



# Briefing on the 2021/22 performance and current operations of Immigration New Zealand

Report of the Education and Workforce  
Committee

May 2023

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Ibrahim Omer  
Deputy Chairperson

# Briefing on the 2021/22 performance and current operations of Immigration New Zealand

## Recommendation

The Education and Workforce Committee has considered a briefing on the 2021/22 performance and current operations of Immigration New Zealand, and recommends that the House take note of its report.

## About this briefing

Immigration New Zealand is a business unit of the Ministry of Business, Innovation and Employment (MBIE). The Economic Development, Science and Innovation Committee conducts the annual review of MBIE.<sup>1</sup> However, we are responsible for the immigration subject matter. We believe Immigration New Zealand's work is sufficiently important that it merits specific scrutiny, so we initiated this briefing.

We conducted this briefing as if it were an annual review. We received advice from the Office of the Auditor-General, held a hearing, and sent questions for written response. This report should be read alongside our report on the 2021/22 annual reviews of labour sector entities.<sup>2</sup>

We heard from the Minister of Immigration, Hon Michael Wood; MBIE's chief executive; the deputy secretary for immigration; and the general manager for employment, skills, and immigration policy. Throughout this report, we attribute answers to MBIE overall, as opposed to Immigration New Zealand specifically.

## About Immigration New Zealand

Immigration New Zealand's core functions include:

- implementing the country's immigration rules and laws
- making careful and timely decisions about visas and border entry
- overseeing voluntary departures, deportations, and investigations of alleged fraud
- overseeing the refugee quota programme
- engaging with relevant sectors and industry employers
- providing the Government with advice to support strategic and operational decisions
- supporting national security functions.

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<sup>1</sup> Economic Development, Science, and Innovation Committee, 2021/22 Annual review of the Ministry of Business, Innovation and Employment, 2 March 2023.

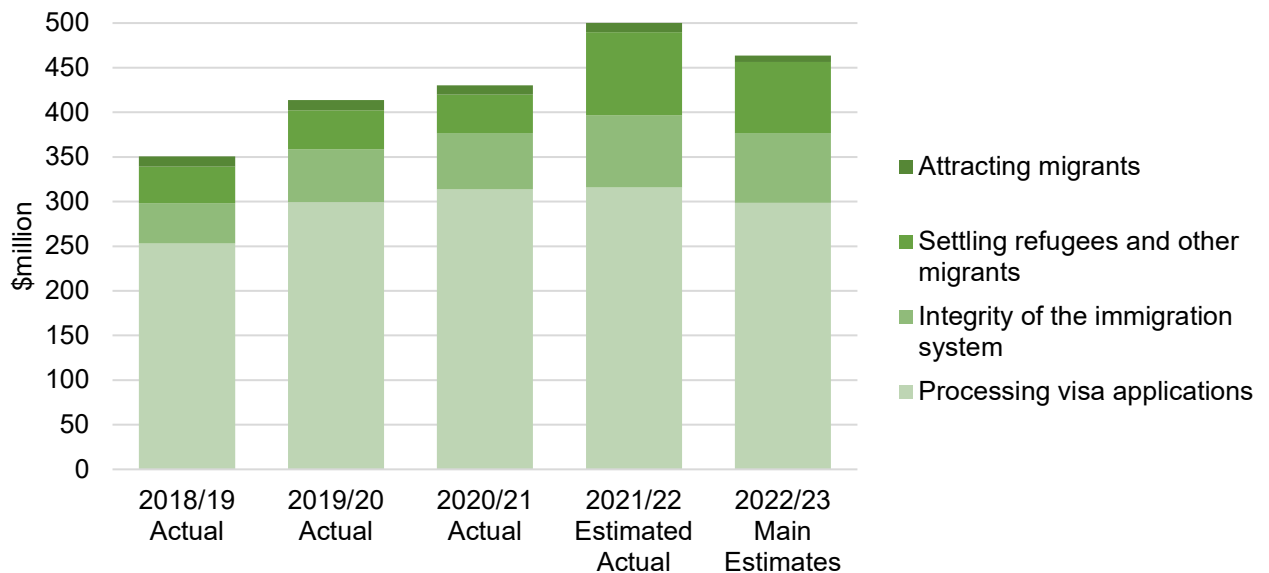
<sup>2</sup> Education and Workforce Committee, 2021/22 Annual review of the labour sector (Accident Compensation Corporation and WorkSafe New Zealand) and Report of the Ombudsman, Report on OIA compliance and practice in Te Kaporeihana Āwhina Hunga Whara Accident Compensation Corporation, 30 March 2023.

In 2021/22, **\$470.9 million** was appropriated for the immigration portfolio, including for immigration advisers and immigration policy advice and related outputs. The Immigration Services multi-category appropriation accounted for 97 percent of the funding for immigration (\$458.3 million). Of this funding:

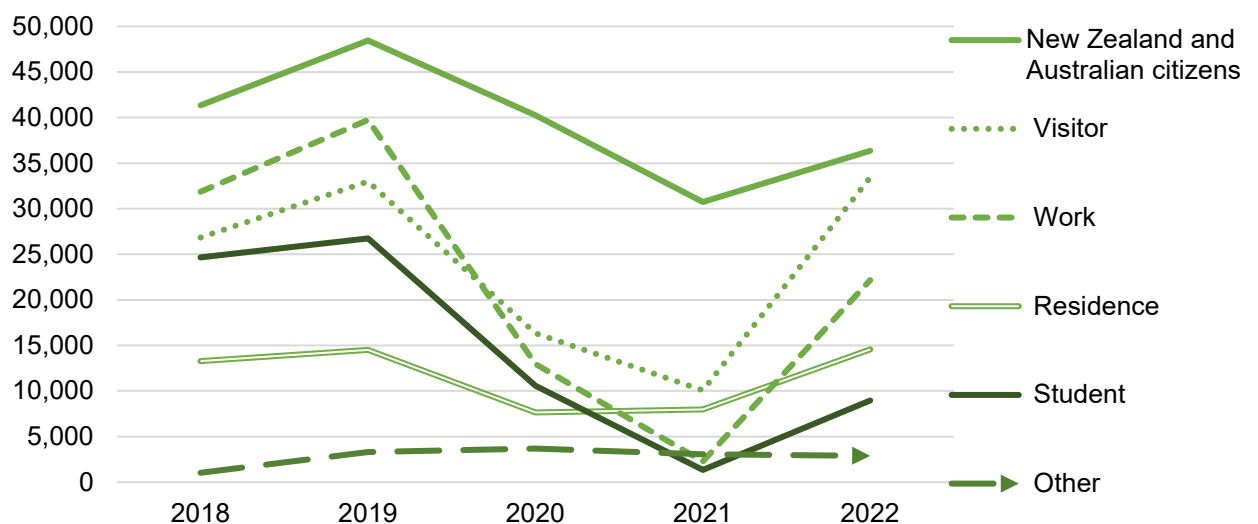
- \$11 million was appropriated for attracting migrants to New Zealand
- \$64 million was appropriated for settling migrants and refugees into New Zealand, including processing claims for refugee and protected persons status
- \$74 million was appropriated for maintaining and enhancing the integrity and security of the immigration system
- \$310 million was appropriated for processing visa applications.

In 2021/22, the immigration portfolio received increased funding, including to address temporary migrant worker exploitation, resettle Afghan nationals, and to deliver the Future Footprint project (bringing visa processing back onshore).

**Trends in the Immigration Services multi-category appropriation, 2018/19 to 2022/23**



**Arrivals in New Zealand by visa type, 2018 to 2022 (calendar years)**



## **Amnesty for people who have overstayed their visas**

In October 2022, as part our briefing on the report on undocumented Tuvaluans in Auckland, we spoke with the Irish Department of Justice about Ireland’s scheme to regularise undocumented migrants. In our report to the House, we recommended that the Government “consider a regularisation initiative for undocumented migrants, taking into consideration lessons from Ireland’s 2022 scheme.”<sup>3</sup>

We asked whether the Government is considering an amnesty for people who have overstayed their visas. The Minister said he has received advice from officials, and confirmed the Government is actively considering this “very significant” matter. However, we heard the Minister has not taken a paper about a potential amnesty to Cabinet or a Cabinet committee, nor have any decisions been made. We asked about the potential eligibility criteria for the scheme and heard there is not currently “a specific proposal on the table”.

We are interested in the nature of the advice the Minister has asked for on this issue. We heard the Minister asked for general advice, as well as information about what New Zealand has done in the past and the Irish scheme. MBIE said it has provided advice “in lots of different forms” to the Minister to support his conversations with Cabinet colleagues. This includes advice on the advantages and disadvantages of an amnesty.

We asked whether the Minister or Ministry for Pacific Peoples has asked for an amnesty to be considered. The Minister of Immigration said he has spoken to Ministers who have held the Pacific Peoples portfolio, and members of the Pacific community about the topic. He said everyone recognises that an amnesty is a “relatively complex issue”.

We discussed the possibility that an amnesty for people who have overstayed their visa could incentivise future overstaying, and whether there is evidence for this. The Minister said it is “just common sense” and “a little bit inarguable” that people might behave differently if there is the prospect of an amnesty. The Minister also said there is “no doubt” that people who have overstayed their visa “experience significant levels of social exclusion and harm because of their illegal status”. He said this is the primary reason why the Government is considering the matter.

We asked whether the Minister believes an amnesty could be unfair to visa holders who are in the country legally but would miss out on residence. The Minister said the Government has been generous in granting residence to people compared to previous governments. Roughly 140,000 people gained residence through the 2021 Resident Visa, whereas 30,000 to 40,000 people gained residence in most previous years. The Minister said there are now more pathways for people to gain residence than previously, including the reopened Skilled Migrant Category Visa and an expanded Green List. Nonetheless, it has never been the case that everyone who wants residence is granted it.

The Minister said he “simply couldn’t say” when to expect the Government’s next steps on a potential amnesty. He restated that this is a complex matter, with strong views on either side, and said the Government will take its time to consider the matter carefully.

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<sup>3</sup> Education and Workforce Committee, [Briefing on the report on undocumented Tuvaluans in Auckland](#), 17 November 2022.

Labour Party and Green Party members are pleased the Government is considering an amnesty for people who have overstayed their visa, as we recommended in 2022. We will continue to monitor this issue with great interest.

## **Acceptable standard of health**

For a visa application to be successful, Immigration New Zealand must deem that an applicant has an acceptable standard of health. An acceptable standard is if they are unlikely to endanger public health, are able to undertake the work or study that underlies their visa, and are unlikely to impose significant costs or demand on health and education services.

We asked whether the Minister is satisfied with how the acceptable standard of health requirement is being applied to people with mental health problems. The Green Party member understands that a visa applicant with a low-dose antidepressant prescription has faced delays in visa processing. We also queried using body mass index to determine an applicant's health.

The Minister said the acceptable standard of health policy, in general, is an important way to manage costs to New Zealand's social services. He said it is appropriate for immigration systems to do so. He said the Government always tries to calibrate the policy fairly, noting that from 4 September 2022 the definition of "significant costs" increased from \$41,000 to \$81,000. He disagreed with the suggestion that New Zealand's health requirements are strict compared to other jurisdictions.

The Minister said he did not think that someone taking a low dose medication for their mental health would "fall foul" of the policy. MBIE said it tries to take a nuanced approach and would be interested in learning more about the specific case. It might ask an applicant further questions based on a health indicator, but the medication would not be the sole reason for declining an application. The Minister acknowledged that this can make a visa application take a bit longer and that this can have "an impact on that individual". However, he restated that it is reasonable for immigration systems to consider the potential effects of a visa applicant on social services.

The Minister said policy is a difficult matter and he is open to recalibrating it to ensure the rules are as fair and reasonable as possible. We understand MBIE and the Ministry of Health are reviewing aspects of immigration instructions relating to health requirements for residence. MBIE said it wants the review to consider the use of body mass index.

In October 2022, we recommended, by majority, that the Government's review of immigration instructions relating to health requirements for residency should consider creating exemptions for dependent children.<sup>4</sup> We asked the Minister whether he agreed with this recommendation and heard he is open to considering it.

The Green Party member continues to believe that the acceptable standard of health policy should be removed in its entirety. The Green Party member believes current immigration settings do not adequately reflect the aspirations and rights of people with disabilities under the United Nations Convention on the Rights of Persons with Disabilities. The Green Party

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<sup>4</sup> Education and Workforce Committee, [Petition of Juliana Carvalho: Let Ignacia stay in New Zealand](#), 20 October 2022.

member believes Immigration New Zealand needs to urgently stop the use of BMI for the purposes of the acceptable standard of health policy.

Labour Party, National Party, and ACT Party members believe the acceptable standard of health requirement is necessary but needs to be carefully calibrated.

## Memorandum accounts

In addition to Crown Funding, the immigration system is funded by fees and levies charged for visa applications. We asked about the current balance of the visa fee memorandum account. This figure was not able to be provided at our hearing. After the hearing, MBIE informed us in writing that, as at February 2023, the visa fee memorandum account had a deficit of \$6.065 million. The New Zealand Electronic Travel Authority (NZeTA) memorandum account had a small surplus of \$322,000.<sup>5</sup> National Party and ACT Party members are disappointed these figures were not available at our hearing. If they were, they would have enabled us to better scrutinise officials.

The Minister was able to say that the visa fee memorandum account is projected to have a positive balance of roughly \$35 million by the end of the year. MBIE said that the projected \$270 million deficit has been offset by increased fees and visa applications. The Minister said the account had fallen into deficit because the immigration system largely closed with the borders in response to the COVID-19 pandemic.

After our hearing, MBIE also provided us with the following table:

### Balances of memorandum accounts, 2017/18 to February 2023 (deficits in brackets)

Account	2017/18 \$m	2018/19 \$m	2019/20 \$m	2020/21 \$m	2021/22 \$m	February 2023 \$m
Visa Fee	(45.72)	(65.12)	(127.14)	(79.23)	(182.82)	(6.06)
Electronic Travel Authority	N/A	(2.03)	(7.46)	(2.19)	(15.52)	0.32

We will continue to monitor the visa fee memorandum account, which we would like to see return to zero. We note that the OAG says the balance of memorandum accounts should trend towards zero over time.<sup>6</sup>

## Accredited Employer Work Visa

The new Accredited Employer Work Visa requires employers to be accredited and pass a job check before they are allowed to employ migrant workers. The job check ensures the employer pays the market rate and at least the median wage unless it is on an exemption list. This visa is the main pathway for migrants on employer-assisted temporary work visas.

<sup>5</sup> Ministry of Business, Innovation and Employment (response to written question 164), 5 April 2023. These figures include the write-off of the accumulated deficits in the visa and NZeTA memorandum accounts. They do not include the levy account, which is a hypothecation account.

<sup>6</sup> Office of the Auditor-General, Setting and administering fees and levies for cost recovery: Good practice guide, August 2021.

We asked whether Immigration New Zealand verifies the qualifications and work experience of migrants when they apply for an Accredited Employer Work Visa. MBIE said it accepts the information migrants provide “if on face value it looks right”. MBIE said that it is “doing as many checks as we did in the past”. It expects employers would have checked qualifications and work experience before hiring the migrant. It also noted that most occupations require workers to be registered.

National Party members are concerned that unscrupulous agents from overseas could take advantage of the system, and sell prospective migrants documentation that would misrepresent their work experience, skills, and qualifications. MBIE said it does not believe this is the case. It said it is doing as many checks as it has ever done and is putting further obligations on employers to do their part. It said it has “really good intelligence” and that it has stopped people on a number of occasions because it has received tip-offs about certain overseas agents. It said it would be grateful to receive further information about specific incidents.

The Minister of Immigration said a core function of the immigration system is ensuring its integrity. He said it will always be the case that people seek to violate the immigration system because New Zealand is a desirable location. He said a balance needs to be struck between verification and compliance, and making sure visas are processed in a timely manner. When there are violations of the system, he said the Government takes this seriously and takes action.

### **Time period a job check is valid**

Job checks for the Accredited Employer Work Visa are valid for six months. National Party members have heard feedback from employers that this period is too short. A migrant may start a job but leave within six months, meaning that the employer has to undergo another job check for the same job.

We asked whether MBIE will extend the time period that a job check is valid. MBIE said it has also received this feedback and is actively considering how to make the job check valid for longer periods. MBIE expects to provide advice to the Minister on this matter by mid-2023.

### **Visa processing times**

In 2017, roughly 1,890 employees processed an average of 16,000 visas a week. In 2022, roughly 2,280 employees processed an average of 13,000 visas a week. Given this increase in staff, we asked why visa processing takes so long. In particular, we note that it takes 4.2 years on average to process 90 percent of Skilled Migrant Category Visa applications.

MBIE noted that the Skilled Migrant Category Visa had been closed from April 2020 until November 2022. It attributed the 4.2 years statistic to this closure and said it reflected processing times for applications that had been made prior to April 2020. It said that, to encourage people to come to New Zealand, it needs to provide applicants the actual time that it would take if their application were made now.

The Minister said visa processing times have been a “really big focus” for him and MBIE. He acknowledged that processing times were “often a lot slower” than desired in quarters two

and three in 2022. To decrease the time taken to process visas, MBIE has hired more staff, streamlined its processes, and brought in external specialist resource. The Minister said good progress has been made, with more visas being approved in late 2022 and early 2023 compared to late 2019 and early 2020. The Minister said the median processing time for a visitor visa is 13 days, employer accreditation is 5 days, a job check is 5 days, and a work visa is 18 days.

National Party and ACT Party members do not believe it is useful to consider median processing times for visas. These members believe the time taken to process 90 percent of applications for a visa is a more accurate measure.

The Minister said that it is useful to consider median processing times because they give the standard applicant a rough indication of what to expect. He said that considering the time it takes to process 90 percent of applications captures some of the more complex applications, which can be submitted incomplete. Incomplete applications require Immigration New Zealand to go back and forth with the applicant, delaying the process. The Minister said he wants to see continued improvements to processing times.

We agree there needs to be a continued focus on reducing visa processing times wherever possible.

## **Staff retention and working with the private sector**

Immigration New Zealand has many new employees. We heard that 40 percent of Immigration New Zealand's workforce has worked there for less than a year, and 21 percent for less than three months. MBIE said it is proud of Immigration New Zealand's employee attrition rate, which is 11.8 percent. It said this is not unusual for a big organisation and can be attributed to staff being promoted or moving to another team within MBIE or the public sector.

National and ACT Party members are concerned that having lots of new and inexperienced staff could mean inefficient visa processing.

We asked whether MBIE has considered working with the private sector to speed up visa processing. Licensed immigration agents and lawyers could give Immigration New Zealand decision-ready applications that could be fast-tracked. This expertise could complement Immigration New Zealand's workforce. MBIE said it is actively considering working with immigration advisers to speed up visa processing. MBIE also said it is working across its entire organisation to optimise information sharing, such as by better integrating its contact centres.

We endorse working with the private sector, where appropriate, to speed up visa processing.

## **Contingency plans for visa processing**

In 2022, the Department of the Prime Minister and Cabinet (DPMC) assessed Immigration New Zealand's contingency plans for visa processing in the event of a system failure or

surge in applications.<sup>7</sup> We asked for a response to this assessment. MBIE said it has accepted all of DPMC's recommendations. It meets regularly with DPMC to provide updates about its planning. We heard MBIE has some plans to automate routine tasks and is working to improve the accuracy of its visa forecasts so it can roster enough staff.

## 2021 Resident Visa

The 2021 Resident Visa was a one-off residence pathway for migrants who were already in New Zealand on 29 September 2021, held an eligible visa, and were:

- settled—they had lived in New Zealand for more than three years, or
- skilled—they were being paid at or above the median wage (\$27 an hour or more), or
- scarce—they were working in a listed occupation that was experiencing difficulty recruiting New Zealanders.

The visa was intended to give migrants and employers certainty about their future, especially in the context of ongoing border restrictions.

The Green Party member believes applications for the 2021 Resident Visa have been processed inequitably across different demographics, including Chinese nationals and predominantly Muslim countries. We asked whether MBIE agreed. It said it did, with reference to requiring applicants from countries where tuberculosis is widespread to complete further tests, for example. MBIE added that the difference can also be attributed to a range of factors within a country, including COVID-19, and the ease of getting information that is required.

The Green Party member does not think inequitable visa processing for the 2021 Resident Visa can be attributed to tuberculosis.

## Working holiday visas

We asked what feedback MBIE collects from working holiday visa holders. MBIE said it did some work exploring what attracts migrants to New Zealand. It said it plans to go back and ask working holiday visa holders about their experiences, noting “a good number” came in but not all started work. This would take the form of an emailed survey.

We asked whether the survey will ask about exploitation. We note that working holiday visa holders are ineligible for the Migrant Exploitation Protection Visa. MBIE said it is “not a bad idea” to ask about exploitation and would consider this. It said working holiday visa holders can still report exploitation and are able to change employers. We heard MBIE was unsure whether the 0800 number for reporting exploitation was specifically marketed to working holiday visa holders, and that it would also consider this.

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<sup>7</sup> Department of the Prime Minister and Cabinet, [Proactive Release: Rapid Assessment of the Immigration Rebalance Contingency Planning](#), 1 November 2022.

We urge a continued focus on preventing and addressing migrant exploitation, including exploitation of working holiday visa holders. We refer readers to our final report on our inquiry into migrant exploitation.<sup>8</sup>

We asked whether the Government still intends to bring the working holiday visa into the Accredited Employer Work Visa scheme. We heard the Minister has not indicated to officials an intention to progress this work at this stage.

## Refugee resettlement

From July 2020, the Government increased the refugee quota from 1,000 to 1,500 people annually. It has also doubled the number of family members that it will accept into New Zealand under the Refugee Family Support Category from 300 to 600. To meet the cost of resettling refugees, Budget 2022 allocated \$9.8 million in 2022/23 and \$13.8 million total over four years.

We asked whether MBIE is satisfied all refugees are properly supported as they resettle here. MBIE said it is “really satisfied” with community providers who support refugees. However, it indicated it “may well have handled better” the handover to new community providers whose operating model differs from non-governmental organisations. MBIE said it has commissioned an independent review of the support available to refugees because it takes this matter seriously. This review will be conducted by Dr Camille Nakhid from the Auckland University of Technology.

## Casey review and detaining asylum seekers

Immigration New Zealand commissioned Victoria Casey KC to review its “operational practices, the structure of the detention regime under the Immigration Act 2009, and the appropriateness of the use of Police and Corrections facilities to detain asylum seekers.”<sup>9</sup> The review found that:

the practice of long term detention of refugee claimants in Corrections facilities is wrong, at every level. It raises serious issues of non-compliance with New Zealand’s international and domestic human rights obligations. It is also inhumane and contrary to our society’s core values to treat such vulnerable people in this manner, and while a form of long term detention might in extraordinary circumstances be necessary for public safety or national security, the current rate and form of detention is not justifiable on any basis.<sup>10</sup>

MBIE said it has completed five of the recommendations from the Casey review and is still working on the other two. One of the recommendations that has been implemented is creating an independent panel to decide whether an asylum seeker is taken to court or detained. We heard no asylum seekers have been detained for the last three years.

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<sup>8</sup> Education and Workforce Committee, [Inquiry into migrant exploitation](#), 25 August 2022.

<sup>9</sup> Ministry of Business, Innovation and Employment, [INZ accepts review recommendations relating to the detention of asylum seekers](#), 3 May 2022.

<sup>10</sup> Victoria Casey KC, [Restriction of movement of asylum claimants](#), page 1, 23 March 2022

We queried the consistency of the Casey review with the Government's Immigration (Mass Arrivals) Amendment Bill. MBIE said mechanisms to control the movement of people, such as supervision or control orders, are consistent with the Casey review. MBIE said having a range of levers available "makes it easier to use levers on the softer end" of the scale. It described detaining asylum seekers as "at the extreme end" and "a useful mechanism to have" when there is "no other option". MBIE said the bill applies to the mass arrival of over 30 people. It said this could affect some asylum seekers but would not apply to asylum seekers arriving individually. In part, the bill would extend the time a person can be detained so they can obtain adequate legal representation. The Casey review recognises that there might be extraordinary circumstances where long-term detention is necessary but should not be used regularly.

The Green Party member opposes the Government's Immigration (Mass Arrivals) Amendment Bill and believes it is inconsistent with the findings of the Casey review. The bill would extend the time migrants can be detained, whereas the Casey review opposes the use of long-term detention.

## **2022 Special Ukraine Policy**

In response to the Russian invasion of Ukraine, the Government announced the 2022 Special Ukraine Policy.<sup>11</sup> The policy enables Ukrainian-born New Zealand citizens and residents to bring members of their family to New Zealand to shelter from the war. Under the policy, successful applicants will be granted a two-year work visa and children will be able to attend school.

We asked whether MBIE has advised the Minister that the policy should have involved pathways to residence for Ukrainians. MBIE said it has spoken to the Minister about different options. It said the scheme is designed to allow for safe shelter in New Zealand, and that this was the preference of refugees and the direction received from the international community. However, as the war continues, MBIE said there is greater need to consider whether there should be pathways to residence. MBIE is actively considering this matter.

We asked whether the Government has considered having a similar special visa for other war-affected countries. MBIE said there have been country-specific programmes, citing the visa that was offered during the evacuation of Afghanistan. The Green Party member believes the Government has inequitably chosen which war-affected countries it provides special visa programmes to. This member also believes people who are in New Zealand as part of the 2022 Special Ukraine Policy should be given residency.

## **Ministerial involvement in individual cases**

We asked MBIE how it would respond to the Minister if he asked to personally make a decision on an individual immigration case. MBIE said it would depend on the case and that it would provide a legal view of what is contained within the Immigration Act 2009.

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<sup>11</sup> Hon Kris Faafoi, [Government offers shelter for around 4000 family members of Ukrainians in NZ](#), 15 March 2022.

## **Green List straight to residence pathway**

On 11 May 2022, the Government announced the details of its immigration rebalance. The rebalance involved the creation of a Green List of in-demand jobs. Certain jobs on the list allow migrants to apply for residence immediately, while other jobs require two years of work in New Zealand before being eligible for residence. On 11 April 2023, the Government announced it was adding 32 new health sector roles to the straight to residence pathway of the Green List.<sup>12</sup> We welcome the addition of these roles.

National Party members believe this change happened too late and that the Green List should be more fluid, data-driven, and industry-informed to respond to labour market needs.

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<sup>12</sup> Hon Michael Wood and Hon Dr Ayesha Verrall, [Thirty-two new health sector roles added to Green List Straight to Residence pathway](#), 11 April 2023.

## Appendix

### Committee procedure

We met on 29 March and 3 May 2023 to consider this briefing. We received written and oral evidence from the Ministry of Business, Innovation and Employment. We heard oral evidence from the Minister of Immigration. We received advice from the Office of the Auditor-General.

### Committee members

Camilla Belich (Chairperson)  
Chris Baillie  
Jan Logie  
Ibrahim Omer  
Angela Roberts  
Dan Rosewarne (until 3 May 2023)  
Penny Simmonds  
Lemauga Lydia Sosene (from 3 May 2023)  
Erica Stanford

Ricardo Menéndez March also participated in this briefing.

### Advice and evidence received

The advice and evidence we received for this briefing is available [on the Parliament website](#), along with a transcript of our hearing. A recording of our hearing from 29 March 2023 can also be [accessed online](#).