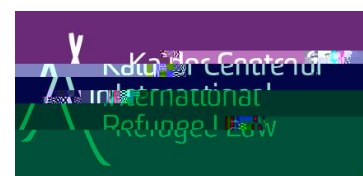




Andrew & Renata Kaldor Centre  
for International Refugee Law

Research Brief

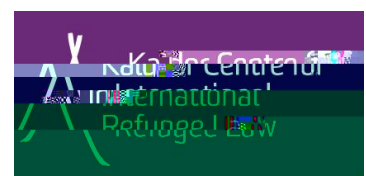
# REFUGEE STATUS DETERMINATION IN AUSTRALIA







Australia has under interna



The length of time between the interview and the decision can vary significantly. Until the passage of the *Migration and Maritime Powers (Resolving the Asylum Legacy Caseload) Act 2014* (Cth), the Department was required to report the percentage of decisions made within 90 days of application. In 2013–14, the Department made seven per cent of initial decisions and decisions after remittal (from what was then the Refugee Review Tribunal) within this timeframe, while in the previous year, 2012–13, 51 per cent of decisions were made within the 90-day timeframe.<sup>14</sup>

## Review by the MRD-AAT

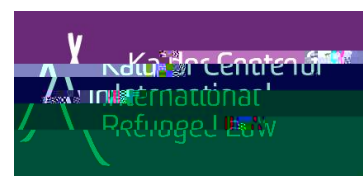
Decisions to refuse to grant, or to cancel, a protection visa are generally reviewable by the MRD-AAT.<sup>15</sup> This is an independent administrative tribunal which has the power to look at

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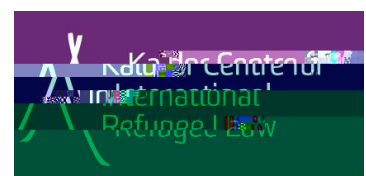
Merits review by the MRD-AAT involves the reconsideration of a case by a Tribunal Member, who takes into account the law, facts and government policy as they stand at the present time to determine afresh whether Australia has protection obligations to an asylum seeker.<sup>17</sup>

maker (an immigration official).<sup>18</sup> The Member is bound by the same legal framework as the primary decision-maker and exercises the same powers and discretions conferred on the primary decision-maker.<sup>19</sup> However, the Member is not limited to the material and evidence before the primary decision-maker: the Member considers all of the evidence available, including any additional evidence from the applicant and information from other sources

changed since the original decision was made).<sup>20</sup> The



poses a security risk; where the decision-maker believes the asylum seeker has committed a6





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<sup>12</sup> Refugee Advice & Casework Service, [Legal Assistance](#) <accessed 8 August 2018>.

<sup>13</sup> *Migration Act 1958* (Cth) [s 58](#). The interview is not required by law but is general practice.

<sup>14</sup> Department of Immigration and Border Protection, *Annual Report 2013-2014*, [Protection visas \(onshore\)](#) 110. Note that these figures include applications from irregular arrivals. The Department has stated that the difference in processing times between 2012-13 and 2013-14 was due to an increased number of applications, and the prioritisation (pursuant to Ministerial Direction 57 of July 2013) of applications by asylum seekers who arrived with a valid visa.

<sup>15</sup> *Migration Act 1958* (Cth) [s 411](#).

<sup>16</sup> *Migration Act 1958* (Cth) [s 420](#).

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