

# ALL ABOUT REFUSALS

## Procedural Fairness

Before making a final decision, the applicant should be made aware of the Visa Officer's concerns and provided with a reasonable opportunity to address those concerns (i.e., the right to be heard).

Procedural fairness can occur during the interview, where the Officer verbally provides the applicant with an opportunity to respond, or in writing via a Procedural Fairness Letter that is typically sent to the applicant via email. Generally, the applicant is given 30 days to respond to a Procedural Fairness Letter. If you do not think you are in a position to fully respond, or need more time to address certain concerns, applicants are encouraged to request more time. There is no requirement for IRCC or Visa Officers to send a Procedural Fairness Letter in all cases.

Applicants must respond to any procedural fairness requests made during the interview or in writing via a Procedural Fairness Letter as the onus is on the applicant to address the Officer's concerns.

Further information on procedural fairness is available at: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/service-delivery/procedural-fairness.html>

## Refusal Letters

If a refugee sponsorship application has been refused and you want to better understand the reasons for refusal, the first step is to review the refusal letter. Copies of the refusal letter are often sent to both the sponsor and the applicant. You may wish to ask the applicant to describe any concerns the Officer expressed at the interview. Familiarizing yourself with the [eligibility](#) and [admissibility](#) requirements for refugee sponsorship applications may help you understand how the Officer came to their decision.

Further information about the process IRCC will follow when refusing a refugee sponsorship application can be found here: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/resettlement/final-decision/refuse.html>

## Requesting GCMS Notes

Under the Access to Information Act, a Canadian citizen, permanent resident or a person inside Canada can request a complete copy of the IRCC file, including the GCMS notes. The GCMS notes may contain information on why the application was refused, including the Officer's assessment and the reasons for refusal.

The sponsor can submit a request on behalf of the refugee so long as the appropriate forms have been completed. Use the online [Access to Information and Personal Information Online Request](#) form to request the IRCC file which includes the reasons for refusal for your immigration/citizenship application.

Please note that to release any personal information from the applicant's file to you, IRCC needs to receive the applicant's signed consent in writing (see *Getting Permission*). This may already be on file or may be scanned and attached to your email inquiry.

## Getting Permission

Please note that to release any personal information from the applicant's file to the sponsor, the IRCC needs to receive the applicant's signed consent in writing. The refugee applicant and all their family members over 18 must have signed the [IMM5476 Use of Representative form](#) and the [IMM5475 Authority to Release Personal Information to a Designated Individual form](#).

The Privacy Act requires that the applicant provide consent for the release of case-specific information. This is also true if you wish to make a request for the Global Case Management System (GCMS) notes under the *Access to Information Act*. Answers to frequently asked questions about making requests under these acts are available on the IRCC website at: <https://atip-aijprp.apps.gc.ca/atip/faq.do?caller=/atip/faq.do>

## Requesting Reconsideration

Although it is possible to apply for judicial review (see *Judicial Review*) for all refused applications, this is a costly process and best used when there is a strong likelihood of the judicial review being successful. It is recommended to consult with a lawyer before pursuing a judicial review.

If an application is refused, you can request a reconsideration of the decision via email by responding to the refusal and explaining why a reconsideration is being requested. An officer will consider the request and decide whether to exercise their discretion to reconsider the previous decision.

Reconsideration is relevant when the applicant believes an error or oversight was made in the adjudication of the case. It is not an opportunity to present new information or evidence after the decision was made.

## Judicial Review

There is no appeal mechanism for refugee sponsorship applications that are refused. Instead, there is the possibility of a judicial review. Generally, judicial reviews must be filed within 60 days if the decision was made overseas. Judicial reviews are heard at the Federal Court.

Judicial review is a two-stage process. In the first stage, which is known as the "leave stage", the Court reviews the documents and legal arguments related to your case. You must show the Court that an error was made in the decision or that the decision was not fair or reasonable. If leave is given, this means the Court has agreed to examine the decision in greater depth. At this second stage, called "judicial review," an oral hearing is held before the Court.

If a judicial review is successful, the Court cannot substitute its decision for that of the decision maker. Rather, the Court examines the process that led to the decision and determines if this process was fair and the decision was reasonable. If the Court determines that it was not, the Court will only quash the decision in question and order a redetermination.

## Tips to Avoid Negative Decisions

Although applying for judicial review is possible, sponsors must focus on proactive work, such as thorough case assessments, to avoid negative decisions.

It is important that sponsors ensure the refugee sponsorship **application is well prepared before submitting** it to IRCC. Ensure the applicant's narrative is clear and consistent with sufficient detail. In addition, ensure the applicant satisfies either the [Convention Refugee Abroad or Country of Asylum Class definitions](#). Applicants must review their narrative before the application is submitted to ensure it is an accurate reflection of the experiences and so they know and understand what is in their application.

Sponsors should **ensure that a case is well-documented when it is submitted**. That includes identity and corroborating documents such as police or medical reports, employment letters, etc, as well as objective reports on country conditions from organizations such as Amnesty International, Human Rights Watch, the US Department of State, the UNHCR, and major media outlets. Remember: documents can be filed up until the point a decision is made. Even after the interview if a sponsor learns that issues came up during the interview that led them to believe that there needs to be clarification, supporting documents can still be submitted to the Visa Office, so long as a final decision has not yet been made. Any information received up until that point should be taken into consideration. If this type of situation arises, it is important to notify the Visa Office immediately in writing that you will be sending further evidence and request that no decision be rendered until that new evidence has been received.

**Interview preparation** is very important, when possible. Talk to the refugee before they go into the interview. It is important for the refugee to understand what is going to happen and the purpose of the interview. Review the key facts the refugee needs to convey to the Visa Officer. Emphasize the importance of focusing on what they know, admitting what they do not know and never falsifying or exaggerating information. Also emphasize that if they have ANY concerns about the interpreter or the quality of the interpretation, they should raise it with the Officer immediately during the interview. Resources on how to prepare for an interview are available [here](#).

**Post-interview debriefs** are very useful should the case be refused. Having the refugee(s) recount what happened at the interview, what was asked, what they answered, whether there were problems with the interpreter, whether the Visa Officer appeared to be listening or distracted, etc., provides a record that can be used to rebut any differing report of the interview.

## Have Further Questions?

Please [contact](#) your nearest RSTP Trainer if you would like further information or call the RSTP Helpline (toll-free) at 1-877-290-1701.

For more information: **1.877.290.1701** [info@rstp.ca](mailto:info@rstp.ca)  
**RSTP has trainers across the country. Visit [www.rstp.ca](http://www.rstp.ca) for locations.**

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