



## AAT explanatory statement for Kaldor Centre (5 August 2022)

The AAT welcomes the opportunity to provide an explanatory statement to accompany data accessed through the Kaldor Centre Data Lab. The statement focuses on protection (refugee) cases.

The Administrative Appeals Tribunal (AAT) provides independent merits review of administrative decisions made by the Australian Government. We conduct reviews under more than 400 pieces of legislation, including of protection (refugee) decisions.

The AAT's objective is to provide a mechanism of review that is accessible, fair, just, economical, informal and quick, and that is proportionate to the importance and complexity of the matter.

We are committed to transparency and engaging with our applicants, parties and the community in a way that promotes public trust and confidence in Tribunal decisions. We regularly publish [data on the AAT website](#) and respond to requests for information from external stakeholders.

The AAT recognises the importance of consistency in quality decision making, and of the need to balance predictability with the remit of every one of our members to review decisions 'on the merits'. AAT members must take a fresh look at the relevant facts, law and policy, and make the legally correct decision or, where there can be more than one correct decision, the preferable decision.

Where an applicant is not satisfied with the decision made by the AAT, they can in most cases apply to the courts for a judicial review. In the 2020–21 financial year, only 1.9% of Migration & Refugee Division decisions, including those related to protection (refugee) cases, made in 2019–20 which could be appealed, were allowed by the courts.

The AAT agrees with the Kaldor Centre that there is a need to exercise caution when drawing inferences from the data about individual members' patterns of decision making.

There are multiple factors which may contribute to whether a member affirms or sets aside a decision in a protection (refugee) case, which are not apparent in quantitative data. These include:

- the nature of evidence presented by applicants or their representatives, including the quality and extent of evidence provided, delays in the provision of evidence or the failure to provide updated evidence
- whether the applicant failed to appear at the hearing, resulting in the case being dismissed (cases finalised by dismissal are included in the data for affirmed cases)
- the current situation in the applicant's country of origin
- the age of the case
- the complexity of the case
- the types of cases a member is allocated.

The AAT supports members to discharge their statutory responsibilities through the provision of administrative, research and case management assistance. We also provide a comprehensive onboarding and ongoing professional development program, and access to current country information.