

# Immigration and Domestic Violence

## *Your rights and responsibilities*

- My Relationship with my visa sponsor (husband or partner) has ended - What do I have to tell the Department of Home Affairs (DHA)?
- Can I stay in Australia or get permanent residency, if the relationship has ended?
- Is it true that my Australian husband/partner can deport me?
- What happens if my ex-partner tells DHA he is withdrawing sponsorship of me?
- What do I do if my ex has my passport or other documents?



### **My Relationship with my visa sponsor (husband or partner) has ended. What do I have to tell DHA?**

a) If you have a permanent visa (permanent residency) there is no need to contact DHA about your relationship.

b) If you have a temporary spouse visa, or temporary partner visa (subclass 457, 482 or 485), you should immediately notify DHA that your relationship has ended. Once the relationship breakdown has been confirmed, your sponsor will be asked to formally withdraw their sponsorship. In accordance with any privacy laws, once your sponsor has withdrawn their sponsorship they will no longer receive any further correspondence in regards to your visa application. It is very important that you update your current address with DHA, to inform the department where all your current letters should be sent. You may consider whether they should write directly to you, or to a trusted friend, social worker, migration agent, or somewhere your ex partner cannot find your letters).

Forms: 1022 for change in circumstances, 929 for change of contact - 956 and 956a may also be useful.

A domestic violence support worker may be able to help you fill in the forms if your english is not good. A migration agent can give you advice about what to write, and what your next step should be.

c) If you have a fiancé (prospective spouse) visa (subclass 300) AND you have married the visa sponsor, the steps in (b) above, may also apply so you should get advice from a migration agent.

d) In any other situation (including no visa) you should get advice from a migration agent. There are many types of visas and each type has different rules.

## **Can I stay in Australia, or get permanent residency, if the relationship has ended?**

This is a complicated question, so seek advice from a migration agent. It depends on what type of visa you have, and your exact situation. Some visas include "family violence provisions", which gives victims of family violence a pathway to permanent residency. This is in order to protect victims of domestic violence, so they don't stay in abusive relationships in order to stay in Australia. The DHA needs to be satisfied that the relationship was genuine until it ended and that the family violence took place during the course of the relationship.

Some visas also include a pathway to permanent residence, if there is a child that both you and your visa sponsor are responsible for. If you come from a country where you will be in danger if you return, you should also ask the migration agent about protection visas.

If you do not qualify for a visa, but there are compelling reasons why you need to stay in Australia, you should seek advice about "ministerial intervention" (a special request to the Minister for Immigration). For visas that include family violence provisions, you can only use these provisions IF the relationship has ended.

## **Is it true that my Australian husband/partner can deport me?**

No, your Australian husband or partner does not have the right, or the power to deport you - even if he was/is the sponsor for your visa. Only the DHA has the power to decide whether you stay in Australia, not your sponsor.

If you hold or have applied for a temporary visa, see below about a withdrawal of sponsorship. If you have a permanent visa, then your ex has nothing to do with your visa. If you are interested in becoming an Australian citizen, get further information from DHA, or from a migration agent.

This is relevant if you hold or have applied for a temporary visa, linked to your ex partner's sponsorship. Your sponsor may write to DHA saying that he is withdrawing sponsorship of your visa. In this case, DHA should write to you notifying you that your sponsorship has been withdrawn. They may also provide you with an opportunity to explain why the relationship has ended, and find out whether you qualify for a permanent visa independently (e.g. in some situations you can qualify on the grounds of domestic violence, or if you have a child with your ex sponsor).

## **It is important to give the DHA an address where you are confident you will get their letters.**

## **What do I do if my ex has my passport and other documents?**

In this case it is important that you see the Property and Domestic Violence Factsheet. If you do not have your passport, and you cannot get it back safely, you can contact your country's embassy in Australia to ask if they can cancel that passport and give you a new one.

## Interpreters

If you need an interpreter, ask for one. If the service cannot provide one, you can organise one yourself, through TIS.

**Translating and Interpreting Service (TIS)      131 450**

### Where else can I go for further information and assistance?

The Legal Services Commission SA has a free legal advisory service available to immigrants and refugees. This is run through their Adelaide office.

**Legal Services Commission      (08) 8111 5539**  
**Women's Legal Service (SA) Inc.      (08) 8221 5553 or 1800 816 349**  
**Department of Home Affairs      131 881**

This is not legal advice, if you need legal advice:

Find your nearest community legal centre, go to [www.clcsa.org.au](http://www.clcsa.org.au) ;or

find your nearest Legal Services Commission SA office [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au) or call

1300 366 424 for free legal assistance



**WOMEN'S LEGAL SERVICE (SA)**  
Achieving justice for women



Community Legal Centres  
Australia

Please note: This factsheet contains general information only. It does not constitute legal advice. If you need legal advice, please contact a solicitor. Acknowledgement: This resource was adapted by the Women's Legal Service (SA) Inc. Originally developed by the National Association of Community Legal Centres, Community Legal Centres NSW and a number of community legal centres including Macarthur Legal Centre and Women's Legal Services NSW with the assistance of an Australian Human Rights Framework – Education Grant from the Australian Government. Last updated: May 2020