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Do applicants have any rights of appeal? 3

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How have courts responded to the fast track process? 6

Endnotes 7

The origins of 'fast tracking' in Australia

Before the 2013 federal election, the Coalition announced a plan to assess protection claims

reapplying for a Temporary Protection Visa or Safe Haven Enterprise Visa.⁷ Applications will

Who are 'excluded fast track applicants'?

Under section 36(2) of the Migration Act, a person is not eligible for a fast track visa if:

- they have previously entered Australia and made a protection visa application which was refused or withdrawn;
- they made an unsuccessful claim for protection in another country;
- they made an unsuccessful claim for protection to the UN High Commissioner for Refugees (UNHCR);
- they have made a protection visa application in another country, or
- they made, in the opinion of the Minister, a claim for protection in another country.

The Minister can also expand the grounds on which someone may be designated an excluded fast track applicant under section 36(2) of the Migration Act.

It includes (but is not limited to) claims made in another country, or to the UNHCR, or in another country, or made, in the opinion of the Minister, in another country. The Supplementary Explanatory Memorandum to the *Migration and Maritime Powers Amendment (Resolving the Asylum Legacy Caseload) Act 2014* notes that this non-exhaustive list of grounds is intended to ensure that the Minister has the flexibility to expand the grounds on which someone may be designated an excluded fast track applicant.

As an initial decision from being changed or reviewed.

Review by the IAA is different from review by the Migration and Refugee Division of the AAT (MRD-AAT) in a number of ways. First, there are fewer review outcomes available in the

The United Kingdom's DFT process compared

The United Kingdom's Fast Track system (DFT). The DFT was suspended in 2015, following a number of legal challenges.²⁵ Moreover, the context and the practice of fast track procedures in the United Kingdom differed significantly from the Australian model. For instance, the DFT policy included an entitlement to funded legal advice and representation, as well as access to the full review system (including judicial review), albeit in a compressed timeframe. Further, unlike the Australian fast track process, the DFT policy excluded categories of vulnerable asylum seekers, including children, families, pregnant women, victims of trafficking or torture, persons with a disability, persons with a physical or mental health condition who could not be dealt with adequately in detention, and those who clearly lacked the mental and cognitive capacity to understand the process and/or present their claim.

Notably, in 2021, the UK government announced a New Plan for Immigration,²⁶ which includes proposals that mirror the suspended DFT policy.²⁷ Consultations into the New Plan for Immigration were concluded in late March 2022.

What risks are associated with the fast track process?

A robust RSD procedure is essential to ensure that Australia complies with its obligations under the 1951 Convention relating to the Status of Refugees (Refugee Convention) and international human rights law. If the procedure is inadequate, there is a high risk that refugees and other people in need of protection will be returned to face persecution or other significant harm, in violation of international law.

When a separate independent merits review process was developed specifically for irregular maritime arrivals, that process overturned the vast majority of decisions made by the Department of Immigration and Border Protection (at times up to 100 per cent, but generally between 70. 80 per cent . see Table 1 below). These figures illustrate the importance of proper review of

application for a temporary protection visa, claiming that he would face a real chance or serious or significant harm if he returned to Iran in the foreseeable future because of his decision to convert to Christianity. In his application, the plaintiff claimed that he had contact the church minister. When interviewed by a Department official, the church minister provided information which suggested that the plaintiff had overstated his attendance at church in his application.

reasons, explained her finding that the plaintiff had overstated his attendance at church in his application.

