

**LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE
INQUIRY INTO ADMINISTRATIVE TRIBUNALS (MISCELLANEOUS
MEASURES) BILL 2024**

PUBLIC HEARING, 2 OCTOBER 2024

Administrative Review Tribunal

Question 1 – application statistics in the student visa and protection visa caseload

Senator asked the following question on 2 October 2024:

Senator SCARR: Okay. I don't have that in front of me, but I remember that when I looked on the website you had that graphic. The tables I'm looking at I got from the website, but I didn't print out the reference. I now have a better understanding of the issue.

Regarding the increase in applications themselves across May, June and August, I think you talked about two categories. The first was applications in relation to student visas. So, those are applications to appeal rejections of student visa applications. Is that correct?

Mr Hawkins: Correct.

Senator SCARR: Do you have a breakdown of those numbers in terms of AAT lodgements that you can take on notice, perhaps for the past 12 months, on a month-to-month basis?

Mr Hawkins: I can certainly take that on notice for you.

Senator SCARR: Okay. And the second category of cases is the protection visa category. Is that correct?

Mr Hawkins: Yes, and I can do the same for that, too.

The response to the senator's question is as follows:

Table 1 - Student Visa Lodgements*

	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24
Visa cancellation	5	16	19	36	147	119	28	17	38	34	42	30	50	68	58
Visa refusal	256	504	658	498	531	436	257	402	850	1,128	2,178	3,441	2,593	2,152	2,289
Total Student	261	520	677	534	678	555	285	419	888	1,162	2,220	3,471	2,643	2,220	2,347

Table 2 - Protection Visa Lodgements*

	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24
Visa cancellation	1	2	0	0	2	0	1	0	1	0	2	0	0	0	2
Visa refusal	873	928	927	739	654	608	724	997	1,441	1,334	1,503	1,535	1,705	1,822	1,654
Protection Finding Decision	1	0	0	0	1	2	0	0	0	0	0	0	0	4	1
Total Protection	875	930	927	739	657	610	725	997	1,442	1,334	1,505	1,535	1,705	1,826	1,657

* Data current as at 8th October 2024. Figures may vary from published reports due to differences in run times.

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Question 2 – assistance provided to stakeholders seeking to make an application to the
AAT

Senator asked the following question on 2 October 2024:

Senator SCARR: So what happens if someone is having all sorts of difficulty lodging an application and instituting the process—they're all at sea in terms of trying to initiate this process? What does the AAT do practically in terms of trying to provide what I will call the sort of service you might get at a Supreme Court registry if a member of the public who's self-representing comes along and wants to issue a writ? What does the AAT do practically to try and provide assistance, if anything?

Ms Haddad: That would depend on whether we were aware that there was an issue.

Senator SCARR: Let's assume I'm in a detention cell, I ring you and I want to make an application. I have no idea how to do it. Can you help me? What do you do?

Ms Haddad: We have registry officers that will respond to queries, but exactly what they would say I would have to take on notice and get back to you on.

Senator SCARR: Could you take that on notice, because I am interested to understand to what extent the AAT perhaps receives an application that might be deficient in terms of prescribed information. But, on the face of it, the intention is clear—that someone is trying to institute a process. I'm keen to understand if there are any protocols that the AAT has in order to reach out to them or to try and assist them to exercise their rights.

Ms Haddad: We can take that on notice. It would depend on the efficiency, because there is a concept of substantial compliance with the form that applies. Again, it would depend on the particular circumstances, but we can get that back to you.

Senator SCARR: Obviously you can't provide individual case details, but could you, to the extent you can, anonymise that and provide examples of the sorts of things you do? It would assist me to understand how this all works in practice given the very short appeal time.

Ms Haddad: Yes.

The response to the senator's question is as follows¹:

The Administrative Appeals Tribunal (AAT) has procedures to guide registry officers to assist prospective applicants to apply for review of a decision. The applicable procedures vary between the AAT's caseloads, subject to legislative requirements or other differences.

The *Administrative Appeals Tribunal Act 1975* (AAT Act) provides that applications for review generally must:

- be in writing²
- be accompanied by any prescribed fee³, and
- contain a statement of reasons for the application⁴.

The AAT Act provides for applications to its Social Services and Child Support Division to be made orally or in person at an AAT Registry⁵.

Applications may be made via the AAT's online portal or in person, or by email, fax or post. The AAT has a range of application forms, each of which contain guidance for prospective applicants in completing the forms and achieving compliance with legislative requirements. The AAT's online services application forms have been designed to guide applicants through the process of making an application. The AAT's website also contains a range of guidance material for applicants about the types of decisions the AAT can review and the requirements for making an application.

Applications to the AAT's Migration and Refugee Division (MRD) may be made on one of three approved forms, depending on the nature of the reviewable decision⁶. Applications not made on the approved version of the relevant form may be accepted for lodgement, subject to the application being substantially compliant with legislative requirements. For MRD applications, the AAT does not complete the form on behalf of an applicant however provides verbal assistance to ensure the form contains all necessary information.

In the AAT's other divisions, any document, including emails, that indicates a person seeks review of a decision is treated as an application for review by registry officers. In circumstances where an application does not contain sufficient information for the AAT to determine jurisdiction or where compliance with a legislative requirement/s has not been met, the AAT's registry officers will engage with the applicant to ensure all required information is provided. Depending on the nature of the non-compliance and the lodgement timeframe, registry officers may engage with applicants by telephone or in writing.

Where an applicant is unable to make an application in writing as a result of accessibility constraints, registry officers may assist applicants to make a written application. AAT registry officers will generally complete an application form either in person or on the

¹ The information contained in this response is relevant to the operation of the AAT which was in existence at the time this question was taken on notice but ceased operation after 13 October 2024.

² *Administrative Appeals Tribunal Act 1975* (Cth) s 29(1)(a)(i).

³ *Administrative Appeals Tribunal Act 1975* (Cth) s 29(1)(b).

⁴ *Administrative Appeals Tribunal Act 1975* (Cth) s 29(1)(c).

⁵ *Administrative Appeals Tribunal Act 1975* (Cth) s 29(1)(ii).

⁶ Form M1 for migration cases (not in detention); Form M2 for migration cases (in detention); and Form R1 for refugee cases.

telephone, before confirming the relevant details and providing a copy of the completed form for the applicant's records.