

## Who is a Refugee?

This information is for people seeking asylum who are currently in Australia.

### Protection Visa

To be granted a Protection Visa, the Australian government must decide that you meet the definition of 'refugee,' or that you are eligible for 'complementary protection'.

### Who is a Refugee?

To be a 'refugee' in Australia, you must be outside your country of nationality and face a well-founded fear of persecution if you were to be returned to your home country because of your:

- Race;
- Religion;
- Political opinion;
- Nationality, or
- Membership of a particular social group. For example, victims of domestic violence, single women or members of LGBT community.

Examples of serious harm include:

- A threat to your life or liberty;
- Significant physical harassment;
- Significant physical ill-treatment;
- Significant economic hardship that threatens your capacity to subsist;
- Denial of access to basic services, where the denial threatens your capacity to subsist,; or
- Denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.

If you are not a citizen of any country, or you are citizen of more than one country, please talk to a lawyer or registered migration agent.

### What else must I show to be a 'Refugee'?

- **You must show that the serious harm involves systematic and discriminatory conduct.**  
If serious harm feared by you is not directed at you or a group to which you belong too, then you will likely not meet the definition of a refugee.
- **You must show there is a real chance of serious harm everywhere in your country.**  
If you could live safely anywhere in your country, or if you have a right to enter and reside in another country where you do not fear significant harm, then you may not meet the definition of a refugee.
- **You must show that the authorities in your country could not protect you.**  
If the authorities or another organisation or group in your home country could protect you, then you may not be eligible for protection.
- **If you could modify your behaviour to avoid serious harm, then you may not be considered a refugee.**  
However, you are not expected to change things that are important to your identity such as your religious or political beliefs. You are not required to conceal your race, sexuality or disability. You are not required to enter into a forced marriage or stay in one.

## Who is a Refugee?

- **You must pass the 'character test' to be granted a visa.**

To pass the character test, you must show, amongst other things, that you do not have a substantial criminal record, and that the Australian Government does not think you are a risk to the security of Australia.

### Complementary Protection

If you do not meet the definition of a 'refugee,' then you may still be eligible for 'complementary protection.'

To be granted complementary protection you must show that there is a real risk that you will suffer significant harm if you were returned to your home country.

'Significant harm' means:

- Arbitrary deprivation of life (for example, being killed or murdered);
- The death penalty;
- Torture;
- Cruel or inhuman treatment or punishment; or
- Degrading treatment or punishment.

This factsheet only explains a small part of the law. For questions about your situation, please get legal advice.

### Useful Contacts

#### Legal Aid ACT

Monday to Thursday: 8:30am to 7:00pm

Friday: 8:30am to 5:00pm

[www.legalaidact.org.au](http://www.legalaidact.org.au)

Phone: **1300 654 314**

#### Migration Agents Registration Authority (MARA)

[www.mara.gov.au](http://www.mara.gov.au)

#### Legal Aid ACT

#### Migration Team

Monday to Friday: 8:30am to 5:00pm

[migration@legalaidact.org.au](mailto:migration@legalaidact.org.au)

Phone: **02 6243 3411**

*This factsheet is a guide only and is not legal advice. While due care has been taken to ensure the accuracy of the material contained in this factsheet, Legal Aid ACT cannot take responsibility for any errors or omissions.*