ASIO Security Assessments

What is the ASIO security check procedure for asylum seekers who arrive by boat?

Upon being detained and whilst undergoing the refugee status determination process, the Department of Immigration (DIAC) collects information about each asylum seeker’s claim, including their name and personal details. After DIAC determines that an asylum seeker qualifies for refugee status, this information is then passed on to ASIO who undertake a triage system.¹

The triage system works by checking each asylum seeker against ‘indicators of concern’ that are secret criteria established by ASIO. As of May 2013, around 10-15% of IMAs are subject to a full security assessment². From July 1 2012 to April 30 2013, ASIO conducted 3,000 full assessments³. David Irvine, the Director General of ASIO stated in 2013 that the triage system is very rigorous and based on multiple indicators. There are three possible outcomes to a security assessment:

1. Non-prejudicial finding whereby ASIO declares no security concerns.
2. Qualified assessment where ASIO have identified some security concerns but do not represent such a risk that a permanent visa should not be issued.
3. Adverse assessment in which ASIO recommends that a permanent visa not be issued, due to particular security concerns⁴.

Are asylum seekers who are released into community processing subject to a security assessment?

Asylum seekers who DIAC decides to release into the community are referred to ASIO for a security check; however, it is different from the ASIO security assessment for recognised refugees who qualify for a permanent protection visa.

This is because the security considerations for asylum seekers who are to be released on temporary bridging visas are very different to the security considerations for those who are destined for permanent residence in Australia. Such ASIO assessments simply check each asylum seeker against a number of primary indicators to ensure they are not an immediate security risk⁵.

¹ This triaging process only began in April 2011. Prior to this all recognised refugees were required to undertake a full security assessment. Additionally, prior to December 2010, the Department of Immigration referred all Irregular Maritime Arrivals (IMAs) to ASIO upon arrival for a security assessment and not just those found to be refugees.
³ David Irvine, Hansard, 30 May 2013, Senate Estimates, Legal and Constitutional Affairs Committee.
⁴ David Irvine ibid.
⁵ Parliament of Australia, ‘ASIO security assessments of asylum seekers’ ibid.
Does ASIO conduct security assessments on asylum seekers who arrive by plane?

People who arrive by plane and then lodge an application for a protection visa only have a full security assessment undertaken if they are referred to ASIO through the triage process. As documented visa holders, plane arrivals already undergo a brief security check when applying for an Australian visa in their country of origin.

What is the criteria by which ASIO make their security assessments?

The specific criteria by which ASIO make their assessments are unknown, broad categories for adverse security assessments are outlined in section 4 of the ASIO Act (1979) including espionage, sabotage, threats to defence systems and promotion of communal violence. In 2010, the ‘protection of Australia’s territorial and border integrity’ was added to section 4 of the ASIO Act.

Can refugees have an adverse ASIO security assessment reviewed?

There currently exists no review process for refugees within the ASIO assessment framework. Refugees are not even given an explanation for why they have been negatively assessed. They or their lawyers have no idea what they are accused of.

While non-Australian citizens, including asylum seekers and refugees, can file an application in the Federal or High Court to seek judicial review of the legality of ASIO decisions, this does not extend to the merits of the case. Such reviews are only to ensure ASIO’s assessments follow lawful procedures. They do not review the facts of the case or the merits of the decision.

The 54 refugees currently in indefinite detention have not been told by ASIO why they received adverse security assessments. This is inhumane and allows no fair process of rebutting ASIO’s assessment. The appointment of a former Federal Court judge to look at each case is a step in the right direction. However, the process is not binding, and therefore does not go far enough in upholding the 54 refugee’s basic human rights.

How many adverse security assessments has ASIO issued to irregular maritime arrivals (IMA’s)?

Between 2000-2009, ASIO conducted 7181 security checks, yet they issued just one adverse assessment. In 2010 and 2011, out of the nearly 7000 security assessments undertaken by ASIO, 54 refugees – mostly Sri Lankan Tamils – were

---


denied permanent visas because ASIO had labeled them a security risk. These assessments are currently being reviewed by Justice Margaret Stone.

How can ASIO be sure an asylum seeker is not a security threat if they hold no documentation?

Appearing before the Joint Select Committee on Australia’s Immigration Detention Network, David Irvine reported that ‘we have other means gradually of identifying people and we have other intelligence means of finding out information about people... it is not solely dependent on identity’.

Irvine added that despite the lack of documentation for the majority of boat arrivals, ‘by the end of the process where we are issuing an adverse assessment we have a very clear idea of who the person is and what that person’s past has been’.

Should merits review be extended to refugees?

A proper review mechanism for refugees is crucial, not just in the interests of basic justice, but because the consequences of a negative assessment are so grave. Currently, 54 recognised refugees, including children, have received negative ASIO assessments. They have committed no offence under Australian law, yet they now face indefinite imprisonment in Australia.

In April 2013, the Greens proposed legislative amendments that would allow refugees who had received adverse security assessments with the right to merits review in the Administrative Appeals Tribunal. Many commentators and experts such as Professor Gillian Triggs, President of the Australian Human Rights Commission, recommended these be adopted.

David Irvine, Director-General of ASIO, stated in 2012 that ‘should the government introduce a merits review process for IMAs who are subject to adverse or qualified assessments, we will then work within that legal framework’.

---

9 Ibid.
10 Ibid.
ASIO Security Assessment Procedures for Boat Arrivals

Detained and processed by Immigration

Qualifies for community release

Refugee status refused: Arrangements made for departure

Does not qualify for community release

Security check triage

Recommended for intensive ASIO security assessment

Non-prejudicial finding

Security check triage

Recognised as Refugee

Refugee status refused: Arrangements made for departure

Refugee status refused: Arrangements made for departure

Released into community detention or onto a bridging visa

Adverse assessment

Confined to indefinite detention

Referred to ASIO for basic security check (24 hours)

Pass

Fail

Protection Visa Granted

Source: Asylum Seeker Resource Centre