Therefore, it is important that the use of silence is supported by body language and eye contact, demonstrating to the applicant that the officer is interested in what they have to say, encouraging them to provide further detail.

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 matters that are unclear, by asking a few more 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.

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- 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.

A false statement by itself is not always reason to refuse an application, and it is the officer's responsibility to evaluate such statements in light of all the circumstances of the case. An applicant's testimony may include lies or exaggerations for a variety of reasons, not all would reflect adversely on other aspects of the case. The significance of false statements will vary from case to case and will depend on their relevance to the core of the claim. Officers should consider this when deciding whether to spend time on examining a potentially false statement at interview.

Where an applicant's statements appear inconsistent or implausible and these statements are likely to impact on the decision, officers should raise this with the applicant to seek further clarification. The officer can explain that it is difficult to understand why the applicant gave a different/inconsistent account and that

this inconsistency could cast doubt on the credibility of the applicant's statements. Similarly, an officer can suggest that a statement made by the applicant seems implausible, explain why it seems implausible and invite them to comment. For example, an officer may state *'You stated that you were severely injured and had difficulty walking following your first arrest on 12 May. You also said that you participated in an opposition march two days later, on 14 May. I find it difficult to believe that you participated in the opposition march while you were recovering from your injuries and had difficulties moving. Can you elaborate on this?'* It is important that the officer informs the applicant that they have not made up their mind on the inconsistency or implausibility in the applicant's statements, but if the applicant has any more information, they should provide it to them.

Where there are several pertinent inconsistencies or implausible statements, each issue should be examined separately and the applicant given the opportunity to provide further information. Try to ensure all credibility issues are discussed at interview because some issues that may not seem relevant during the interview may become important when writing the decision.

Post-traumatic symptoms may impact on the applicant's presentation and statements. Officers should keep this in mind when assessing credibility of applicants with claimed experiences of torture or trauma. See [Section 6 - Sensitive interviewing](#) for more information on this topic.

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.'

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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. As this topic can create a barrier between the applicant and the officer, timing is important and, ideally, it should be discussed towards the end of the interview. 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.

It is important that officers discuss the applicant's fear of harm in another area as well as their personal circumstances (for example, ability to gain work, previous residence, family connections or any claimed health issues) which may impact their ability to transition back into the proposed safe area. This will ensure all aspects of the legal tests relating to relocation under the refugee and CP assessments are covered. 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. This can reduce the likelihood that applicants will interrupt the officer before they are able to explain why the information could lead to a decision to refuse the application, hence not satisfying s57 requirements.

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 benefit of 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 Tribunal who may rely only on the audio of the recording.

The applicant should be asked when and how the document was obtained. Where a document's relevance is unclear, the applicant should be asked how it relates to the application. When documents regarding certain elements could be presumed to exist but were not submitted, the officer should further examine the reasons for non-submission, without prejudice.

11. Applicants with psychological vulnerabilities including mental health conditions¹

This chapter:

- addresses ways to identify and assist psychologically vulnerable applicants;
- provides techniques and options that can be used to better engage with applicants whose ability to participate in the Protection visa (PV) assessment process is reduced due to their disordered mental state and/or impaired cognitive abilities; and
- describes a range of procedural modifications that can be adopted to facilitate the fair and accurate assessment of the applicant's claims.

For the purposes of this chapter, applicants with who are mentally unwell and applicants who are vulnerable are collectively referred to as 'psychologically vulnerable applicants'²

Mental illness, post-traumatic conditions, brain injury, neurological disorders, and intellectual and developmental disabilities and the effects of medication may manifest in a wide range of symptoms. However, with regard to the psychological considerations relevant to PV assessment, what is important is how the applicant's ability to participate in the process is affected and consequently, how it can be accommodated.

Psychologically vulnerable applicants may have a reduced ability to participate in the PV assessment process due to specific cognitive impairments arising from their mental state. It is important to identify applicants who may be psychologically vulnerable as soon as possible in the PV assessment process to

¹ This section relies in large part on the *Guidance note on the Psychologically Vulnerable Applicant in the Protection Visa Assessment Process*, November 2017, prepared by mental health experts in consultation with the UNHCR.

² This definition of psychologically vulnerable applicants is adopted from the above noted document.

give due consideration to their ability to participate in the PV assessment process and adjust procedures and modes of interaction with the applicant accordingly.

Note Key points to keep in mind when harnessing this chapter:

- The measures are not expected to be applicable or utilised for all applicants, as not all applicants are psychologically vulnerable.
- Case officers can consider using all or combination of these measures, depending on each individual case and the severity of an applicants' condition.

A panel of mental health experts in consultation with the UNHCR developed the '*UNHCR table*' (available in TRIM s. 22(1)(a)(ii)). This table is contained in the UNHCR's '*Guidance note on the Psychologically Vulnerable Applicant in the Protection Visa Assessment Process*' document as Table 1. This table identifies psychological abilities required for participation in the PV assessment process and provides a non-exhaustive list of causes and consequences of their impairment. This is referred to and included to assist you with understanding how certain conditions of impairments may affect the ability for an applicant to participate in an interview or other aspects of the PV assessment process. The extent of these abilities' impairment will determine the degree to which the applicants' capacity to participate is compromised.

Case officers *should not* seek to determine whether an applicant is merely distressed or their behaviour is a result of a deeper mental health condition.

11.1. Evidence of psychological vulnerability

Evidence of psychological vulnerability in the form of medical reports or case notes may already be held in departmental systems. In some cases, however, an applicant's psychological vulnerability may only become known during the PV interview or other interactions related to the PV assessment process.

Where available psychological and medical evidence can assist the fair and accurate assessment of the claims of the psychologically vulnerable applicant.

Such evidence, whether oral or written, should be expert (i.e. from a mental health professional or medical professional, such as a psychologist or psychiatrist) and impartial (i.e. that is not advocating in nature but providing information on an applicant's condition and its potential impact on the PV application process). The decision-maker should assess the value of the evidence and give appropriate weight to it accordingly.

An independent expert who provides an opinion or a clinician in a treatment relationship with the applicant may produce psychological and medical evidence. The treating clinician's evidence, while ethically and practically influenced by the treatment relationship, may nonetheless provide valuable factual evidence; for example regarding the applicants' mental state, cognitive capacities, the experiences they have reported in their country of origin, and their diagnosis and treatment. Psychological and medical evidence should not infringe upon the function of the decision-maker.

Where there is a possibility on the available evidence that an applicant is psychologically vulnerable, but the evidence is insufficient to properly inform the PV assessment process, decision-makers should obtain information or updated information about the applicant's psychological capacity, where possible, from their treating clinician. This is, if the information required from the applicant is critical to the applicant's claims/assessment.

11.1.1. The role of Psychological and Medical evidence

Psychological and medical evidence can serve numerous purposes, including:

- In deciding whether the applicant is fit to undertake a PV interview (see *UNHCR Table* in TRIM s. 22(1)(a)(ii));
- In understanding how the applicant's reduced psychological capacity affects their ability to articulate their protection claims and respond to questions about them (see *UNHCR Table* in TRIM s. 22(1)(a)(ii));
- In understanding the applicant's psychological presentation and conduct during the interview;
- In understanding the effect of any medication for mental health issues on the applicant's ability to communicate;
- In deciding what procedural modifications to the PV interview should be made;
- In deciding whether an apparent inconsistency, confusion or inability to remember events in relation to the applicant's evidence is explainable in terms of the applicant's mental state;
- In deciding whether a lack of specificity in recollection of relevant events or a lack of knowledge about relevant matters may be explainable in terms of the applicant's mental state;
- In deciding whether the applicant's late disclosure of a claim is explainable in terms of the applicant's mental state;
- In considering, whether an applicant's psychological presentation is consistent with their claims in relation to experiences of trauma;
- In understanding whether the discrimination the applicant might suffer if repatriated would, owing to the applicant's psychological vulnerability, amount to serious harm and persecution. (i.e. real chance of persecution as consequence of their poor mental state); and
- In considering whether internal relocation is reasonable in the country of origin for the psychologically vulnerable applicant.
- In considering if the applicant's mental health condition or vulnerability itself raises a claim for protection.

11.1.2. Recognising signs of psychological vulnerability

Some applicants may not have disclosed psychological vulnerabilities; however, observations of the applicant's behaviour can be a key source of information about their mental well-being. Any one or a combination of the following observations may suggest psychological vulnerabilities of an applicant:

- appears to be disoriented about time and place and confused about the purpose of the meeting/ interview;
- shows obvious signs of self-neglect;
- is highly distractible and inattentive;
- responds with very limited content to all questions and there is little spontaneous speech;
- provides poorly organised, illogical or irrelevant responses much of the time;
- appears sad, withdrawn and uncommunicative much of the time;
- appears highly anxious and distressed much of the time;

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- appears agitated and overactive much of the time;
- expresses ideas that are markedly strange and irrational;
- behaves in a way that is markedly odd and socially incongruent;
- becomes highly distressed or disoriented when speaking of traumatic subjects or alternatively is incongruously detached;
- has difficulty recalling recent daily activities or basic autobiographical information or locating autobiographical events in time; or
- expresses intent to harm self or others.

11.2. Procedural modifications to the assessment process, including the interview, of psychologically vulnerable applicants

In preparation for an interview case officers routinely check departmental records for evidence of the applicant threatening self-harm/threats of harm to others, in previous interactions with the department, and make appropriate arrangements. Similarly, if there is evidence or indications that an applicant may be psychologically vulnerable, the following adjustments could be made to the assessment process.

Prior to the interview, if practical and possible, consider:

- Informing applicants in writing prior to the interview about aspects of their claims which the interview will seek clarification and further particulars.
- Encourage the applicant to bring to the interview and make use of any memory triggering materials that might help them provide an account of their personal history, such as statements and timelines represented graphically. Other forms of evidence that can be brought to the interview in assisting to recollect, clarify and establish the applicant's claims at the interview can include photographs and news articles.
- Providing a 'courtesy' phone call to confirm details of the interview. This may assist with establishing rapport, and to put them at ease prior to the interview.
- Providing in writing any adverse relevant information to the applicant and allowing the applicant to provide a written response to aspects of the claims requiring clarification.
- Encouraging the applicant to bring a family member as a support person to the interview.
- Allocating more time for the interview.

During the interview:

Personal history associated with trauma may be relevant to the assessment of claims. However, exploration of these experiences can cause distress, confusion and disorientation and may not result in the outcome that the case officer is seeking. Victims of torture or other forms of ill-treatment or violence may have difficulties in recounting the details. Where an applicant claims to have been tortured or subjected to serious harm the case officer should consider whether the finding of fact for this incident is material to the decision; that is, does it correlate to the assessment of real chance of future harm. If so, the case officer may need further information to establish whether or not it is likely that the event happened. In such circumstances, the use of open questions will allow the applicant to determine the

level of detail they are willing to give about an incident. Probing questions can then be used to clarify any inconsistencies or gaps about the surrounding circumstances.

The absence of psychological symptoms should not be taken as evidence that the alleged traumatic experiences have not occurred.

When asking the applicant when, where, how, and by whom the trauma was inflicted, care should be taken not to cause undue distress. For victims of rape or other forms of sexual violence, obtaining details of the act itself is inappropriate, but it may be important to obtain information regarding the events leading up to and after the event, the surrounding circumstances as well as the motivation of the perpetrator, if known. Questions about what happened must always be put with sensitivity, respect, cultural and gender awareness.

The applicant should be oriented to each part of the interview: "I will now ask you about..." ('Signposting'). Actively check whether the applicant wishes to correct or add anything further.

Suggested approach/es: Using short simple sentences to ask questions from the applicant. This could assist with the better understanding of what is being asked of them and therefore, the applicant may provide a better response.

Consider allowing for regular breaks and/or longer breaks for an applicant to be able to gather their thoughts and confer with their legal representative and/or support person.

Visual representation of timelines, for example where available, on a white board or A3 paper, may also assist. Populating the timeline with important events to the applicant, for example, significant family occasions, personal milestones, events in the community such as religious celebrations, rather than dates, may assist in constructing the chronology. This could be utilised in an instance where it has been challenging to extract crucial information relevant to the applicant's claims and could aid the finalisation of their application.

In some instances, questions about what is known may not be the preferable approach to establishing whether the applicant possesses particular knowledge; the applicant may know the information but be unable to retrieve it when questioned.

Suggested approach: A test of recognition rather than free recall may be preferable. Consider adjusting your questioning methods such as multiple choice questioning or showing several photographs of a subject (e.g. photos of a location or person the applicant claims knowledge of).

Where available, allow the testimony of witnesses or other forms of available evidence, when this would reduce the demands on the applicant. The witness testimony can be from other family members who are onshore/on the same application or other applicants such as relatives or neighbours from the same town/village who can attest to all or parts of the applicant's story/claims. This can be done in exceptional circumstances where it has been challenging to extract specific information crucial to decision making and this information can be provided with the consent of the applicant.

Despite adoption of these procedures, the applicant may still not have had a reasonable opportunity to respond to adverse information during the interview. This may be due to capacity related difficulties experienced by the applicant during the interview or because information provided by the applicant at the interview raised new credibility concerns.

***Suggested Approach:** After the interview, the psychologically vulnerable applicant should be given an opportunity to submit a response in writing, to a written set of considerations that may lead to the application being refused.*

Note: Case officers can use their discretion not to interview the applicant in severe cases, where an interview will not add value to the assessment of their PV application. For example, in situations where the applicant is unable to engage in the process or participation in an interview may further exacerbate their condition. In these situations, case officers can choose not to request an interview and proceed with the application in writing. For more information, refer to PVPG section on Interviews.

11.3. Assessing credibility of psychologically vulnerable applicants

As a general principle, some grounds for making adverse credibility findings are less reliable when considering the claims of the psychologically vulnerable applicant. Demeanour is an uncertain basis for credibility assessment in any context. Many mental illnesses and neuropsychological conditions alter the expression of emotion. The addition of mental disorder to the complexity of the interpretative task renders demeanour an unreliable source of credibility assessment. Consequently, demeanour should not be relied upon in making credibility assessments of psychologically vulnerable applicants.

Credibility assessments based on the specificity and detail of an account of a legally relevant event should be considered in the context of applicant's psychological evidence, where possible. A lack of detail where detailed knowledge would be expected may have a number of psychological explanations (see UNHCR Table in TRIM ADD2018/1154128). For example, severe depression can cause a tendency to recall significant personal events in general terms only with an associated lack of specific contextual information that might otherwise be expected to be present. A post-traumatic condition may cause the applicant to avoid recalling events in detail and to recollect most the threatening components of the memory with limited contextual information.

Some psychologically vulnerable applicants may be less able to provide a persuasive account of their reasons and motivations for particular actions. If the applicants were mentally unwell or traumatised at the time of the actions in question, their conduct may have been influenced by an abnormal mental state. General knowledge is usually relatively well preserved and accessible despite mental disorder and impairment in cognitive functioning. However, some psychologically vulnerable applicants may take longer to recollect personal knowledge and initially provide incomplete statements about what they know. Furthermore, the store of general knowledge possessed by the applicant may have been restricted by limited educational opportunities or developmental disability. When an applicant recounts an event at different times, there will often be some variation of detail.

11.3.1. Inconsistencies in an applicant's testimony

Inconsistencies in an applicant's testimony can often form the basis of an adverse credibility assessment. Similarly, evidence that the applicant has, as an apparent consequence of trauma and shame, generally disclosed personal history progressively, may persuasively explain a delay in the disclosure of claim-relevant experiences.

There are different kinds of inconsistency. Some kinds of inconsistency are less reliable as a basis for an adverse credibility finding when assessing a psychologically vulnerable applicant, whilst others remain reliable.

For example, where an applicant's claim is directly inconsistent with reliable country information, the inconsistency will legitimately raise doubts about credibility regardless of the applicant's mental state.

Similarly, where an applicant makes a positive assertion about a significant life event (e.g. undertaking military service) and then later makes a directly contradictory statement (that military service was never undertaken) this inconsistency is unlikely to be explained by the applicant's mental state, unless the applicant suffers from a mental disorder or condition which severely impairs memory recall.

Inconsistencies can be attributed to psychological vulnerability, where:

- an applicant discloses new information that relates to traumatic events, this may be explainable in psychological terms. Particularly among applicants with a post-traumatic condition, disclosure of traumatic events often unfolds over time;
- an applicant recounts an event at different times, there will often be some variation of detail. It is a normal characteristic of human memory that accounts of a personal experience will differ to some extent each time they are retold, while the central elements of the event may be relatively stable. This is because memory is reconstructive. Memories for traumatic events have been shown to be subject to wider variation over time than recollection of significant non-traumatic events. The details that have been found to most commonly vary are of the following kind: precise times and dates, the sequence of events, visual and spatial details, the number of people present, and who did what.

There may be a number of reasons for this, a few are:

- during the traumatic event, it is common that the person only registers some aspects of the event owing to their psychological and neuropsychological state. Subsequently there may be attempts to reconstruct what occurred, sometimes from other sources of information;
- the severity of the person's current post-traumatic condition affects the details recollected and the vividness of those details. The severity of the post-traumatic condition will be subject to fluctuations over time and responses to treatment;
- experiences of fear, shame, guilt and loss associated with the traumatic experience influence when the speak about aspects of the trauma.

Note: Whilst every care can be taken to assist and accommodate psychologically vulnerable applicants at the interview to engage meaningfully, it may not always be possible to accurately identify all applicants who are psychologically vulnerable. Therefore, it is important to keep in mind that, if at any stage of the interview process the applicant becomes too distressed or aggressive, case officers should follow safety protocols, escalate the case to a team leader and if necessary, terminate the interview. The case officer can then decide whether to re-schedule the interview or seek information, including if possible, a psychological assessment report, in writing before deciding the application.

11.4. Record keeping and support services

It is important to ensure departmental records are current for applicants with psychological vulnerabilities and where practicable, information on support services can be provided to these applicants. Any new information on the applicant should be recorded promptly in either ICSE and or CCMD. Refer to the

current version of the SOP on Safety Protocols for managing incidents self-harm, threats and harm directed at others' document for where in the above systems you are able to record such information.

11.4.1. Recording relevant information

Decision records: It is recommended that the applicant's psychological vulnerability is noted in Departmental decision records, for good record keeping practices and if any of this information is requested by other authorities in relation to the applicant. Where applicable, the case officer can determine the evidence's probity and relevance, weigh it accordingly, and explain how it has been taken into account when reaching conclusions about the applicant's claims. For example, describe the measures used to engage with them, citing the evidence in the decision record.

Departmental systems: It is important maintain an up-to-date file of the psychologically vulnerable applicant in Departmental systems, ensuring diligent notes of all interactions with the applicant, agent or support person is recorded. Record any correspondence that has been received or made in relation to their mental health condition with an external stakeholder, such as a medical professional. Ensure all evidence is saved in TRIM and referred to in their departmental record. Update any new information about their vulnerability observed during the interview, such as talks of self-harm, depression.

For more information on self-care, refer to Chapter 13 Self-evaluation and self-care.

11.4.2. Providing information on support services and community groups to psychologically vulnerable applicants

Case Officers should not provide counselling support. Case Officers can provide the 'Support Card' to applicants who have displayed behaviours discussed in the above sections and advise that they can contact any of the organisations for support if needed. Alternatively, if no support card is available, case officers should provide the following contact details of these organisations to the applicant. It can also be found on TRIM (ADD2018/ 249654).

BEYOND BLUE: 1300 224 636

LIFELINE: 131 114

FORUM OF AUSTRALIAN SERVICES FOR SURVIVORS OF TRAUMA AND TORTURE (FASSTT)

ACT 02 6251 4550, **NSW** 02 9794 1900, **NT** 08 8985 3311, **QLD** 07 3391 6677, **SA** 08 8206 8900 **TAS** 03 6221 0999, **VIC** 03 9388 0022, **WA** 08 9227 2700

It is at the case officer's discretion to provide the 'Support Card' to applicants who have not displayed any outward signs of distress at interview. Some applicants may become distressed after the interview has concluded or they may benefit from support at a later stage for another reason.

Case Officers may also ask the applicant if they are linked to any support services or their local ethnic community groups and, if needed, provide contact information for support services available in their state. Contact details of key service providers who can offer support, legal advice, referrals to appropriate services and local ethnic communities are on TRIM ([ADD2017/711900](#)).

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:

- 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.

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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 in TRIM [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.

For further information about assisting an applicant who is a victim of domestic or family violence and reporting protocols, see Bordernet: <https://bordernet.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://bordernet.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 that 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

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- 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
- Community Programme Delivery Section
- ELO network.

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Part 5: Findings of fact

[OPTION 1: NO RESPONSE TO THE S56 LETTER]

The applicant, «Given Name and Surname», has claimed they are unable to return to «Receiving Country» for the reasons set out above in Part: 'Summary of claims'.

The applicant did not respond to the invitation under s56 of the Act to provide further information [, details and/or evidence to support their claims, or provide any explanation of why they could not provide the information].

Assessment

Due to the applicant's lack of detail in their claims as well as their lack of evidence, I am not satisfied that their claims that [insert claim/s] are credible.

[OPTION 2: RESPONDED TO THE S56 LETTER]

[Where a response is received that requires further investigation before a decision can be made, consider if another s56 letter or interview is required to make a decision – DELETE THIS TEXT]

The applicant, «Given Name and Surname», has claimed they are unable to return to «Receiving Country» for the reasons set out above in Part: 'Summary of claims'.

The applicant's response to the invitation under s56 of the Act to provide further information is set out above in Part: 'Summary of claims'.

Assessment

I have considered the applicant's claims and evidence in their application, and the further information provided in their response to the invitation under s56.

Although the applicant provided additional information, their response did not address the concerns that were raised in the invitation: [insert the concerns that were not addressed].

Due to the applicant's lack of detail in their claims as well as their lack of evidence, I am not satisfied that their claims that [insert claim/s] are credible.

[Mandatory opening paragraphs]

I have started considering your application for a Protection visa.

I now invite you to provide further information regarding the following claims in your application and other matters that I may take into consideration in assessing your claims.

1	Claims lacking detail Your claims In your application, you claimed that: • [insert main claim] • [insert what they fear will happen to them if they return to their home country] • [insert harms/threats they have experienced in the past] However, these claims did not include key details, and you did not provide any evidence in support of these claims. Due to the lack of detail and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about: • You claim you were threatened/harmed because of [insert claim]. Provide details of: s. 47E(d) You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide evidence of the following: s. 47E(d)
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	s. 47E(d)
2	Business owner – extortion In your application, you claimed that you fear returning to «Receiving Country» because you are a business owner and members of the «Perpetrator or other party» were extorting you. You claim that you will be harmed or threatened with harm by the «Perpetrator or other party», if you do not agree to/because you did not agree to their extortion demands. However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims. Due to the lack of details or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about your claims, including: s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents, which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

- [Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

3

Caste/Scheduled Caste

In your application, you claimed that you fear returning to «[Receiving Country](#)» because you [experienced harm/received threats of harm/discrimination](#) from your «[Perpetrator or other party](#)» due to your «[Caste or Scheduled caste](#)». However, you did not provide details of these claims, or any documents or other evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

4 Child born out of wedlock

In your application, you claimed that you had a child/children out of wedlock. You claimed that you fear that you would be ostracised/harmed/discriminated against by your family and/or community if you returned to «Receiving Country» because your child/children was/were born out of wedlock. You also claimed that your child/children would be denied access to support services in «Receiving Country» because you and the biological parent of your child/children were not married at the time of your child/children's birth. However, you did not provide details of these claims, or any documents or other evidence in support of them.

Due to the lack of detail or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

5

Criminal gangs/cartels/syndicates

In your application, you claimed that you fear returning to «[Receiving Country](#)» because you have **been threatened with harm/been harmed** by members of the «[Name of criminal gang/cartel/syndicate](#)» «[Criminal gang/cartel/syndicate options](#)». However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims.

Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information and evidence about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents that support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

6

Debtor

In your application, you claimed that **that you fear returning to «Receiving Country» because you owe a debt to [an official moneylender/ unofficial moneylender/ a loan shark]** and you fear the moneylender, or their proxies, will harm you because of this debt. However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims.

Due to the lack of detail or evidence, I am concerned about the genuineness of your protection claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about the debt that you owe, including:

s. 47E(d)

s. 47E(d)

I am also inviting you to provide more information and evidence regarding the following matters:

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

s. 47E(d)

7

Domestic/Gender-based violence

In your application, you claim that you have been **subject to violence by your «Perpetrator»/ threatened with harm by your «Perpetrator»**. However, you did not include detailed information of these claims, in particular when and where the events took place and who was involved in them, and you also did not provide any documents or other evidence in support of these claims.

Due to the lack of details and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether these claims are genuine, I invite you to provide further information and evidence in support of your claims including:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. Documents you may provide include, but are not limited to:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

s. 47E(d)

8

Ex-gang member

In your application, you claimed that you fear returning to «Receiving Country» because you were a part of/you left the «Name of criminal gang/cartel/syndicate» gang and that you will be harmed or threatened to harm by members of your former gang. However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims.

Due to the lack of detail or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents, which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

9

Forced/arranged marriage

In your application, you claimed that you fear returning to «[Receiving Country](#)» because you have **experienced harm/received threats of harm** from your «[Perpetrator](#)» due to being forced into an arranged marriage by your «[Perpetrator](#)». However, you did not provide details of these claims, nor any documents or other evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

s. 47E(d)

10 Former law enforcement officer

In your application, you claimed that that you fear returning to «Receiving Country» because you were previously employed in law enforcement, specifically as a «Claimed role in law enforcement» and you fear harm from members of the «Perpetrator or other party», who will harm you due to your former occupation. However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents that support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

11 Intercaste Marriage/relationship

In your application, you claimed that you fear returning to «Receiving Country» because you experienced harm/received threats of harm from your «Perpetrator» due to your intercaste «Marriage or Relationship» with your «Spouse or partner». However, you did not provide details of these claims, nor any documents or other evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

In your application, you claimed that you fear returning to «Receiving Country» because you experienced harm/threats of harm from your «Perpetrator» due to your interfaith «Marriage or Relationship» with your «Spouse or partner». However, you did not provide details of these claims, any documents or other evidence in support of these claims.

Due to the lack of detail or evidence, I am concerned about the genuineness of your claims.

Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

S. 47E(d)

You are also invited to provide copies of any documents that support your claims. Documents you may provide include, but are not limited to:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

13 Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning and Asexual

In your application you claim that [briefly summarise claim(s)].

However, you did not provide key details of your sexual orientation and/or gender identity and the harm you claimed to have suffered, such as [experiences, dates and locations]. You also did not provide any evidence in support of these claims.

Due to the lack of detail and evidence, I am concerned about the genuineness of these claims. Therefore, to assist me in deciding whether these claims are genuine, I am inviting you to provide further information and copies of documents that support your claims, in particular in relation to the following matters:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

s. 47E(d)

You are also invited to provide any copies of any documents which support your claims. Documents you may provide include, but are not limited to, evidence of the following:

s. 47E(d)

14

Marriage breakdown

In your application, you claimed that you fear returning to «[Receiving Country](#)» because you **experienced harm/received threats of harm** from your «[Perpetrator](#)» due to your marriage

breakdown with your «[Spouse or partner](#)». However, you did not provide details of these claims, nor any documents or other evidence in support of these claims.

Due to the lack of details or evidence, I am concerned about the genuineness of your claims.

Therefore, to assist me in deciding whether to accept that these claims are genuine, I invite you to provide further information about your claims, including:

S. 47E(d)

You are also invited to provide copies of any documents that support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

s. 47E(d)

15 Personal dispute

In your application, you claimed that you fear returning to «Receiving Country» because you had a personal dispute with the «Other party in dispute» over [insert reason, e.g. land, money, family, marriage]. However, you did not provide details of these claims, or any documents or other evidence in support of them.

Due to the lack of detail or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about:

s. 47E(d)

s. 47E(d)

You are also invited to provide copies of any documents which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

s. 47E(d)

[The below documents that are specific to land disputes may also be included in this list –
DELETE THIS TEXT]

s. 47E(d)

16 Political Opinion – Government corruption or general disagreement with government

In your application, you claimed that you will be harmed by the [insert government/political party] because of your opposition to the [insert political party/government] restrictive, authoritarian and corrupt nature and opposition to their laws and policies. However, your statement of claims lacks key details of your claimed fears of returning to «Receiving Country» because of your anti-government political opinion.

Due to the lack of detail or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information and documentary evidence about what happened to you in «Receiving Country», including dates and locations of events. Specifically, I am inviting you to provide further information and evidence about the following:

s. 47E(d)

s. 47E(d)

You are also invited to provide any documentary evidence which supports your claims. Documents you may provide include, but are not limited to:

s. 47E(d)

17 Political Opinion – Supporter of a political party or group

In your application, you claim to fear harm from the «Perpetrator or other party» because you are a supporter/member of «Political party or group». However, your statement of claims lacks key details of your claimed fears of returning to «Receiving Country» because of your political opinion.

Due to your lack of detail or evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information and documentary evidence about what happened to you in «Receiving Country», including dates and locations of events. Specifically, I am inviting you to provide further information and detail about the following:

s. 47E(d)

s. 47E(d)

You are also invited to provide any documentary evidence which supports your claims.
Documents you may provide, but are not limited to:

s. 47E(d)

18 Religion – Practice in <<Receiving country>>

In your application, you claimed that:

s. 47E(d)

However, your statement of claims lacks key details of these claims, and you did not provide any evidence in support of these claims. Due to the lack of detail and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about:

s. 47E(d)

You are also invited to provide any documentary evidence which supports your claims.

In your Protection visa application, you claimed that since arriving in Australia you converted from [insert former religion] to «Religion». You claimed that you will be harmed or threatened to be harmed and prevented from practising your religion freely by the Government/members of the «Perpetrator or other party» in «Receiving Country» because of your religious beliefs. [Insert any claims of past harm experienced – DELETE THIS TEXT]. However, your statement of claims lacks key details of these claims, and you did not provide any evidence in support of these claims.

Due to the lack of detail and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about:

s. 47E(d)

You are also invited to provide any documentary evidence which supports your claims. Documents you may provide, but are not limited to: [Remove any/all options if not applicable – DELETE THIS TEXT]

s. 47E(d)

20 Religion – Conversion in <<Receiving Country>>

In your Protection visa application you claimed that you converted from [insert former religion] to «Religion» in «Receiving Country». You claimed that you will be harmed or threatened to be harmed and prevented from practising your religion freely by the Government/members of the [«Perpetrator or other party»/insert what community] in «Receiving Country» because of your religious beliefs. [Insert any claims of past harm experienced]. However, your statement of claims lacks key details of these claims and you did not provide any evidence in support of these claims.

Due to the lack of detail and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about:

s. 47E(d)

s. 47E(d)

You are also invited to provide any documentary evidence which supports your claims.
Documents you may provide, but are not limited to:

s. 47E(d)

21 Tribal violence/clan violence

[Applicable mainly for PNG and Pacific Island countries – DELETE THIS TEXT]

In your application, you claimed to fear returning to «[Receiving Country](#)» because of tribal or clan violence between your and the neighbouring tribes or clans. However, your statement of claims lacks key details of these claims, and you did not provide any evidence in support of these claims.

Due to the lack of details and evidence, I am concerned about the genuineness of your claims. Therefore, to assist me in deciding whether to accept that these claims are genuine, I am inviting you to provide further information about your claims, including:

s. 47E(d)

S. 47E(d)

You are also invited to provide copies of any documents, which support your claims. These may include, but are not limited to, documents that provide evidence of the following:

[Remove any points that are not applicable – DELETE THIS TEXT]

S. 47E(d)

[Mandatory closing paragraphs]

If you are unable to provide more information about your claims or copies of documents, please provide a detailed explanation of why you cannot provide them. If you are unable to provide documents, please also provide details of the efforts you made to obtain them.

Any information that you provide in response to this letter will be taken into account in the decision on your application.

Please note that a decision on your application may be made on the information in your application and on any response to this letter, and you may not be given another opportunity to provide more information about your claims. The officer who makes a decision on your application may not be me and may decide your application without making any further contact with you.

There's a caveat on the Program's SharePoint within the [Enhanced triage and decision support page](#) regarding the use of templates and fragments, as outlined below:

The templates and fragments summarised in the tables below are tools to support efficient decision making. They are not instructional and are not intended to:

- *require a decision-maker to take into account a matter that is legally irrelevant;*
- *require a decision-maker to come to a particular decision in a particular case or in a particular type of case;*
- *take away or limit ("fetter") any discretion that the Act or regulations gives to a decision-maker.*

PODMs should always consider the individual applicant circumstances and the relevant country information before deciding how to proceed with an application. Even where the following template is relevant to an applicant, depending on the facts of the application, some elements of the assessment or the approach may need to be tailored to the individual applicant.

PODMs are reminded that they decide the level of proof that they require to be satisfied that a requirement is met and the decision to exercise any delegation, or to grant or refuse a visa, rests with them.

The first page of the attached 'Section 56 Letter Paragraphs Template.docx' also includes guidance on the use of s56 letter paragraphs (see below). This section is always included for PODMs to consider each time a letter draft is generated using **s. 22(1)(a)(ii)**.

Paragraphs for insertion in s56 'request for more information' letters

Overview:

This document provides mandatory and optional paragraphs for insertion in the 'Request Checklist and Details' attachment of s56 letters to protection visa applicants. Protection Obligations Decision Makers (PODM) need to select whichever paragraphs are applicable to a particular application. If necessary, further paragraphs inviting more information about particular issues may be inserted into the letter after any of these paragraphs.

The sentences in red in the paragraphs provide guidance for PODMs and must be considered. The guidance may require amendments by a PODM to any of these paragraphs to cover specific details of an applicant's claims or other relevant matters. Any sentence in a paragraph that does not relate to the applicant's claims or other relevant matters should also be deleted.

PODMs should use these paragraphs together with the Refusal Decision Record claim set content in **s. 22(1)(a)(ii)** for making decisions in relation to applicants in these sub-cohorts. The decision record can be tailored by customising answers in the **s. 22(1)(a)(ii)** questionnaire to reflect whether or not a response is received to the s56 letter.

Mandatory paragraphs for insertion in all s56 letters

Opening and closing paragraphs in this document must be inserted in all s56 letters.

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

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

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