



# PPI or not PPI?

# What is Potentially Prejudicial Information? (PPI)

- When PPI is identified INZ is required to inform the applicant that it might impact the outcome of their application and provide opportunity for comment.
- If the applicant knows or has access to publicly available information that might impact the outcome of their application this is not considered PPI and a decision can be made without further comment required.
- IAC 11-09

# Onshore

- If the applicant is applying from within New Zealand, we always consider PPI.
- Why?
- INZ considers the principle of fairness and natural justice carefully for onshore applicants.

# Offshore

E7.15.1 applies

For the purpose of assessing an application for a temporary entry class visa from an applicant who is outside New Zealand, PPI is factual information or material that:

- a. was not obtained from the applicant or the applicant's authorised representative or agent; and
- b. is not publicly available, or that the applicant is not necessarily aware of; and
- c. will or may adversely affect the outcome of an application; and
- d. the applicant has not previously had an opportunity to comment on.

**Note:** The submission of false or misleading information by an applicant or their agent is not potentially prejudicial information as that information has been obtained from the applicant or their agent.

**If there is a NZ citizen or resident connection – consider PPI/RFI**

# Recording decisions

- If declining an application and it has been identified that no PPI is present a note similar to the following must be used:

I have not sought comment from the applicant prior to making the decision to decline this application as the information I am basing my decision on is not PPI, according to instructions E7.15.1

- It is also critical to identify what failed the instruction and why

# What does this mean?

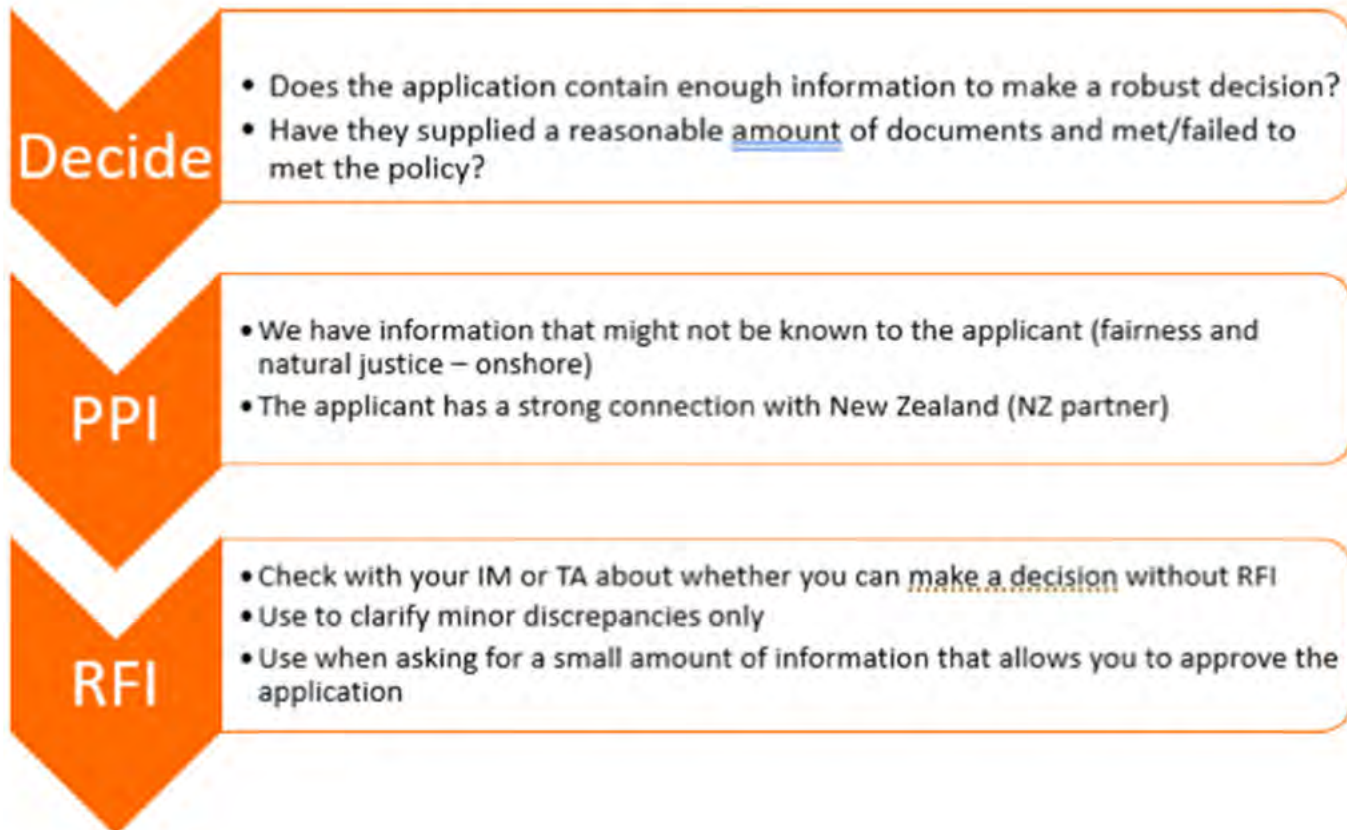
- If you are satisfied, for example, that the applicant has not provided enough information to demonstrate that they are bona fide, you may proceed to decline the application.
- Verification or consultation with a VO is not required
- Consultation with a TA or IM is not required unless you have concerns or are unsure of something

# What if you want to PPI/RFI?

While this is embedding:

For offshore applicants if you wish to RFI/PPI you must check with a TA/IM first.

# Decision Making Steps





# Examples

1. VVG – Client has insufficient funds or any sponsorship. **PPI is not required** – however, you are able to seek the information if you consider they have it and it can easily be provided.
2. VVG – IO is not satisfied client is bona fide due to prior breaching of visa in New Zealand. **PPI is not required** – IO can decide based on information available.
3. VVG – IHS have recently indicated the client is not ASH – **PPI is required** as this meets the definition to require a PPI. Meets PPI definition because this is information we hold- the applicant doesn't know this until we tell them.

# Examples Cont'd

4. VVG – CAPP Nurse – client has been notified their course has been cancelled. **PPI is not required.** IO can decide based on information available.
5. VVG – Character issue declared that falls under A5.45 – **PPI is required** as client would normally be eligible for a character waiver assessment.
6. VVG – client has provided as evidence of funds and OWT a bank statement that indicates sufficient funds. INZ verification reveals bank statement is false. **PPI is not required.** IO can decide on the information available.
7. VVG – where a client has not provided everything needed with their application to meet instructions. **PPI is not required.** IO can decide based on information available.



# Thank you

Questions?



**NEW ZEALAND  
IMMIGRATION**

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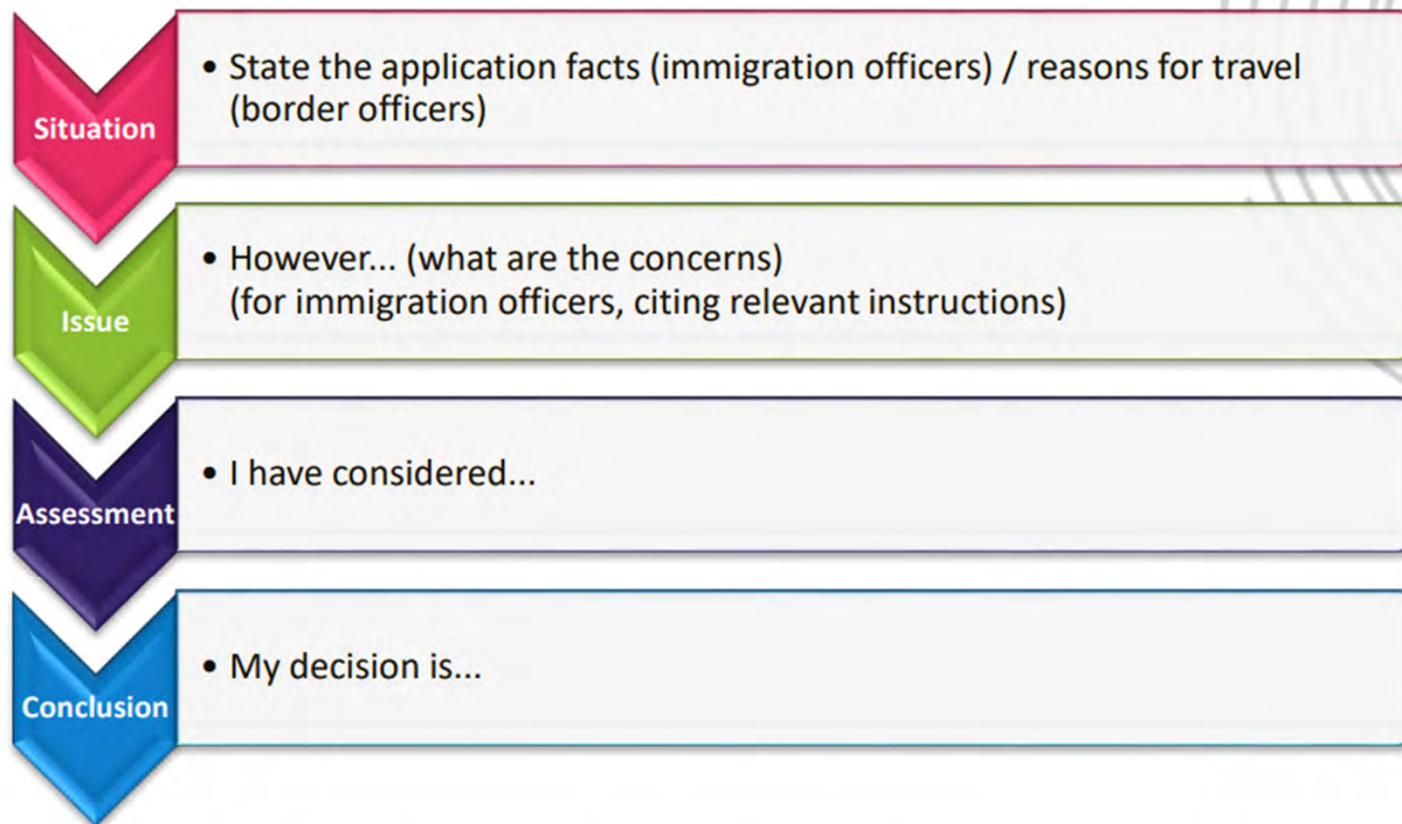
# Writing for Immigration

October 2021

# SIAC Model

## THE SIAC MODEL:

### STRUCTURING A CLEAR AND CONCISE DECISION RATIONALE



The SIAC model can be used to help clarify a decision rationale. The four stages within the SIAC model; situation, issue, assessment, and conclusion.



# Example in PPI

**S** – Situation

**I** – Issue

**A** – Assessment

**C** – Conclusion

- You have claimed 40 points for an overseas qualification from Fiji as an electrician; however you do not appear to meet the requirements for these points as set out in SM8.5(d) and SM8.10(c).
- You claimed 40 points for your overseas qualification from Fiji however this qualification does not appear on the LQEA and has not been assessed by the NZQA. The EWRB has only noted your qualification and has not accepted it, therefore the qualification is not yet recognised and is not yet eligible for points.





# Writing tips

## Do

- Paraphrase
- Summarise, be concise
- Use bullet points to plan out your letters
- Maintain a neutral and objective tone
- Read IPT decisions (it's how we all learned)

## Don't

- Copy/paste from the LIA/applicant letters
- Overcomplicate
- Jump to conclusions
- Use 'I feel...' 'I believe...'



# Common issues

- Structure of a PPI
  - Follow the templates in TLS. Generally it is instruction, body, conclusion.
- Rationale for skilled employment and work experience
  - WALC/SIAC. Set it out in a logical progression based on the facts and the instructions.
- Summarising PPI/Decline in the Case Summary
  - Do not copy/paste. You just need to summarise the issue, the assessment, and the outcome. It doesn't have to be long, it just has to be accurate, neutral, and objective.



# PPI Letter



**Application number: XXXXXXXXX**

**Client number: XXXXXXXXX**

15 January 2019

PA NAME  
PA ADDRESS  
C/-  
LIA NAME  
LIA EMAIL

Dear CLIENT NAME

**Application for a resident visa for:**

**Applicant:**

PA NAME

SA NAME

**Date of birth:**

xx/xx/xxxx

xx/xx/xxxx

Thank you for your application for a resident visa - Skilled Migrant. We received your application on DATE.

**Our assessment of your application**

We have completed an assessment of your application and have identified the following issues which may have a negative impact on the outcome of your application:

- You have claimed 40 points for an overseas qualification from Fiji as an electrician; however you do not appear to meet the requirements for these points as set out in SM8.5(d) and SM8.10(c).
- You have claimed 5 bonus points for a recognised qualification gained in New Zealand citing your registration as an electrician, gained on DATE; however you do not appear to meet the requirements for bonus points for a New Zealand qualification as set out in SM8.25.
- You have claimed 20 points for skilled work experience as an electrician in Fiji working for 1<sup>st</sup> EMPLOYER NAME, 2<sup>nd</sup> EMPLOYER NAME and 3<sup>rd</sup> EMPLOYER NAME; however you do not appear to meet the requirements for the full period claimed in your application as set out in SM7.10(b) and SM7.10.15(a).

We have attached to the end of this letter the immigration instructions that set out the rules for each area we have concerns about. These include:

- **SM8.5(d)** Points for recognised qualifications assessed as occupying level 4 on the NZQF must be relevant to an occupation at ANZSCO skill level 3, 4 or 5, and either be included on the List of Qualifications Exempt from Assessment (see [Appendix 3](#)) and meet the requirements specified in that list, or be assessed by the NZQA as an NZQF level 4 Certificate
- **SM8.10(c)** Recognition of qualifications. A recognised qualification is a qualification that an immigration officer is satisfied occupies a level on the New Zealand Qualifications Framework (NZQF) which qualifies it for points by reference to the level that the qualification(s) occupies

on the NZQF having regard to the full or provisional registration of the principal applicant by a New Zealand organisation authorised by law to give occupational registration, if that registration involves an assessment that the principal applicant's overseas qualification(s) is comparable with a New Zealand qualification included in the List of Qualifications Exempt from Assessment.

- **SM8.25** Bonus points for recognised New Zealand qualifications.
- **SM7.10.1(b)** Requirement for the applicant to be suitably qualified for skilled work experience in an ANZSCO skill level 1,2, or 3 occupation.
- **SM3.15** Approving an application.

### Points for your Qualification

- Claimed 40 for level 4 qual from Fiji
- Not on LQEA – Only level 7 or above is on the LQEA for Fiji. And only from
- Not assessed by NZQA – no IQA on file
- Not assessed by EWRB as evidenced by the rego letter

### Bonus points for your qualification

- Claimed 5 bonus points under grandparented provisions.
- Qual obtained overseas and also outside date range and is not recognised
- NZ quals are a competency assessment and do not qualify for points.

### Points for skilled work experience

- Claimed 20 points for 5.39 years WE.
- All offshore and prior to NZ rego/current suitable qual.
- Use 3 years to make suitably qualified leaves the PA with only 2.39 years for 10 points.
- NOTE rego means he is still eligible for bonus points for LTSSL

### Your total points so far

We have awarded the following points for your SMC residence application so far:

Category of points claimed	Points claimed	Points awarded
Age	30	30
Employment	50	50
Bonus points for work outside Auckland	30	30
Bonus points for employment in an occupation on the LTSSL	10	10
Qualification	40	0
Bonus points for New Zealand qualification	5	0
Work Experience	20	10

Bonus points for work experience in an occupation on the LTSSL	10	10
<b>Total</b>	<b>195</b>	<b>140</b>

Without points for your qualification, your application will not have enough points as required by immigration instructions at SM3.15 to be approved and it may be declined, as per SM3.5.5. As the issues detailed above may affect the outcome of your application, we are bringing them to your attention out of fairness to you.

We have not made a decision on your application at this stage. This letter gives you the opportunity to make any comments and submit any additional evidence or information in relation to these issues.

**You may provide further information by 30/01/2019**

Any comments or further information must be provided by **30/01/2019**. This should be sent to the following address:

Immigration NZ  
c/- DX Mail  
20 Fairfax Avenue  
Penrose, Auckland 1061  
New Zealand  
EP71514

All supporting documents must be original or certified copies of originals. Any documents not in English must be translated into English by a recognised and independent translation service.

**What happens if you do not send any comments or additional information?**

If you do not send any comments or information by the date requested above we will make a decision on your application based on the information you have already given us. We are unlikely to approve your application based on this information.

**False or misleading information**

Providing false or misleading information or withholding information may make you ineligible for a visa.

**What happens if your circumstances change?**

You must tell us about any changes to your circumstances that may affect your application for a visa, including but not limited to changes to the following:

- the personal or family circumstances of any person included in the application
- your address or contact details (including postal address, email address, and telephone number)
- your business or employment
- your course of study if you are applying for a student visa.

If you do not tell us about changes to your circumstances, we may decline to grant you a visa or you may become liable for deportation. While you are in New Zealand, you must make sure you hold a valid visa at all times.

**Contact us**

If you have any questions, you can:

- call me on YOUR PHONE NUMBER
- email me at YOUR EMAIL
- call our Immigration Contact Centre on 0508 55 88 55 or 09 914 4100, or for those outside of New Zealand +64 9 914 4100, or
- find answers to frequently asked questions or lodge an email enquiry online at <http://kb.immigration.govt.nz>.

You will need to tell us your application and client numbers (see the top of this letter). Please be ready to quote them when you phone.

Yours sincerely

YOUR NAME  
YOUR ROLE (Senior/Immigration Officer)  
Immigration New Zealand

**Application number: XXXXXXXXX**

**Client number: XXXXXXXXX**

15 January 2019

PA NAME  
PA ADDRESS  
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LIA NAME  
LIA EMAIL

Dear CLIENT NAME

**Application for a resident visa for:**

**Applicant:**

PA NAME

SA NAME

**Date of birth:**

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Thank you for your application for a resident visa - Skilled Migrant. We received your application on DATE.

**Our assessment of your application**

We have completed an assessment of your application and have identified the following issues which may have a negative impact on the outcome of your application:

- You have claimed 40 points for an overseas qualification from Fiji as an electrician; however you do not appear to meet the requirements for these points as set out in SM8.5(d) and SM8.10(c).
- You have claimed 5 bonus points for a recognised qualification gained in New Zealand citing your registration as an electrician, gained on DATE; however you do not appear to meet the requirements for bonus points for a New Zealand qualification as set out in SM8.25.
- You have claimed 20 points for skilled work experience as an electrician in Fiji working for 1<sup>st</sup> EMPLOYER NAME, 2<sup>nd</sup> EMPLOYER NAME and 3<sup>rd</sup> EMPLOYER NAME; however you do not appear to meet the requirements for the full period claimed in your application as set out in SM7.10(b) and SM7.10.15(a).

We have attached to the end of this letter the immigration instructions that set out the rules for each area we have concerns about. These include:

- **SM8.5(d)** Points for recognised qualifications assessed as occupying level 4 on the NZQF must be relevant to an occupation at ANZSCO skill level 3, 4 or 5, and either be included on the List of Qualifications Exempt from Assessment (see [Appendix 3](#)) and meet the requirements specified in that list, or be assessed by the NZQA as an NZQF level 4 Certificate

- **SM8.10(c)** Recognition of qualifications. A recognised qualification is a qualification that an immigration officer is satisfied occupies a level on the New Zealand Qualifications Framework (NZQF) which qualifies it for points by reference to the level that the qualification(s) occupies on the NZQF having regard to the full or provisional registration of the principal applicant by a New Zealand organisation authorised by law to give occupational registration, if that registration involves an assessment that the principal applicant's overseas qualification(s) is comparable with a New Zealand qualification included in the List of Qualifications Exempt from Assessment.
- **SM8.25** Bonus points for recognised New Zealand qualifications.
- **SM7.10.1(b)** Requirement for the applicant to be suitably qualified for skilled work experience in an ANZSCO skill level 1,2, or 3 occupation.
- **SM3.15** Approving an application.

**Points for your Qualification**

You have claimed 40 points for an overseas qualification from Fiji as an electrician; which is relevant to your skilled employment in New Zealand as an electrician.

In order to qualify for 40 points for a level 4 qualification SM8.5(d) states that qualifications assessed as occupying level 4 on the NZQF must be relevant to an occupation at ANZSCO skill level 3, 4 or 5, and either included on the List of Qualifications Exempt from Assessment (LQEA) (see [Appendix 3](#)) and meet the requirements specified in that list, or be assessed by the NZQA as an NZQF level 4 Certificate.

The qualifications you have provided with your application do not appear on the LQEA and you have not provided an assessment from the NZQA, therefore you do not appear to meet the requirements of SM8.5(d).

Further to the requirements of SM8.5(d), qualifications can be recognised as set out in SM8.10(c). SM8.10(c) states that a recognised qualification is a qualification that an immigration officer is satisfied occupies a level on the New Zealand Qualifications Framework (NZQF) which qualifies it for points by reference to the full or provisional registration of the principal applicant by a New Zealand organisation authorised by law to give occupational registration, if that registration involves an assessment that the principal applicant's overseas qualification(s) is comparable with a New Zealand qualification included in the List of Qualifications Exempt from Assessment.

The letter supplied by the EWRB accompanying your registration certificate states that your qualifications were 'noted' however you were not exempted from further coursework and examination. Therefore we are unable to consider that your overseas qualifications were assessed by the EWRB as comparable to a qualification on the LQEA and it does not appear that you meet the requirements of SM8.10(c).

**Bonus points for your qualification**

You have claimed 5 bonus points for a recognised New Zealand qualification.

SM8.25 states that recognised New Zealand qualifications qualify for points as follows:

	Qualification	Additional requirements	Points awarded
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a.	A recognised New Zealand bachelor degree (level 7 on the NZQF).	<ul style="list-style-type: none"> <li>i. The qualification must require a minimum of two years full time study in New Zealand, and</li> <li>ii. the full time study must have been completed over four semesters during a period of at least 16 months.</li> </ul>	10
b.	A recognised postgraduate New Zealand qualification (levels 8, 9 or 10 on the NZQF).	The qualification must require a minimum of one year of full-time study in New Zealand.	10
c.	A recognised postgraduate New Zealand qualification (level nine or ten on the NZQF) (see SM15.10).	The qualification must require a minimum of two years full time study in New Zealand.	15

d. Qualifications gained with New Zealand Aid Programme funding will not qualify for bonus points.

As your qualifications were gained overseas, and you have not supplied a New Zealand qualification, you do not appear to meet the requirements for bonus points for your qualification. Further, you have cited your registration as an electrician gained in August 2018 as a recognised New Zealand qualification. Occupational competency courses for registration do not qualify for points and New Zealand qualifications at level 4 on the NZQF only qualify for bonus points under SM8.25.1(c) if they were gained before or commenced on or before 25/07/2011.

#### Points for skilled work experience

You have claimed 20 points for skilled work experience as an electrician in Fiji working for EMPLOYER 1, EMPLOYER 2 and EMPLOYER 3 for the period 26/01/2011 – 14/06/2016 which is a total of 5.39 years.

SM7.10(b) states that in order to qualify for points for skilled work experience, applicants must be suitably qualified for that work prior to the work experience for which points are claimed. As per SM7.10.15(a), in order to consider you suitably qualified for skilled work experience for the period claimed, we are able to consider you as suitably qualified through prior work experience in terms of SM6.10.20(a)(ii).

The period you have claimed for work experience is 26/01/2011 – 14/06/2016, at total of 5.39 years for which you claimed 20 points as per SM7.5(a). As stated above, we are unable to recognise your overseas qualifications as you do not appear to meet the requirements based on the evidence submitted with your application. As the occupation you have claimed is an ANZSCO skill level 3 occupation and ANZSCO states that at least three years of relevant experience may substitute for the formal qualifications, we can consider the first 3 years of your relevant skilled work experience in order to consider you suitably qualified for the remainder, 2.39 years. As per SM7.5, 2-4 years of skilled work experience qualifies for 10 points.

#### Your total points so far

We have awarded the following points for your SMC residence application so far:

Category of points claimed	Points claimed	Points awarded
Age	30	30
Employment	50	50



Bonus points for work outside Auckland	30	30
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<b>Total</b>	<b>195</b>	<b>140</b>

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- the personal or family circumstances of any person included in the application
- your address or contact details (including postal address, email address, and telephone number)
- your business or employment
- your course of study if you are applying for a student visa.

If you do not tell us about changes to your circumstances, we may decline to grant you a visa or you may become liable for deportation. While you are in New Zealand, you must make sure you hold a valid visa at all times.

**Contact us**

If you have any questions, you can:

- call me on YOUR PHONE NUMBER
- email me at YOUR EMAIL
- call our Immigration Contact Centre on 0508 55 88 55 or 09 914 4100, or for those outside of New Zealand +64 9 914 4100, or
- find answers to frequently asked questions or lodge an email enquiry online at <http://kb.immigration.govt.nz>.

You will need to tell us your application and client numbers (see the top of this letter). Please be ready to quote them when you phone.

Yours sincerely

YOUR NAME  
YOUR ROLE (Senior/Immigration Officer)  
Immigration New Zealand

## SM8.5 Points for recognised qualifications

Qualifications are recognised and qualify for points as follows:

	Qualification	Additional requirements	Points awarded
a.	Qualifications assessed as occupying levels 9 or 10 on the New Zealand Qualifications Framework (NZQF)		70
b.	Qualifications assessed as occupying levels 7 or 8 on the NZQF		50
c.	Qualifications assessed as occupying level 5 or 6 on the NZQF		40
d.	Qualifications assessed as occupying level 4 on the NZQF	Must be relevant to an occupation at ANZSCO skill level 3, 4 or 5, <b>and either</b> included on the List of Qualifications Exempt from Assessment (see <a href="#">Appendix 3</a> ) and meet the requirements specified in that list, <b>or</b> assessed by the NZQA as an NZQF level 4 Certificate.	40
e.	Qualifications assessed as occupying Level 3 on the NZQF	Must be relevant to an occupation at ANZSCO skill level 3, 4 or 5, <b>and</b> included on the List of Qualifications Exempt from Assessment (see <a href="#">Appendix 3</a> ) and meet the requirements specified in that list.	40

f. Despite SM8.5 (a) to (e) above:

- i. points will not be awarded to any English for Speakers of Other Languages (ESOL) qualifications; and
- ii. a qualification will not be recognised if gained while in a country where the principal applicant was either an unlawful resident or required authority to study, but did not have such authority.

### SM8.5.1 How points for recognised qualifications are allocated

- a. Points for recognised qualifications are not cumulative. A principal applicant may qualify for only 40, 50, or 70 points.
- b. Points are provided for:
  - i. one qualification only; or
  - ii. two or more qualifications assessed in combination.

### SM8.5.5 Transitional provisions: New Zealand qualifications

Despite SM8.5, a New Zealand qualification at levels three, four, five or six on the NZQF qualifies for 50 points if:

- a. it would have met the requirements for the award of points under the Skilled Migrant Category that was in effect on 24 July 2011; and
- b. the principal applicant completed the qualification before 25 July 2011 or the principal applicant had commenced a course of study, resulting in the qualification for which they are claiming points, on or before 24 July 2011.

### SM8.10 Recognition of qualifications

A recognised qualification is a qualification that an immigration officer is satisfied occupies a level on the New Zealand Qualifications Framework (NZQF) which qualifies it for points by reference to:

- a. the level that the qualification(s) occupies on the NZQF as assessed by the New Zealand Qualifications Authority (NZQA); or
- b. the level that the qualification(s) occupies on the NZQF as set out in the List of Qualifications Exempt from Assessment (see [Appendix 3](#)); or
- c. the level that the qualification(s) occupies on the NZQF having regard to the full or provisional registration of the principal applicant by a New Zealand organisation authorised by law to give occupational registration, if that registration involves an assessment that the principal applicant's overseas qualification(s) is comparable with a New Zealand qualification included in the List of Qualifications Exempt from Assessment.

#### **Note:**

~ For medical practitioners, registration within a 'special purpose scope of practice' is not full or provisional registration for the purpose of a resident visa application or a work to residence application.

~ For teachers, 'provisional' registration includes both 'provisional' and 'subject to confirmation' registration.

~ The NZQF is available at [www.nzqf.govt.nz](http://www.nzqf.govt.nz).

## SM8.25 Bonus points: New Zealand qualifications

Recognised New Zealand qualifications qualify for points as follows:

	Qualification	Additional requirements	Points awarded
a.	A recognised New Zealand bachelor degree (level 7 on the NZQF).	<ul style="list-style-type: none"><li>i. The qualification must require a minimum of two years full time study in New Zealand, and</li><li>ii. the full time study must have been completed over four semesters during a period of at least 16 months.</li></ul>	10
b.	A recognised postgraduate New Zealand qualification (levels 8, 9 or 10 on the NZQF).	The qualification must require a minimum of one year of full-time study in New Zealand.	10
c.	A recognised postgraduate New Zealand qualification (level nine or ten on the NZQF) (see SM15.10).	The qualification must require a minimum of two years full time study in New Zealand.	15

d. Qualifications gained with New Zealand Aid Programme funding will not qualify for bonus points.

### SM8.25.1 Bonus points for New Zealand qualifications gained before, or commenced on or before 25 July 2011

a. If SM8.25 (a), (b), and (c) above do not apply, the principal applicant may be eligible for New Zealand qualification bonus points under SM8.25.1 if they:

- i. gained the qualification before 25 July 2011; or
- ii. had commenced a programme of study towards a recognised New Zealand qualification on or before 24 July 2011.

b. Two years of full-time study in New Zealand towards a recognised New Zealand qualification qualifies for 5 points, providing the full-time study was over four semesters during a period of at least 16 months.

c. A recognised basic New Zealand qualification from level four up to and including level eight on the NZQF qualifies for 5 points.

## SM7.10 Requirements for skilled work experience

### SM7.10.1 Skilled work experience in an ANZSCO skill level 1, 2, or 3 occupation

Points are awarded for skilled work experience in a skill level 1, 2 or 3 occupation if an immigration officer is satisfied that:

- a. the work undertaken substantially matched (see SM7.10.5) the description for that occupation as set out in the Australia New Zealand Standard Classification of Occupations (ANZSCO); and
- b. the applicant was suitably qualified (see SM7.10.10 and SM7.10.15) for that work prior to the work experience for which points are claimed.

## SM3.15 Approving an application

a. An application under the Skilled Migrant Category will be approved if an immigration officer is satisfied that:

- i. the principal applicant and family members included in the application meet health and character and English language requirements as required; and
- ii. the principal applicant qualifies for the points for employability and capacity building factors that were the basis on which their Expression of Interest (EOI) was selected from the Pool (i.e. they qualify on the basis of the criteria to be awarded points that were in place on the date their EOI was selected); and
- iii. the principal applicant is less than 56 years of age on the date their application is made; and
- iv. the principal applicant:
  - o has current skilled employment in New Zealand or an offer of ongoing skilled employment in New Zealand; or
  - o has undertaken full-time study for at least two years in New Zealand that has resulted in the award of a Doctorate or Master's degree.

**Note:** The requirement at SM3.15(a)(ii) means that where there have been amendments or updates to the requirements setting out how points are awarded between the EOI being selected and the application being made, the requirements in place on the date of selection will be applied. Examples of requirements that may change between the date of selection and application include the occupations on the Long Term Skill Shortage List ([Appendix 4](#)) and remuneration thresholds set out in [SM6.10](#) and [SM6.60](#).

b. Despite SM3.15(a)(ii) above, if a principal applicant does not qualify for the points for employability and capacity building factors on the basis of which their EOI was selected from

the Pool, an immigration officer may, on a case by case basis, determine that the application may nevertheless be approved, where:

- i. the principal applicant has satisfied the immigration officer that there was a reasonable basis for making the claim for points in the EOI; and
- ii. the principal applicant qualifies for the points for employability and capacity building factors on the basis of which a subsequent selection was made, within the period that their EOI would have been current.

**Note:** Where SM3.15 (b) applies, officers may defer a decision on the application until such time as an EOI's currency (had it remained in the Skilled Migrant Category Pool) expires (see [SM2.1.10](#)).

### SM3.5 Skilled Migrant Category requirements

#### **SM3.5.5 Employability and capacity building requirements (SM5 to SM9)**

- a. Employability and capacity building factors comprise the requirements contained in [SM5](#), [SM6](#), [SM7](#), [SM8](#) and [SM9](#) and are assessed using a points system.
- b. An application for a resident visa under the Skilled Migrant Category will be declined if a principal applicant:
  - i. does not qualify for the points for employability and capacity building factors on the basis of which their Expression of Interest was selected from the Pool (unless [SM3.15](#) (b) applies); or
  - ii. does not qualify for points for either work experience (see [SM7](#)) or qualifications (see [SM8](#)); and either
  - iii. does not qualify for points for skilled employment in New Zealand (either before or during the deferral period as set out at [SM3.20](#) below); or
  - iv. has not undertaken full time study for at least two years in New Zealand that has resulted in the award of a Doctorate or Master's degree.





**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI

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# VV Network Calibration

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July 2023

Henderson TA





**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI

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# Topic One: PPI or not to PPI?

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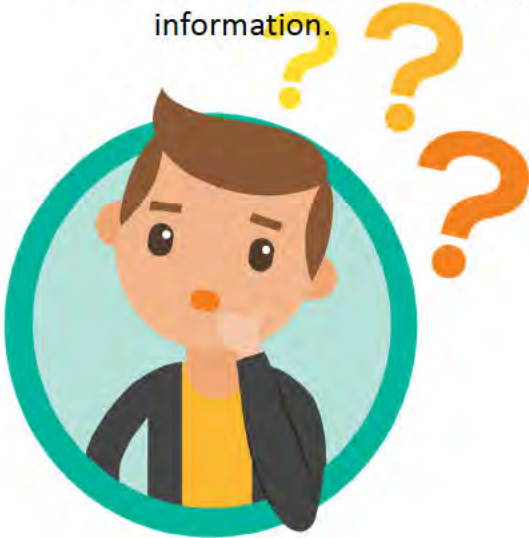
July 2023

Henderson TA



# What is Potentially Prejudicial Information? (PPI)

- When Potentially Prejudicial Information is identified INZ is required to inform the applicant that it might impact the outcome of their application and provide opportunity for comment.
- If the applicant knows or has access to publicly available information that might impact the outcome of their application this is not considered Potentially Prejudicial Information and a decision can be made without further comment required.
- IAC 11-09 – If a client is applying onshore, we must send a letter to clients so they may address any potentially prejudicial information.



# Offshore

E7.15.1 applies

For the purpose of assessing an application for a temporary entry class visa from an applicant who is outside New Zealand, *Potentially Prejudicial Information* is factual information or material that:

- a. Was not obtained from the applicant or the applicant's authorised representative or agent; and
- b. Is not publicly available, or that the applicant is not necessarily aware of it; and
- c. Will or may adversely affect the outcome of an application; and
- d. The applicant has not previously had an opportunity to comment on.

**Note:** The submission of false or misleading information by an applicant or their agent is not PPI as the information has been obtained from the applicant or their agent.



Which part of the information is potentially prejudicial?

Was it obtained from the client/LIA?

YES

Not PPI

No

Can this information be verified via open search?

YES

Not PPI



# Close family members in NZ

If the client has *close* family members in New Zealand – consider PPI/RFI.

- Child(ren) of a NZ'er
- Partner of a NZ'er
- Any cases we would perceive to be of a *sensitive nature*



**Application number:** JC12345678  
**Organisation name:** Employment Ltd  
**New Zealand Business Number (NZBN):** 942912345678

10 August 2023

Kia ora,

### **Request for more information**

Thank you for your application for a Job Check. We received your application on 13-June-2022.

### **Our assessment of your application**

#### **Key terms and conditions in the job advert:**

Immigration instruction WA3.20.1(d) states that, the advert must include:

- i. a job description detailing the key tasks and responsibilities; and
- ii. the key terms and conditions of the employment, which are consistent with the proposed employment agreement and other information included with the Job Check application, including:
  - o the minimum and maximum rate of pay or salary; and
  - o where a significant portion of the actual earnings are not guaranteed, the estimated actual earnings (for example what the piece rates or commission rates are, or what the average bonuses are); and
  - o the minimum guaranteed hours of work; and
  - o the location of the job; and
- iii. the minimum qualifications, work experience, skills or other specifications required for the job.

Unfortunately, we have noted that your job advertisement did not include a salary range for the role in the body of the advertisement. This is not considered sufficient to meet WA3.20.1(d). To hire migrant employees under the Accredited Employer Work Visa you must provide details of pay and conditions of employment within the job advertisement.

As such, you do not appear to meet immigration instruction WA3.20.1(d).

To allow us to approve your Job Check application, we will provide you a further 21 days to readvertise the role with the required information and provide us a copy of the job ad as evidence. We will also require an update on the number of New Zealand citizens or residents that applied and were suitable for the job.

A reminder that a job must be advertised for at least 14 days, and must include:

- the job description
- the minimum and maximum pay



- the location
- minimum hours of work
- estimated actual earnings if the job pays by piece, commission or there are other rates or bonuses
- the minimum skills, experience and qualifications for the role.

If you use a recruitment agency to list the advert you may be asked to show evidence that it is linked to the role included in your job check application, if your business name is not specified in the advert.

For more information please refer to the INZ website at: [Applying for a job check: checklist for employers | Immigration New Zealand](#)

<https://www.immigration.govt.nz/opsmanual/#77178.htm>

Please submit any further information by 16 September 2022.

Therefore, your application may be declined. We will consider your response before deciding on your application. Any comments or further information must be provided by **16 September 2022**.

Please upload additional information and comments to your Immigration Online account at [apply.immigration.govt.nz](https://apply.immigration.govt.nz).

#### **What happens if you do not send any comments or additional information?**

If you do not send any comments or information by the date requested above, we will decide on your application based on the information you have already given us.

#### **False or misleading information**

Providing false or misleading information or withholding information may make you ineligible for accreditation.

#### **Contact us**

You can contact Immigration New Zealand via the Immigration Contact Centre on 0508 55 88 55 or 09 914 4100 (or +64 9 914 4100 if you're calling from outside New Zealand). You will need your application number and NZBN, which are at the top of this letter.

#### **More information**

For information on how to recruit, retain or help settle skilled migrant workers visit [www.immigration.govt.nz/accredited-employer](https://www.immigration.govt.nz/accredited-employer).

Ngā mihi,





Immigration Officer  
Immigration New Zealand

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  - the minimum and maximum rate of pay or salary; and
  - where a significant portion of the actual earnings are not guaranteed, the estimated actual earnings (for example what the piece rates or commission rates are, or what the average bonuses are); and
  - the minimum guaranteed hours of work; and
  - the location of the job; and
- iii. the minimum qualifications, work experience, skills or other specifications required for the job.

Unfortunately, we have noted that your job advertisement did not include a salary range for the role. We note that the salary has been included in the search function but not in the body of the advertisement. This is not considered sufficient to meet instruction WA3.20.1(d) because if the salary is hidden from the advertisement and only included in the search function, a jobseeker would only be able to get an idea of the salary range if they chose to filter their search accordingly. To hire migrant employees under the Accredited Employer Work Visa you must provide details of pay and conditions of employment within the job advertisement.

As such, you do not appear to meet immigration instruction WA3.20.1(d).

To allow us to approve your Job Check application, we will provide you a further 21 days to readvertise the role with the required information and provide us a copy of the job ad as evidence. We will also require an update on the number of New Zealand citizens or residents that applied and were suitable for the job.

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- the minimum and maximum pay
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- minimum hours of work
- estimated actual earnings if the job pays by piece, commission or there are other rates or bonuses
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Ngā mihi,

Immigration Officer  
Immigration New Zealand



The following is TA guidance related to PPI/RFI circulated to immigration officers at the Otautahi Christchurch 2 office from when the office was established to present.

TA update – 07/06/2022

### **RFIs and PPIs**

RFI and PPI templates in ADEPT are written in a way that makes them general enough to apply to most situations in which the instructions would apply.

In order to provide the applicant with a fair chance to respond to the concerns we are raising we may need to edit these to include more information relevant to what our concerns are.

If you have any questions about this you can run your letters past an experienced IO or a TA (see below).

TA Update – 04/07/2022

### **Deductions in employment agreements:**

Some employers have deduction clauses which may fall within WA2.10.10(L). In some cases, if it is unclear if the deductions fall within these Instructions, a clarifying phone call may be required.

If the deduction specified in the employment agreement very clearly falls within WA2.10.10(L), send a PPI. If you are unsure if the deduction falls within the Instructions or of your next steps, please contact a TA for guidance.

### **Notice periods in employment agreements:**

Likewise, if a notice period seems excessively long without a clear reason, or an employee has to give much more notice than the employer (i.e. three months when the employer has to give two weeks), a phone call to the employer may be required. If you see an excessive notice period it is also worth checking if there is a penalty for not giving the required notice. If you are unsure, seek guidance from a TA.

### **Advertising the number of positions available:**

WA3.5(e)(v) outlines that where there are multiple jobs, and a labour market test is required, all jobs should be included in the same set of advertising. This means that if there are 7 jobs, the advertising should specifically state that there are 7 jobs. If there is more than one position and it isn't outlined in the advertising that this is the case, you will need to PPI.

Employers should be aware of this because if they declare in the JC app form that there is more than one position, an alert will pop up advising them that it needs to be in the advertising.

### **When maximum number of hours are not included in the employment agreement:**

We have noticed that some IOs are PPIing on WA3.15(q)(iv) and (v) when it is not required. You only need to PPI on this if the person will be on a salary. The intent of the instruction is to ensure that employees on a salary don't work excess hours which result in their pay falling below the relevant pay threshold – so if they are on an hourly rate there is no risk of this happening, therefore you do not need to PPI.

### **Employers who only specify salary range in the search function of the advertising platform:**

You may come across employers who have not stated the salary/salary range in the body of the advertisement, but have listed it in the back end of the advertising (so that the position will pop up if an applicant filters their search to positions between x and Y \$ amount – see below). This is not considered acceptable to meet WA3.20.1(d)(ii), because a jobseeker would only be able to see the salary range if they had chosen to filter their search according to salary range.

TA update 06/07/2022

Note: Before any application is declined a PPI needs to be sent. Before a decision can be made on the basis of the response received the PPI due date needs to have passed.

i.e. if a PPI response is due 11/07 we are unable to assess that response and complete step one of the decline waiver process until the day after the due date (12/07)

The only time we would be able to assess a PPI response before the due date and make a decision on the basis of the information provided is where the employer/applicant have explicitly stated that they have provided their response and do not intend to provide further information.

If in doubt wait until the response date.

TA Update 11/07/2022

### When to PPI or Phone Call

This is a reminder that at the moment we are not sending out RFI letters, instead we are either PPI'ing or making a phone call when we notice an issue with an application.

When deciding whether to make a phone call or PPI, ask yourself the following:

- Is this something that can be fixed with a phone call?
  - If **yes**, then make the phone call.
  - If **no**, then PPI.

TA update 25/07/2022

### Employers Re-Advertising

In response to PPIs about advertising a number of employers have been attempting to conduct new advertising. In response to the PPI the employer provides new advertising that meets the WA3.20.1(d) requirement that was listed in response to the PPI letter.

Where this occurs we cannot be satisfied that labour market testing requirements are met as **WA3.20.1(b)(ii) and (c)** outline that advertising must have been conducted prior to the job check application being made.

IOs need to make a manual assessment concern for this and then add in an explanation that the new advertising provided in response to the last PPI does not meet this requirement and cannot be considered in response due to this.

Next Steps

*Future PPIs*

To avoid this occurring with future PPI responses we have put together a blurb to include in genuine attempts/LMT-based PPIs. This outlines new advertising is unlikely to meet our requirements so that employers are aware of this when preparing their response to the PPI.

For *Future PPIs* please use the following:

Please note that in order to satisfy genuine attempts requirements outlined at WA3.20.1(b)(ii) and (c) advertising must have been conducted and closed prior to the job check application being made.

Due to this it is unlikely that new advertising conducted in response to this letter will satisfy genuine attempts requirements.

*Where a PPI has already been sent -*

Where the above insert was not included in the original PPI and an employer has responded to a LMT PPI with new advertising a second PPI needs to be sent.

Here is the PPI insert that can be used:

Immigration instruction WA3.20.1(b)(ii) states that the job advert must have closed prior to the Job Check application being submitted. Additionally, Immigration instruction WA3.20.1(c) states that, the end date of the advertising must be within the 90 days prior to the Job Check application being submitted.

In response to our letter sent to you on [date letter sent] you provided evidence of new advertising to address the concerns raised. However, due to the above instructions, to satisfy genuine attempts requirements advertising must have been conducted and closed prior to the job check application being made. Due to this the updated advertising does not meet genuine attempts requirements outlined at WA3.20.1 and our concerns regarding genuine attempts remain. In light of this we are providing you a further opportunity to respond to the concerns raised in the letter dated [date letter sent].

TA update 28/07/2022

#### **PPI's sent for LMT**

When you need to send a PPI for LMT where the pay rate is not included or we are not satisfied that it meets WA3.20.1(d) (ii) (taking into consideration our current approach) we are allowing the employer 21 days to re advertise in response to the PPI – a template for this PPI has been attached for you to use.

TA update 25/10/2022

#### **Work visa – Worker eligibility**

If you pull a worker eligibility activity you only need to determine whether the applicant's declared qualifications and/or work experience meets the requirements of the job check approval and not the genuineness or veracity of the documents/declarations. If the applicant has only provided limited evidence to support their declaration, you are able to RFI/PPI for further evidence to cover the declared time period to meet instructions, this is not considered verification.

The genuineness/veracity of claimed qualifications or work experience will be assessed by the IO who has pulled the risk activity where it relates to potentially fraudulent documents, employment information concerns etc. It is this IOs responsibility to assess the information provided and either complete an Assessment Activity Validation (AAV) or undertake verification (in line with the General Instruction). If, as a result of verification, it is determined that the employment history/qualifications are inflated or fraudulent then you will need to determine which relevant assessment concerns to raise e.g. character, eligibility etc.

TA update 08/02/2023

#### **Using the correct Instructions when sending a PPI**

-  
We have noticed an increase in PPIs being sent at the work visa stage under WA2 and WA3 Instructions. A PPI can only be sent using the particular Instructions for the gateway you are completing your assessment under. The exception to this is where you may be consider revoking or suspending accreditation under Immigration Instruction WA2.55, however as the threshold for this is quite high, please consult with a TA before using this Instruction.

TA update 13/03/2023

#### **Character PPI Instructions:**

Please ensure that when you send a PPI for character concerns that you are double checking that the character instructions referenced in the PPI are correct. The TA team has noted some instances where the letter has referred to A5.25 instead of A5.45. If you PPI on the wrong character instructions you will need to send another PPI with the correct character instructions, to ensure the client has the chance to respond to the correct concern. If you are unsure if you have used the correct character instructions please check in with the TA team

TA update 09/05/2023

We have noticed that a number of PPIs on not suitably qualified and/or character are being sent without explaining to the applicant why/how we have determined that it appears that the documentation (usually work experience or quals) is false and misleading. The how and why must be explained in the PPI in order to give the applicant a fair opportunity to respond. This is part of an IO's obligation to act on the principles of fairness and natural justice when deciding an application, as outlined at instruction A1.1. If you have not explained the issue fully in your PPI and want to decline the application, it is likely you will need to re-PPI, or send a follow up email to the PPI to clarify how we verified the doc as fraudulent.

The following information should be included when you are explaining to an applicant **why** it appears the document is false and misleading:

- Which document we think is F&M
- If the document looks like it's been obviously falsified/edited – what details make it appear this way?
- Who we spoke to/emailed and their position
- Where we got their contact details
- What the person we spoke to said
- How the information we obtained conflicts with the document provided

**Situation:**



Client provided a reference letter from their claimed employer in their home country stating that they worked as Manager of Legit Info at Real References r Us from Jan 2021 till Jan 2023. The VOs have found the phone number (12345678) for Real References r Us on their website and gave them a call. The VOs spoke with their HR Manager (John Smith) and when they asked if they have ever had a Manager of Legit Info, and whether the PA had ever been an employee there. John Smith checked their files and confirmed the PA was never employed there.

**Example of what NOT to do – a PPI blurb that does not explain why we think the document is false, and would need to be re-PPI'd:**

“We have verified the work reference letter provided with your application and have determined that it is not genuine. It appears you have provided false and misleading information.”

**Example of what you SHOULD DO instead – a PPI blurb that explains the issue fully and is fair to the applicant:**

“You have provided a reference letter from Real References R Us dated 5 May 2023 which states you worked as their Manager of Legit Info from January 2021 – January 2023. On 5 May 2023 we called the phone number (12345678) listed on the website for Real References R Us ([www.RRRUS.com](http://www.RRRUS.com)) and spoke with the HR Manager (John Smith). When asked whether Real References R Us has ever employed a Manager of Legit Info, Mr. Smith stated that they have never employed someone in that position. When asked whether you have ever been employed by them, Mr. Smith stated that you have not. As such, it appears that the work reference from Real References R Us provided with your application was false and misleading”

TA update 13/06/2023

The character PPI process is two separate parts which we combine as one PPI for temporary visa applications. The two parts are:

- 1: Raising our concerns that the applicant appears to be subject to A5.45
- 2: Giving the applicant a chance to make submissions in support of a character waiver

We have noticed some character PPI letters do not include the 2<sup>nd</sup> part of the character PPI process, which is this blurb here:

**Character waiver**

If this is the case, we also invite you to make additional comments or provide information to help us decide if your circumstances justify waiving the temporary entry character requirement. Please note that you should also provide evidence to support any comments you make, where applicable. We will consider whether your reason for travel to New Zealand, and any surrounding circumstances, are compelling enough to justify making an exception, taking into account the public interest.

<https://www.immigration.govt.nz/opsmanual/#43627.htm>

If that character waiver blurb is not included then you have only done part 1 of the character PPI process.

Before sending a character PPI ensure you have included the above character waiver blurb. If this blurb is not included then another PPI may need to be sent.

TA update 01/08/2023

There are a number of employer warnings out there related to allegations or information INZ holds that indicates the employer has a history of not complying with employment law, for example:

- not allowing employees to accrue and use their 4 weeks of annual leave
- forcing employees to work excessive hours for no extra pay
- claims of bullying and harassment by the employer

The WA3 job check and WA4 work visa instructions do not specifically state that the employer must have a history of compliance with employment law. Instruction WA3.15(k) does state 'the proposed employment must be compliant with all the relevant New Zealand employment laws in force', and WA4.10.1(e) links to this at work visa. However this just relates to the proposed employment, and whether the terms and conditions in the employment agreement are lawful (rather than whether the employer has a history of complying with employment law).

This means that there are no instructions which allow an IO to PPI an employer re their history of compliance with employment law at the Job Check or work visa gateways. The instructions were written this way as policy had strong feedback that it should not be an IOs responsibility to ensure an employer has a history of compliance with employment law (as this is the responsibility of the Labour Inspectorate etc). So for example in a Job Check application, there is no expectation for an IO to be reviewing time and wage records to ensure employees are being paid for all hours worked.

The exception would be if the employer has been fined, stood down, convicted or under investigation for one of the specific offences/breaches/infringements specifically outlined at the WA2.10.10 employer compliance instructions at the accreditation gateway. In these situations, the relevant authorities would have formally issued an infringement notice, or convicted the employer of criminal charges etc (for example if the Labour Inspectorate has issued an infringement notice which resulted in the employer going on the stand down list for non-compliant employers). If this is the case, please discuss the job check or work visa application with a TA as it's likely the application will need to be referred to have accreditation revoked or suspended.

To summarise, the intent of the WA3 and WA4 instructions is not for IOs to request documents to decide themselves whether the employer has a history of compliance with employment law. This should be done by the VOs as part of AERMR, or the relevant authorities (the LIA, ERA etc). IOs should not be requesting documents to mitigate warnings, unless there is an instruction they could use to PPI if they identify an issue as a result of the document request.

#### **Action for IOs**

- If you are asked by a VO to request documentation to check employer's compliance with employment law and are unsure which instruction you would use to PPI if you identified an issue, please speak with a TA to determine whether the document request is necessary.
- If there are no instructions to PPI on that relate to the concerns in the warning, explain this in your rationale when you mitigate the warning.



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# Decline Decision Rationale

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November 2022



## Summary:

- How to write good PPI/rationale – and convert into a good decline letter, which withholds scrutiny
- It's easier to write a decline letter if your existing PPI and rationale are strong!
- Need to write a good concise summary in your assessment notes in ADEPT
- Need to write a good decline letter explaining why the instructions aren't met – and quote the relevant instructions

## Advantages of a good PPI

- Fewer phone-calls/emails from applicant (“I don’t understand.....”)
- Better responses from applicant
- Less follow-up required for IO
- Improved timeliness for IO
- Better responses enable better decisions
- Easier for you to decline if necessary
- Less likely decision will lead to complaints or reconsiderations where our decision isn’t upheld.
- Less re-work for INZ overall!

## Consequences of a bad PPI

Bad PPI letters have a 'flow-on effect' on the overall assessment:

- Applicant unaware of/doesn't understand INZ's concerns
- Applicant less likely to address concerns satisfactorily
- Application less likely to be approved
- Decision less likely to be correct or fair



# What makes a good PPI? - WALC

## Well written

- Structured
- Concise
- Free from grammatical and spelling errors
- Neutral and objective



## Accurate

- Right instructions cited and applied
- Material facts recorded correctly
- Information provided is correctly reflected



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Charlotte

Well written:

Think about the structure, if the concerns are complex it may be easier to get your point across in bullet points.

Think about what you would expect to see if you received a letter from a government organisation. You would expect professional language that is easy to understand.

Neutral and objective – not written in language that shows you are more inclined to decline than approve, and the content of the letter hasn't been influenced by your personal opinions/feelings

# What makes a good PPI? - WALC

## Logical

- Clear link with the evidence/information and how it doesn't meet instructions
- Any concerns outlined are consistent with each other and free of contradictions



## Complete

- All relevant instructions were identified and cited
- All relevant evidence was assessed
- Any actions and outcomes were clearly outlined



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Charlotte



# What do you think of this PPI?

## Our assessment of your application

### Guaranteed Remuneration:

Immigration instruction WA3.30(c) states that for employment to be assessed as meeting a minimum pay threshold, the average guaranteed remuneration for each hour of work within a pay period, including any paid leave must be at or above that threshold.

It does not appear that the average guaranteed remuneration for each hour of work within a pay period is at or above [INSERT MINIMUM PAY THRESHOLD, EG MEDIAN WAGE OR WAGE REQUIRED BY WA3.15.1], as [INSERT RATIONALE]. Please provide further evidence to demonstrate this instruction is met.

<https://www.immigration.govt.nz/opsmanual/#77180.htm>

Please submit any further information by 16 September 2022.

Therefore, your application may be declined. We will consider your response before deciding on your application. Any comments or further information must be provided by **16 September 2022**.

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Charlotte

## Activity - Look at PPI examples

- Open up the below word docs, which were sent out this morning and are in the chat for this training:
  - 'PPI example 1.doc'
  - 'PPI example 2 doc'
- Read the rationale in the PPI examples.
- Do you think we could justify a decline based on these PPI letters?

Charlotte

PPI example 1 – IO has not explained the issue fully. If the employer does not understand WHY the salary must be in the body of the advertisement, they have not really been given a fair opportunity to respond to our PPI.

PPI example 2 – IO has fully explained WHY the salary must be in the body of the advertisement. This means the employer is more likely to take the opportunity to re-advertise, which will result in a good outcome for them, and less work for INZ as it's unlikely we will have to decline their app, assess a reconsideration, and potentially another JC application from them.

# What is rationale?

- The process to get from the beginning to the end.
- The means justifies the ends!
- NOT the end justifies the means!
- i.e. everything must be justified appropriately.



Why do you think it is important to include rationale in ADEPT to document WHY an application was declined?



Rhiannon

The reasons for needing to document our decision rationale in ADEPT is underpinned by the principles of fairness and natural justice.

Fairness is giving the applicant a fair hearing, which includes giving proper consideration to all of the evidence, informing them of any PPI and giving them the chance to respond, and giving appropriate reasons for a decline decision.

Your decision should also avoid bias, which includes not predetermining the application without considering all facts and evidence.

Discuss the OIA – applicants and their Lawyers/LIAs can submit an OIA to get a copy of your notes in ADEPT. You need to show that you have been fair and unbiased, and that you have considered all relevant evidence.

## Standard Operating Procedures for IOs to follow

IOs to follow guidance for the scenarios below.

The preference for an RFI is a phone call but an email is also acceptable.

<b>Genuine Attempts</b>	
<b>Scenario</b>	<b>RFI or PPI first?</b>
No evidence supplied	RFI. If they are unable to supply then send PPI
Evidence not clear, e.g unable to determine source or date	RFI. If they are unable to supply then send PPI
Advertising timing (e.g old or done after job offer)	PPI
Source of advertising not acceptable	PPI
Shortage list requirements not met and now requires advertising	PPI
Content of advert doesn't match requirements of job or has requirement to deter NZers from applying	PPI
<b>Employment Agreement</b>	
<b>Scenario</b>	<b>RFI or PPI first?</b>
No Employment Agreement supplied	RFI – ideally a call. If they are unable to supply then send PPI
Hours not specified or guaranteed	RFI – ideally a call. If they are unable to supply an amended agreement then send PPI
Employment agreement not meeting mandatory requirements	RFI – ideally a call referring to <a href="http://www.employment.govt.nz">www.employment.govt.nz</a> website for guidance. If they are unable to supply a compliant agreement then send PPI
Evidence that Employer has not previously complied with agreement (pay, hours)	PPI

**Other Issues**

<b>Scenario</b>	<b>RFI or PPI first?</b>
ANZSCO substantial match and no impact on skill level assessment or SMR requirements.	No notification prior to decision required, communicate with decision.
ANZSCO substantial match and with impact on skill level assessment or SMR requirements, dependents.	PPI
Sustainability Concerns	Refer to Practice Lead prior to any action.
Market Rate	PPI
Unfavourable SMR	PPI
Bona Fides	PPI

Dear \_\_\_\_\_

Thank you for your application for a \_\_\_\_\_, which we received on \_\_\_\_\_.

### **Our assessment of your application**

We have completed a first assessment of your application and need more information before we can go any further.

Please send the following:

▪

**Please send the requested information by \_\_\_\_\_**

Please send the information we have requested to this office by the above date so we can continue to assess your application.

We recommend that you email the requested information to [Rochelle.Selwyn@mbie.govt.nz](mailto:Rochelle.Selwyn@mbie.govt.nz) or, if you are submitting original documents, you can send them to the following address:

**Courier address:**

Immigration New Zealand  
C/- DX Mail EP71514  
20 Fairfax Avenue  
Penrose  
Auckland 1061  
New Zealand

**Postal address:**

Immigration New Zealand  
PO Box 76895  
Manukau  
Auckland 2241  
New Zealand

All supporting documents must be original or certified copies of originals. Any documents not in English must be translated into English by a recognised, independent translation service.

If you do not send the information, our decision on your application will be delayed. We may return your application to you without proceeding further, or we may assess your application based solely on the information you have already given us.

### **Contact us**

If you have any questions, you can:

- email me at [Rochelle.Selwyn@mbie.govt.nz](mailto:Rochelle.Selwyn@mbie.govt.nz)
- find answers to frequently asked questions or email us your enquiry at <http://kb.immigration.govt.nz>, or
- call our Immigration Contact Centre on 0508 55 88 55 or 09 914 4100, or for those outside of New Zealand +64 9 914 4100.

You will need to tell us your application and client numbers (you will find these at the top of this letter). Please have them with you and be ready to quote them if you contact us.

Yours sincerely

Dear XXX

Please be advised that I am the immigration officer that has been assigned your work visa application for assessment.

In order to enable me to complete an initial assessment on your application please provide the following information by **[DATE]**:

- XXX
- XXX

**[IGMS]** The information should be uploaded to your online account.

**[PAPER]** This information should be emailed to [Christchurch.Applications@mbie.govt.nz](mailto:Christchurch.Applications@mbie.govt.nz)

Receiving the information requested by the date above will enable me to keep processing your application in an efficient and timely manner. If the requested information is not received by **[DATE]**, processing of your application is likely to be delayed and it is likely that more formal correspondence will be sent.



26 November 2021

Application number [REDACTED]

Client number [REDACTED]

[REDACTED]

Dear [REDACTED]

Application for Recognised Seasonal Employer status for [REDACTED]

Thank you for your application for Recognised Seasonal Employer (RSE) status, which was accepted for processing on 25 June 2021.

We have completed an initial assessment of your application and have identified the following issues, which may have a negative impact on the outcome of your application:

- **Has a demonstrable commitment to training New Zealanders**
- **Human Resource Policies**
- **Make available appropriate pastoral care**

#### **Demonstrable commitment to recruiting New Zealanders**

Immigration instruction WH1.5.5 (a) (v) states that RSE status may be granted where Immigration New Zealand (INZ) is satisfied that an employer has a demonstrable commitment to training New Zealanders. Furthermore, Immigration Instruction WH1.5.15 (d) sets out evidence of an employer's commitment to training New Zealand citizens and residence class holders includes but is not limited to:

- i. records of in-house training and development programmes;
- ii. involvement with any New Zealand Industry Training Organisation;
- iii. Records of funding provided to workers to allow attendance at training courses by external training providers.

As part of this application we have consulted with Primary ITO who have advised us that they hold no training records for [REDACTED] for the past 36 months. We note that you have provided a training record template in this application and in your application submitted last year two forklift certificates were provided. We also note that you have stated in your application form that 'training is done verbally'.



We also note that your previous two applications were declined, as we were not satisfied that you had a demonstrable commitment to New Zealanders.

Based on the response from Primary ITO and lack of evidence provided with this application we are still not satisfied that [REDACTED] has demonstrated a commitment to training New Zealanders and therefore you appear not to meet immigration instruction WH1.5.5(a)(v).

#### **Human Resource Policies**

Immigration Instruction WH1.5.5 (a) (iii) states that RSE status may be granted where INZ is satisfied that an employer has human resource policies and practices that are of a high standard, promote the welfare of workers, and include dispute resolution processes. Furthermore, Immigration Instruction WH1.5.15 (c) sets out evidence of an employer's human resource policies and practices includes but is not limited to:

- i. a copy of the business's human resource manual or guidelines;
- ii. a written statement describing the employer's human resource policies and practices such as information on:
  - how the business recruits workers;
  - what checks are carried out on prospective New Zealand and non-New Zealand citizen or residence class visa holder workers, including any checks done by a recruitment agent on behalf of an employer;
  - what remuneration structure is in place;
  - any internal disputes resolution policies, including any performance management processes;
  - Health and safety practices, including any provision of health and safety equipment for workers.

We note that in this application you have supplied a Health and policy statement, employee listing with pay rates, employment agreement template and provided details on what methods the business goes to, to recruit workers. We have noted that six employees appear to have also been paid below minimum wage; it is not clear whether this is because they were on a starting out or training wage and how long they were on this rate for. In addition, no information has been provided to show what checks [REDACTED] carries out on prospective New Zealand and non-New Zealand citizen or residence class visa holder workers. We also note no human resource manual has been provided with this application for Immigration New Zealand to determine whether [REDACTED] [REDACTED] has a high standard of human resource policies and practices.

Based on the information and evidence provided we are not yet satisfied that you have a high standard of human resource practices and policies and therefore may not meet immigration instruction WH1.5.5 (a) (iii).

#### **Make available Pastoral Care**

Immigration instruction WH1.5.5 (c) (v) states that RSEs must make available appropriate pastoral care (including food and clothing and access to health services and suitable accommodation) to their non- New Zealand citizen or residence class visa holder workers at a reasonable cost during the period of the workers' RSE limited visas.



We note that you have stated "Yes" in your application form under G6 Section G Employer Requirements, to the question that references the Immigration instruction above.

However, we have received feedback from both MSD and the Labour inspectorate that the location of work is approximately a 40-minute drive to the nearest town and as a result, the RSE workers would be entirely reliant on their hosts in order to venture out of the work environment. It is also unclear on how travel costs will be paid for, whether the RSE workers will be expected to pay for travel costs or whether the employer will cover these costs. The Labour inspectorate has also advised that though the onsite accommodation is of a high standard, [REDACTED] appear to have a lack of knowledge about pastoral care for local workers, which means there is a concern that RSE workers will be in a more vulnerable position due to lack of pastoral care and wrap around services.

As no information or evidence has been provided to demonstrate how [REDACTED] will meet pastoral care obligations we are not currently satisfied that immigration instruction WH1.5.5(c) (v) will be met and your application may be declined.

We have not made a decision on your application at this stage. We invite you to make comments or provide information in response to our concerns.

#### **REQUEST FOR FURTHER INFORMATION:**

As part of the assessment of your application can you please provide the following:

- Evidence of NZ GAP certification – as declared in your application form.

Please also note this application is also pending a consult response from WorkSafe.

**You may provide further information by 02 December 2021**

Any comments or further information must be sent to [REDACTED] December 2021.

All supporting documents must be original or certified copies of originals and, if not in English, must be translated into English by a recognised and independent translation service.

#### **What happens if you do not send any comments or additional information?**

If you do not send any comments or information by the date requested above, we will make a decision on your application based on the information you have already given us. We are unlikely to approve your application based on this information.

#### **False or misleading information**

Providing false or misleading information or withholding information may make you ineligible for RSE status.

#### **Contact us**

If you have any questions, you can:

- [REDACTED]
- [REDACTED]

You will need to tell us your application and client numbers (see the top of this letter). Please be ready to quote them when you phone.



## RELEVANT INSTRUCTIONS

### WH1.5.5 Requirements for RSE status

- a) RSE status may be granted where INZ is satisfied that an employer:
- i. is a New Zealand employer as set out at WH1.5.1; and
  - ii. is in a sound financial position; and
  - iii. has human resource policies and practices which are of a high standard, promote the welfare of workers, and include dispute resolution processes; and
  - iv. has a demonstrable commitment to recruiting New Zealanders; and
  - v. has a demonstrable commitment to training New Zealanders; and
  - vi. has good workplace practices and a history of compliance with New Zealand immigration and employment law (see [W2.10.5](#)), including meeting the requirements of the following legislation:
    - Accident Compensation Act 2001; and
    - Employment Relations Act 2000; and
    - Equal Pay Act 1972; and
    - Health and Safety at Work Act 2015; and
    - Holidays Act 2003; and
    - Immigration Act 2009; and
    - Minimum Wage Act 1983; and
    - Parental Leave and Employment Protection Act 1987; and
    - Wages Protection Act 1983; and
  - vii. will meet the requirements set out at (c) below.
- b) To ensure that INZ can verify an employer's ability to meet the requirements in (a) above, applicants must consent to INZ seeking information from other services of the Ministry of Business, Innovation and Employment, the Ministry of Social Development, Inland Revenue, the Accident Compensation Corporation, the New Zealand Council of Trade Unions, and any relevant unions, agencies, and industry bodies. Where such consent is not given an application for RSE status may be declined.
- c) RSEs must:
- i. take all reasonable steps to recruit and train New Zealanders for available positions before seeking to recruit non-New Zealand citizen or residence class visa holder workers; and
  - ii. not use a recruitment agent who seeks a commission from workers in exchange for securing an employment agreement, to recruit non-New Zealand citizen or residence class visa holder workers; and

- iii. pay for half the return airfare between New Zealand and the worker's country of residence for each worker recruited under the RSE instructions, unless the worker is a citizen of Tuvalu or Kiribati who is normally resident in Tuvalu or Kiribati (in which case the employer must pay for half the return airfare between Nadi (Fiji) and New Zealand), or [WH1.15.5\(a\)](#) applies; and
- iv. comply with the requirements for employment agreements including the minimum remuneration and pay deduction requirements as set out at [WH1.20](#); and
- v. make available appropriate pastoral care (including food and clothing and access to health services and suitable accommodation) to their non-New Zealand citizen or residence class visa holder workers at a reasonable cost during the period of the workers' RSE limited visas; and
- vi. promptly notify INZ if any of their non-New Zealand citizen or residence class visa holder workers breach the conditions of their visas; and
- vii. promptly notify INZ of any dispute with the holder of an RSE limited visa that has resulted in the suspension or dismissal of the worker; and
- viii. not engage the services of a contractor, who does not have good workplace practices as outlined at WH1.5.5(a)(vi) and who employs non New Zealand citizen or residence class visa holder workers; and
- ix. have direct responsibility for the daily work output and supervision of non-New Zealand citizen or residence class visa holder workers recruited under RSE instructions, except where (d) below applies; and
- x. pay to the Ministry of Business, Innovation and Employment any costs reasonably incurred by the Ministry, to a maximum of NZ\$3000 per worker, in relation to the repatriation (including any maintenance and accommodation) of any non-New Zealand citizen or resident worker who requires repatriation as a result of a breach of the terms and conditions of their RSE limited visa; and
- xi. on request disclose to representatives of the Ministry of Business, Innovation and Employment all payments received from RSE workers (including payments for airfares, accommodation and other pastoral care); and
- xii. take all reasonable steps to find full time work for the duration of an RSE worker's visa, including by finding work opportunities with other RSE employers if necessary.

d) An RSE is not required to have direct responsibility for the daily work output and supervision of non-New Zealand citizens and residence class visa holder workers recruited under RSE instructions when the workers are temporarily working on the worksite or worksites of another RSE (the recipient RSE), and the recipient RSE has agreed to take on these responsibilities. The RSE who employed the workers under RSE instructions (the first RSE) remains accountable for all other responsibilities under RSE instructions. This arrangement may only occur where:

- i. the total period of work on the recipient RSE's worksite or worksites is of one month or less;
- ii. the worksite or worksites of the recipient RSE is within the same region as that specified in the ATR held by the first RSE; and
- iii. the first RSE has notified INZ in advance of the workers starting work at the recipient RSE's worksite or worksites.

e) Employers are considered to not have a history of compliance with employment law if they fail to meet the requirements set out at W2.10.15 or if they are included on a list of non-compliant employers maintained by the Labour Inspectorate (see [Appendix 10](#)).

**Note:** For the purposes of instructions, the return airfare is defined as the total cost of travel from the worker's country of residence (or from Nadi (Fiji) for a worker who is a citizen of Tuvalu or Kiribati) to New Zealand and back, including all associated taxes and fees.

#### **WH1.5.15 Evidential requirements**

a) Set out below are examples of evidence that may be provided in support of an application for recognition. The provision or non-provision of any of these examples of evidence will not be determinative.

b) Evidence that an employer is in a sound financial position includes but is not limited to:

- i. a signed statement of creditworthiness from the applicant stating that the business seeking RSE status is financially viable and the applicant knows of no adverse credit matters affecting the business;
- ii. a statement from a chartered accountant confirming the business is financially sound and is able to meet all outstanding obligations;
- iii. an authenticated set of accounts showing a sound financial position.

c) Evidence of an employer's human resource policies and practices includes but is not limited to:

- i. a copy of the business's human resource manual or guidelines;
- ii. a written statement describing the employer's human resource policies and practices such as information on:
  - how the business recruits workers;
  - what checks are carried out on prospective New Zealand and non-New Zealand citizen or residence class visa holder workers, including any checks done by a recruitment agent on behalf of an employer;
  - what remuneration structure is in place;
  - any internal disputes resolution policies, including any performance management processes;

- health and safety practices, including any provision of health and safety equipment for workers.

d) Evidence of an employer's commitment to training New Zealand citizens and residence class visa holders includes but is not limited to:

- i.records of in-house training and development programmes;
- ii.involvement with any New Zealand Industry Training Organisation;
- iii.records of funding provided to workers to allow attendance at training courses by external training providers.

e) Evidence of an employer's commitment to recruiting New Zealand citizens and residence class visa holders includes but is not limited to:

- i.a written description of the steps taken in the previous 12 months to recruit workers;
- ii.evidence of previous advertising;
- iii.a letter of support from an industry body confirming the employer's commitment to recruiting New Zealanders;
- iv.records of any previous communication with Work and Income regarding the recruitment of workers.

f) Evidence (if applicable) of an employer's previous attempts to find full time work for the duration of an RSE worker's visa, including by finding work opportunities with other RSE employers.

g) Where any previous breach of the requirements of immigration instructions has occurred (regardless of whether or not that breach resulted in RSE status being rescinded) the employer must provide evidence to satisfy INZ that the cause and consequence of that breach has been remedied.

Effective 28/09/2021





# PPI/Decline Letter Training

Porirua Office



# Objectives

- PPI
- WALC
- Structure for Decline Letter/IRAC
- Group activity
  - Review decline letters
- Resources:
  - MBIE writing style guide, Additional resources/modules for personal development

# PPI – Potentially Prejudicial Information

## ONSHORE APPLICANTS

- E7.15.5
- PPI is factual information or material that will or may adversely affect the outcome of an application.

## OFFSHORE APPLICANTS

- E7.15.1
- Only PPI if:
  - Facts/material was not obtained from the applicant or the applicants authorised rep/agent and,
  - Is not publicly available or applicant is not necessarily aware of and,
  - Will or may adversely affect the outcome of an application and,
  - The applicant has not previously had an opportunity to comment on

# PPI pointers

- Ensure you have conducted a full assessment that way you capture everything you need to address – this avoids any further PPIs.
- Ensure the content is factual or material information – try to avoid any opinions. Your write up is an assessment of the application and information.
- For onshore applicants, they can apply for a reconsideration. Therefore, your declines may be reconsidered to see if the process and decision was correct.



# WALC

- **Correct instructions**

The relevant instructions have been correctly applied, and the IO has followed any/all necessary steps before decision

- **Makes sense**

Does the evidence match up with what the IO has written in their assessment?

*“As the client has shown evidence of their stable employment, I am satisfied that his family ties to home country are sound.”*

Is the assessment free from contradictions?

*“The PA is 22 and the SP is 76. The couple are of a similar age and cultural background.”*

- **Grammar and spelling**

The assessment/letter reads well and can be understood.

The assessment does not contain non-approved acronyms, abbreviations, or informal or otherwise inappropriate language

- **No contradictions**

Ensuring your assessment aligns with your decision.

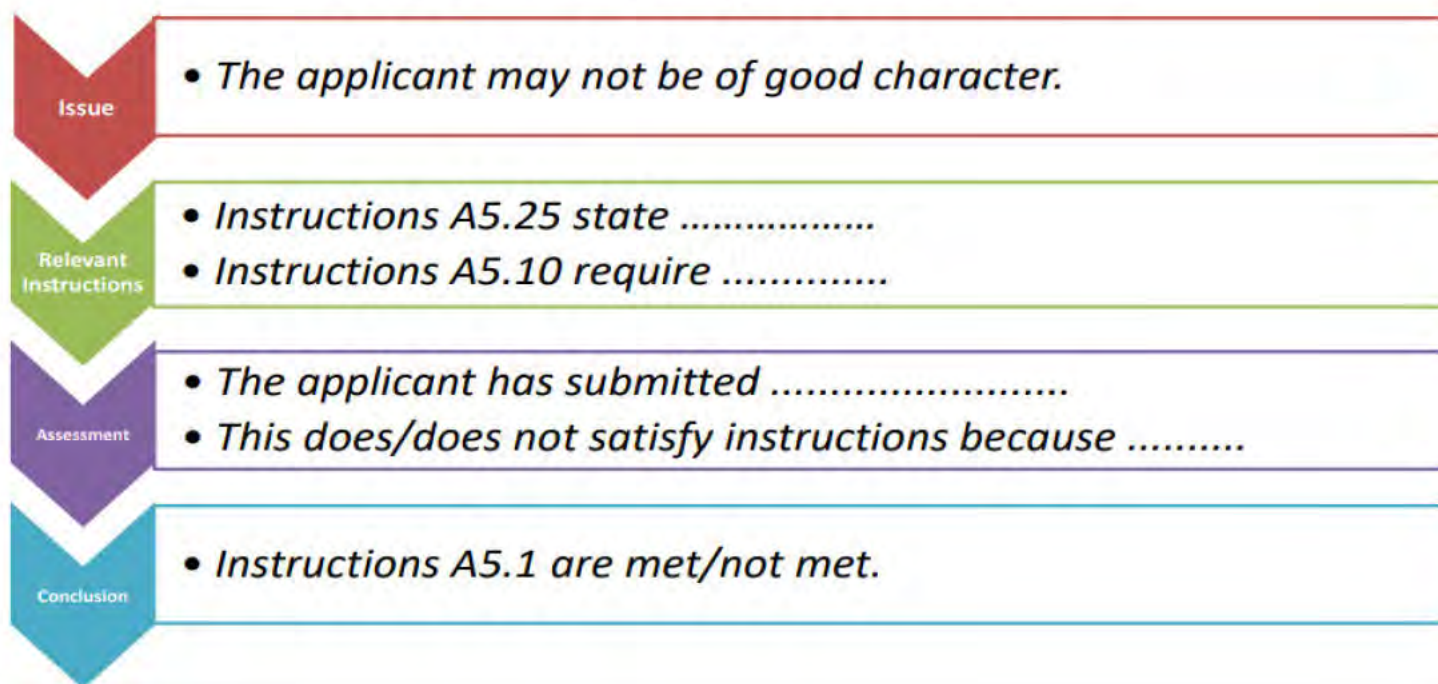
- **Relevant Evidence**

The IO has assessed and recorded all the evidence submitted in the application

The assessment does not record information/evidence that has NOT been submitted with the application, or that is not relevant to the application

# IRAC

## IRAC: Issue, Relevant Instructions, Assessment, Conclusion



# Structure

- Instructions
  - Quote the visa product instruction/parent instruction
  - E.g SV applicant declining on bona fides. U3.1(b)(ii) & E5 instructions to decline on.
- Concerns
  - Outlining points of decline. This may entail your assessment of the evidence.
- How and Why?
  - Explaining how and why you are not satisfied the applicant does not meet instructions.





# RESOURCES

- [MBIE writing style guide.pdf](#)
- Writing for Immigration Modules (optional)
  - Rationale <https://mbihas.live.kineoplatforms.net/course/view.php?id=1291>
  - PPI <https://mbihas.live.kineoplatforms.net/course/view.php?id=1292>





# Thank you

Questions?



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI

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# How to PPI & Decide an Application

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May 2018



# Step by Step to PPI

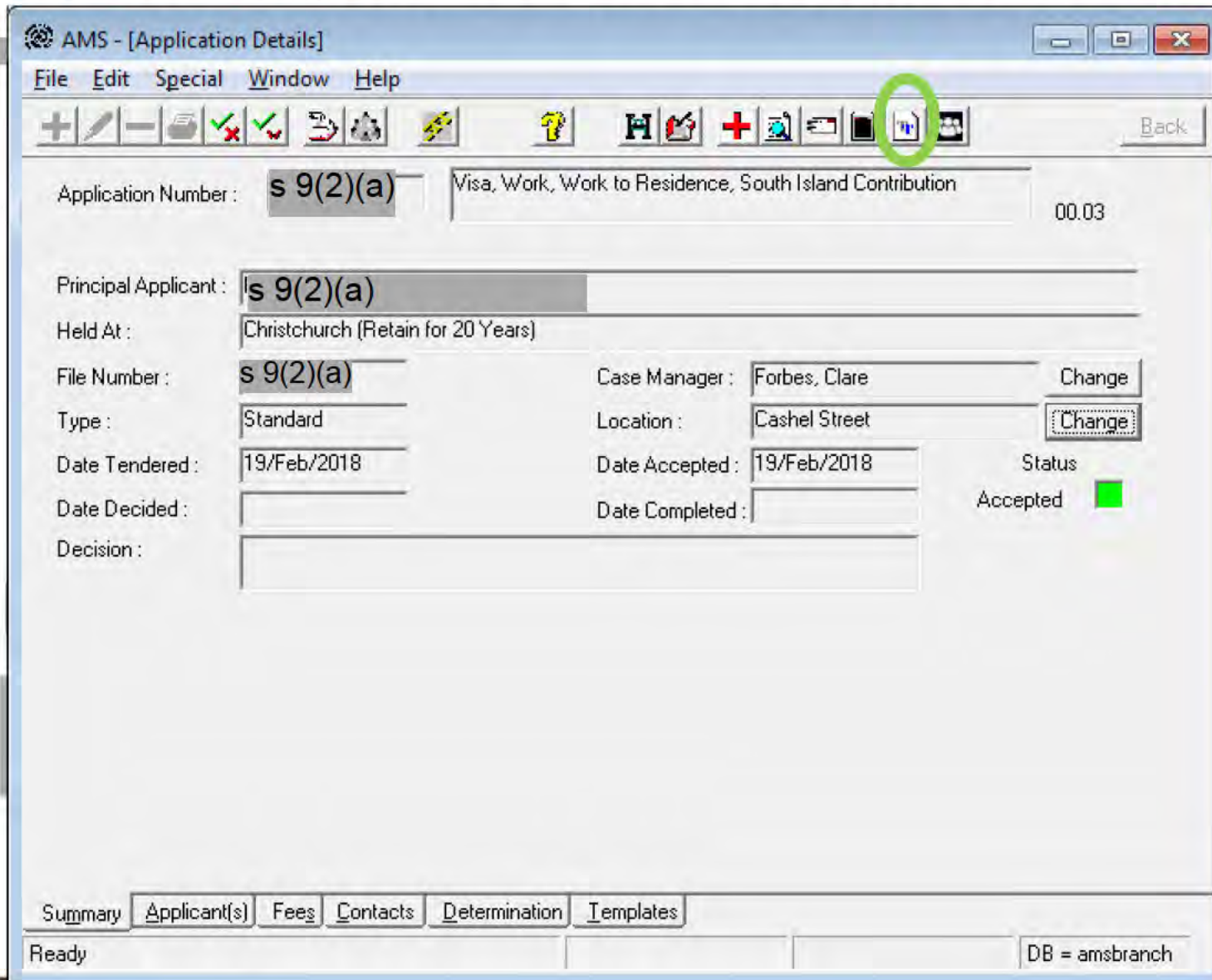
- Paste initial assessment in AMS with a heading in Capital Letters

The screenshot shows the 'AMS - Customer Interaction' software interface. The main window displays a list of applications and character notes. The left sidebar shows a tree view with 's 9(2)(a)' selected under 'Application'. The main area shows a table with columns: Date/Time, Officer, Branch, Type, Client/Appln#, and Client name/Appln Type. The table contains three rows of data, each with a 's 9(2)(a)' redaction. The first row is dated 04/May/2018 and is an 'Application N' type. The second row is dated 03/May/2018 and is an 'Application N' type. The third row is dated 03/May/2018 and is a 'Character Not' type. The table content is as follows:

Date/Time	Officer	Branch	Type	Client/Appln#	Client name/Appln Type
04/May/2018	Forbes, Clare	Christchurch	Application N	s 9(2)(a)	Visa, Work, Work to Res INITIAL ASSESSMENT - PPI CHARACTER, FIVE YEAR WORK CONTRIBUTION, MARKET F
03/May/2018	Forbes, Clare	Christchurch	Application N	s 9(2)(a)	Visa, Work, Work to Res Risk rating = None   Risk Category = None Value rating = None   Value Category = None Have the risk/value ratings changed since the profile was last generated?: No   (CRisM Profil
03/May/2018	Forbes, Clare	Christchurch	Character Not	s 9(2)(a)	Visa, Work, Work to Res A Character Certificate was issued on 11/Mar/2017 . The certificate originated from Philippines s 9(2)(a)
03/May/2018	Forbes, Clare	Christchurch	Character Not	s 9(2)(a)	Visa, Work, Work to Res A Character Certificate was issued on 09/Mar/2018 . The certificate originated from New Zeala s 9(2)(a)



- Open Template Letters to create the PPI:



AMS - [Application Details]

File Edit Special Window Help

Application Number: s 9(2)(a) Visa, Work, Work to Residence, South Island Contribution 00.03

Principal Applicant: s 9(2)(a)

Held At: Christchurch (Retain for 20 Years)

File Number: s 9(2)(a) Case Manager: Forbes, Clare Change

Type: Standard Location: Cashel Street Change

Date Tendered: 19/Feb/2018 Date Accepted: 19/Feb/2018 Status Accepted ■

Date Decided: Date Completed:

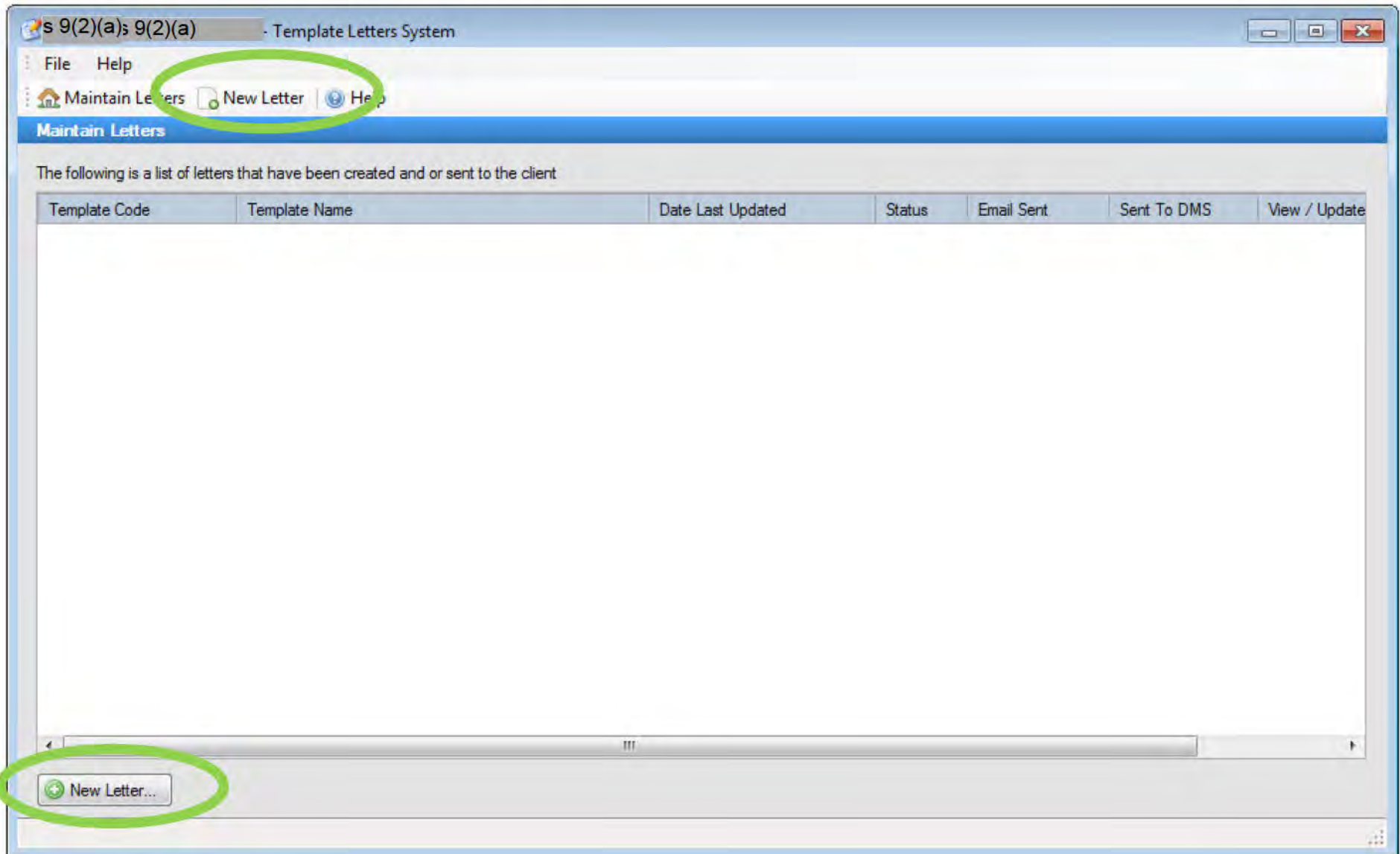
Decision:

Summary Applicant(s) Fees Contacts Determination **Templates**

Ready DB = amsbranch



- Select 'New Letter'



# Select correct PPI letter:

Paper based applications



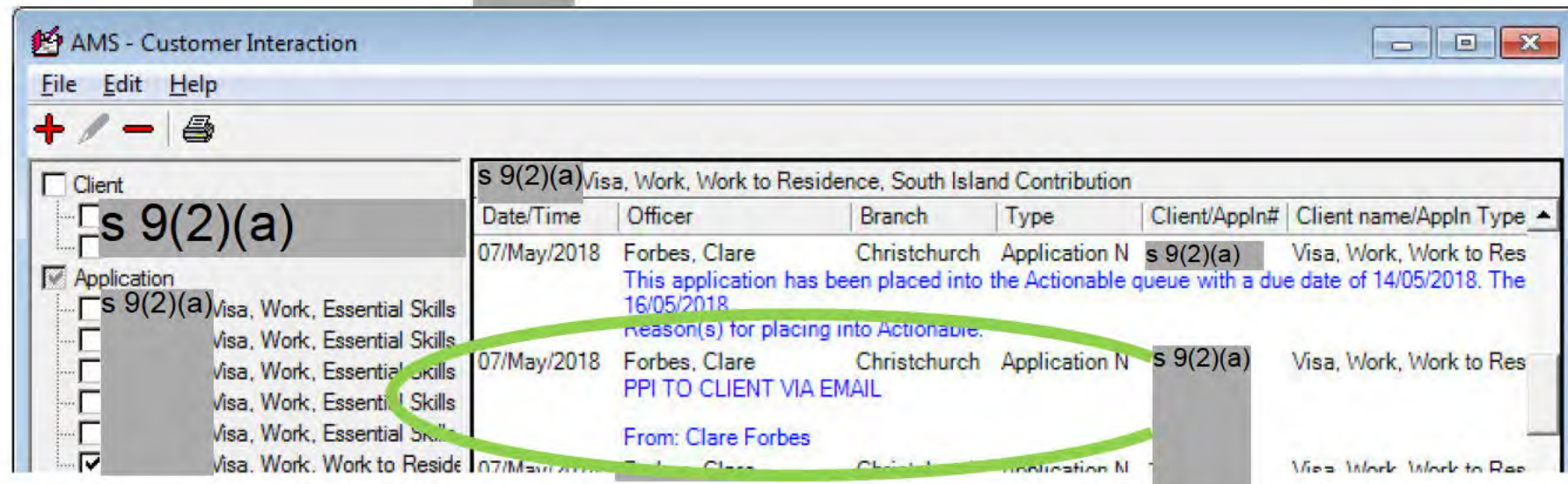
V187	Verification interview template
V68	Letter requesting comment on potentially prejudicial information
V305	Limited Visa conversion offer to client to replace existing application
V8a	Letter advising appn processing is being deferred
V156a	PPI Medical MoE Assessor
v418	Immigration ONLINE potentially prejudicial information PPI letter
V220	...

Online applications



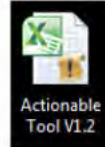


- Complete PPI letter - address each issue in turn
- Select 'Save As Final'
- Select 'Email and Save to DMS'
- Add a note in AMS to indicate that you have done the above...

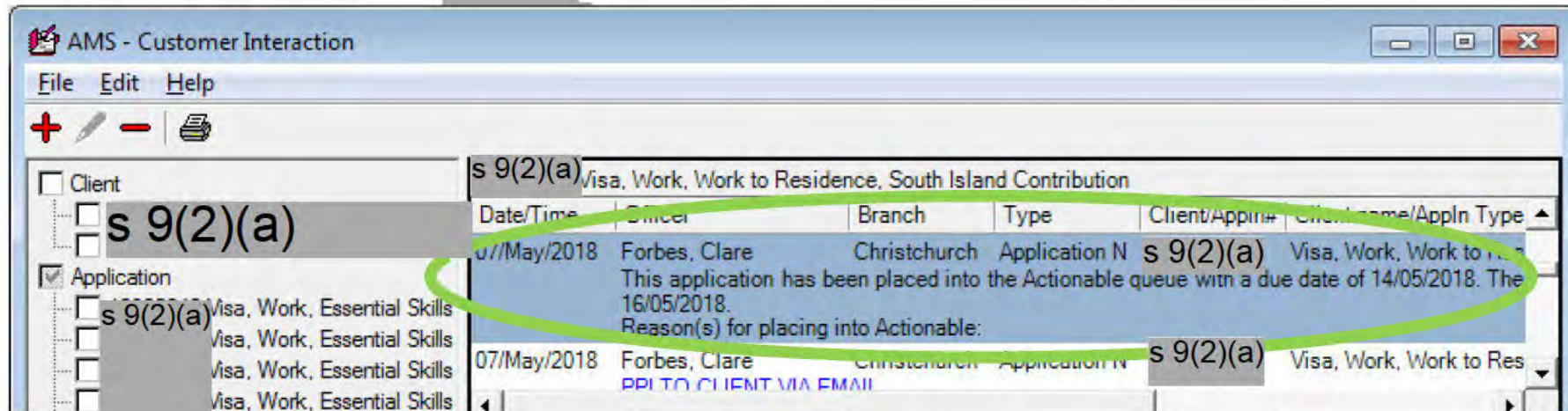




# Send file to Actionable Queue



- Open the Actionable Tool and complete
- Click 'Copy AMS Note' and paste into AMS notes:



- Click 'Submit' and close the Actionable tool

# Create a Bring Up

AMS - [Application Details]

File Edit Special Window Help

Application Number : s 9(2)(a) Visa, Work, Work to Residence, South Island Contribution 00.00

Principal Applicant : s 9(2)(a)

Held At : Christchurch (Retain for 20 Years)

File Number : s 9(2)(a) Case Manager : Forbes, Clare Change

Type : Standard Location : Not Allocated Change

Date Tendered : 27/Apr/2018 Date Accepted : 27/Apr/2018 Status Accepted ■

Date Decided : Date Completed :

Decision :

Summary Applicant(s) Fees Contacts Determination Templates

Ready DB = amsbranch



# Click 'add' button

AMS - Workflow Management

Case Manager: Forbes, Clare

Location: All Locations

Type: All Bring Ups

Date Tendered  
From: 18/May/2017 To: 18/May/2018

Date Bring Up  
From: 18/May/2017 To: 18/May/2018

Total Applications:	0
Total Tendered:	0
Total Accepted:	0
Total Recommended:	0
Total Decided:	0

Find Now  
Print  
Export  
Close

Bring Up / Application Date	Applicant	ApplNbr	Group ID	Application Type	Priority	Days Since Tender	Date Tendered	Date Accepted	Status	Reason	City
-----------------------------	-----------	---------	----------	------------------	----------	-------------------	---------------	---------------	--------	--------	------





# Enter the correct bring up date and select 'OK'

**Add Bring Up**

Application Number : ▶ s 9(2)(a)

Bring Up Date

- Exact Date
- Weeks Forward
- Months Forward

Date : ▶ 19/May/2018

Bring Up Type

- File  Priority
- Reminder

Bring Up Notes : ▶

OK Cancel

# Change Case Manager to 'IGMS Actionable' and begin new application assessment 😊

AMS - [Application Details]

File Edit Special Window Help

Application Number : s 9(2)(a) Visa, Work, Work to Residence, South Island Contribution 00.00

Principal Applicant : s 9(2)(a)

Held At : Christchurch (Retain for 20 Years)

File Number : s 9(2)(a) Case Manager : Forbes, Clare Change

Type : Standard Location : [Redacted] Change

Date Tendered : 27/Apr/2018 Date Accepted : 27/Apr/2018 Status

Date Decided : Date Completed : Accepted ■

Decision :

Summary Applicant(s) Fees Contacts Determination Templates

Ready DB = amsbranch