

Note: This document is subject to change. Ensure you continue to check the MAKO folder for the most up to date version.

Additional Guidance for Determining Whether a Humanitarian Critical Purpose is met

Before referring to this guidance please ensure you have read and understand the immigration instructions at H5.

The below guidance is intended to give you additional guidance only **do not copy any of this information into any correspondence with a client.**

Humanitarian

- What makes a case humanitarian?

Humanitarian reasons are exceptional circumstances of a humanitarian nature that make it strongly desirable for the applicant to travel and enter New Zealand.

When considering whether a person has humanitarian reasons for travelling to New Zealand, immigration officers must consider the purpose of these instructions and the strong public interest in protecting the health of New Zealanders and supporting Government agencies' response to the risks posed by the COVID-19 situation.

Relevant factors when considering if humanitarian reasons justify the grant of a visa under these instructions include:

- *the applicant's connection to New Zealand*
- *the applicant's connection to the place they are currently located*
- *whether New Zealand is their primary place of residence, and their period of absence from New Zealand*
- *whether the applicant has any alternative options*
- *the impact of not granting a visa and entry permission to the applicant.*

- Before doing an assessment under the Humanitarian category, an IO must ensure that the client (+included dependents) doesn't already meet another existing border exemption category.
- An IO cannot *approve* a Humanitarian case without a referral to an SEIO.
- An IO should consider all factors raised within the EOI request and seek clarification from the client if incomplete information has been provided.
- An IO may request documentation from a client to support their EOI in the Humanitarian category. Be reasonable with deadlines, if the purpose is genuine a client will be providing the requested quickly, if the can.

- **If you require information regarding a claimed terminal illness**, phrase it like this: *'please provide a medical document confirming the prognosis of [PERSON'S NAME]'*. This is sufficient and we must refrain from using the words 'life expectancy'.
- An IO must record all relevant factors in the consideration template (either provided by client or available to INZ internally).
- **IMPORTANT:** note in AMS when an EOI is referred 'EOI referred'.
- Save your draft referral under Blank Memo in TLS and email a copy to the Practice Lead. Once the referral is back save the TLS assessment as a Final.
- Humanitarian cases where medical treatment is needed, will be referred to INZ by the Ministry of Health or a DHB. In most cases the DHB or MoH will contact Border in the first instance (where travel is urgent). Border may in some cases refer non-urgent DHB approved cases to Visa Operations so an ITA can be issued.
- Considering an EOI for the Humanitarian category asks that you think about the big picture; what is at stake for the client and what are the risks for INZ, what is fair and what is just? If you are unsure, do not hesitate to discuss the EOI with your peers or a TA.
- The Supreme Court has stated that exceptional humanitarian circumstances are "well outside the normal run of circumstances", and while they do not need to be unique or very rare, they do have to be truly an exception rather than the rule.
- For each new EOI, or each EOI which contains new information, the full assessment must be made. Refer to MAKO Humanitarian folder file 2.Humanitarian Assessment Template. If you receive an EOI which is a repeated request and no new information has been provided by the client, you can use the short assessment. Also refer to file 2.Humanitarian Assessment Template.
- Ensure **CN 75864948 – Humanitarian Section 61A** is added to the Contacts Tab in the Critical Purpose visa application if the SEIO has granted a visa under S61A. For the Critical Purpose visa, allow for a **one month** First Entry on the visa unless otherwise indicated by the SEIO.

Frequently Asked Questions- General

#	Question	Respondent	Answer
1.	Do I have to give my reasons for rejecting an EOI in the AMS notes?	Henderson Office	<p>Yes- templates are provided.</p> <p>These cover a variety of common reasons that a client may or may not meet instructions. IF the reason for ITA/decline does not apply to these templates, you will need to include your own rationale.</p>
2.	This client already a New Zealand resident visa with valid travel conditions/is a New Zealand citizen. What do I do?	Henderson Office	<p>New Zealand residents (who have activated their residence visa and have valid travel conditions) and New Zealand citizens DO NOT require a border exemption. They are permitted to travel to New Zealand at any time.</p> <p>Send them the 'EOI Not considered Email Template' found in the templates provided.</p>
3.	Can we approve one person on an EOI and reject another if they don't meet requirements?	Henderson Office	<p>Yes if requirements aren't met or when the client is exempt from travel ban restrictions.</p> <p>If the applicant(s) who doesn't meet requirements is a secondary applicant, they will need to be removed before proceeding with the principal applicant's ITA.</p> <p>If the applicant who doesn't meet requirements is a principal applicant, you will need to contact them to ask how they wish to proceed. If they want to remain on the application, proceed to refuse the EOI for all included. If they wish to be taken off, re-raise the existing EOI application to make the secondary applicant</p>

			<p>a principal applicant. Waive the fees.</p> <p>An ITA will need to be sent to one the eligible client and a decline EOI email to the other. For NZ citizens/residents 'EOI Not Considered' email needs to be sent.</p>
4.	A client's EOI has been refused previously, do I need to assess their subsequent one again?	Henderson Office	<p>Yes, every new EOI requires a new assessment. Sometimes in subsequent EOIs, clients provide more information that changes the outcome.</p> <p>Consider what new information has resulted in requirements now being met</p>
5.	A clients previous EOI was refused however it appears it was assessed incorrectly. Can I change the outcome of the subsequent EOI to an ITA?	Henderson	<p>Yes, sometimes in subsequent EOI's, clients provide more information that changes the outcome.</p> <p>Consider what new information has resulted in requirements now being met.</p> <p>If the previous EOI was refused in error, contact Dave Verkade, Practice Lead-Henderson.</p>
6.	A client has serious a bona fide/character/health issue but potentially meets a critical purpose, should an ITA be issued?	Henderson Office	<p>H5.25.1 outlines that health, character, bona fide, funds and onward travel requirements must be met for all applicants as applicable.</p> <p>However, if a character issue is declared or noted that falls under <i>A5.45 Applicants normally ineligible for a temporary entry class visa unless granted a character waiver, whether or not they meet character requirements can likely only be tested at application stage via a character PPI/waiver process.</i> Declaring these issues should not preclude someone from</p>

			being sent an ITA if all other requirements are met.
7.	A client has indicated on the EOI submission form that they don't intend to self-isolate for 14 days upon arrival in New Zealand/are unsure at which they will do so. Should an ITA be issued?	Henderson Office	<p>If they otherwise meet one of the exception criteria consider asking them if they answered that questions correctly. If they made a mistake then record their correct response and consider issuing and ITA.</p> <p>If they confirm they don't intend to self-isolate, or don't otherwise meet an exception criteria then refuse the EOI.</p>
8.	Can the MFAT Protocol Division continue to request diplomatic/consular/official visas for new staff who are accredited offshore?	Henderson Office	<p>H5.1 (a) (vii) allows for new diplomatic and consular personnel to fill established positions at a foreign mission or consular post in New Zealand.</p> <p>EOIs should be referred to William Wang (Immigration Manager) in the first instance.</p>
9.	The client claims to be a New Zealand citizen however doesn't hold a passport.		<p>Check AMS records to see if the client has previously held an NZ passport:</p> <p>If yes, ask if they are travelling with the expired NZ passport. Border will then be able to facilitate their travel. Speak with a TA to proceed.</p> <p>If no, please contact staykiwi@dia.govt.nz to confirm their NZ citizenship. Once the DIA has confirmed NZ citizenship status, please raise an information warning including the DIA email in AMS.</p>

10.	The clients are the family of a high skilled Critical Health worker, however they have never lived in New Zealand. Should they be issued an ITA?		<p>If the Critical Health worker was granted a Critical Purpose visa, any partners or dependent children may be granted a visa to travel to New Zealand. This can be together with, or separately from, the essential health worker.</p> <p>If the Critical Health worker was not granted a Critical Purpose visa, they are unable to support their dependents, however this group of people may be considered under the Humanitarian criteria.</p>
11.	These clients are all offshore. At application stage, do I need to PPI?	Henderson Office	Such scenarios need to be considered on a case by case basis. Please see below for PPI Offshore Clients Guidance .
13.	The client has declared they have (or have previously) tested positive for COVID-19 or has been exposed to COVID-19. Should I issue them an ITA?	Immigration Health Team	<p>INZ does not require evidence of COVID-19 testing or discharge documentation from individuals who have previously been diagnosed with COVID-19 and who meet the travel exception criteria. The risk of COVID-19 being introduced to New Zealand by an individual who has been approved to travel to New Zealand under the exception criteria, will be managed by the managed isolation, quarantine and testing requirements that the individual will need to comply with after their arrival in New Zealand.</p> <p>It is appropriate, however, that INZ advise individuals who may have been exposed to COVID-19 or previously</p>

			<p>infected by COVID-19 that it would be in their best interests to bring any medical documentation they have with them (eg. test results, patient discharge information) as this information may be useful in New Zealand to assist in reviewing clinical progression should a COVID-19 test remain positive despite apparent recovery.</p>
14.	A New Zealand citizen/resident has submitted an EOI via AMS. What do I decide it as?	Henderson Office	<p>Close the EOI off as 'refuse to consider' and use the standard template to inform the client that they are able to travel to New Zealand without restriction.</p>
15.	Some clients meet Critical Purpose requirements and others don't. How do I decide the EOI in AMS?	Henderson Office	<p>If it is one of the secondary applicants that don't meet requirements, they can be removed from the EOI and you can proceed to issue an ITA to the principal and other secondary applicants who meet requirements.</p> <p>If it is the principal applicant who doesn't meet requirements, however the secondary applicants appear to, inform them that they can either choose to proceed and that the outcome will likely be unfavorable or the principal applicant can be removed, and the EOI re-raised with one of the secondary applicants as the principal applicant.</p>

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16.	Should I be requesting further information at EOI stage?	Henderson Office	<p>In some instances, it may be necessary to request further information to proceed, however this will be considered on a case by case basis. Where an officer must request further information includes:</p> <ul style="list-style-type: none"> • Where details of the New Zealand based partner are not provided. <p>Requests for information should be given a response timeframe of 24 hours.</p> <p>The exception is requests for medical information which should be given a response timeframe of 48 hours.</p>
18.	An EOI submission refers to supporting documentation being provided elsewhere (for example emailed to a specific mailbox or an INZ employee). Do I need to consider this information?	Henderson Office	<p>Yes. An officer should view the extra submissions prior to a decision to ensure fairness.</p>
19.	Can I approve an EOI under a different category than what was applied under?	Henderson Office	<p>Yes. Consideration should be given to all EOIs as to whether they meet any critical purpose instructions even if it differs to what they applied under.</p> <p>In particular, consideration should always be given as to whether there are any exceptional humanitarian factors that would warrant consideration under the humanitarian category.</p>

*PPI Offshore Clients Guidance - Temporary Entry Critical Purpose

Below is guidance for your application assessors.

Since the border exception process began INZ have PPI-ed clients on information that was prejudicial. Given CP processing is now a BAU category for Henderson – the question has arisen if PPI-ing of offshore clients should continue and that Henderson aligns its practice with normal SOP.

Instructions covering this matter are at E7.15.1.

The overarching principle INZ must act in accordance with the principles of fairness and natural justice set out in the Administration chapter (see [A1](#)), applicants will be given the opportunity to comment before a decision is made on the basis of any potentially prejudicial information (PPI). In terms of the order of processing look to establish if first core instructions are met, then bona fides, and finally character/health).

VisaPak 129 and IAC 11/09 preceded the instruction. While they are superseded they offer some insight into the background of the issue.

<http://inzkit/publish/visapak/visapak/#47244.htm>

<http://thelink/teamsites/immi/circulars/iac/IAC%2011-09%20Change%20in%20approach%20to%20TE%20decision%20making.DOC>

E7.15.1 Applicants outside New Zealand

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.

In summary an IO only needs to undertake PPI if the information meets **all** of the definition stated above. If it does not any part then PPI is not required to be undertaken. This does however; require the IO to do the following:

- If the information provided is not PPI but is used as a basis to decline an application, immigration officers should state explicitly in the decline letter and in AMS notes a clear link between the information provided by the applicant and the immigration officer's own conclusion.
- In applicable cases, immigration officers should record in AMS that the information leading to a decline was not put to the applicant because it was not PPI.
- If the information needed to meet the requirements could be obtained easily from the applicant, it is good practice to request this even though there is no obligation to do so.

Examples

1. VV CP – Client has insufficient funds or any sponsorship. PPI is not required however; you have the ability to seek the info if you consider they have it and it can easily be provided.
2. VV CP – 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. VV CP – 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.
4. VV CP – CAPP Nurse – client has been notified they course has been cancelled. No PPI is required . IO can decide based on information available.
5. VOC CP – Client seeks a VOC CP for employment they resigned from or no longer hold. No PPI required. IO can decide based on information available.
6. VV CP – Character issue declared that falls under A5.45 – IO to proceed with character PPI as client would normally be eligible for a character waiver assessment.
7. VV CP – Character issue declared that falls section 15 and is subject to A5.40 – No PPI required however; consider if a SD should be considered given the basis of the CP.
8. VV CP Partnership – IO is not satisfied from the evidence provided that the couple have lived together during their relationship. No PPI required. IO can decide based on information available.
9. VV CP Partnership – couple provide evidence of living together however; INZ receive an allegation that the client entered into a false partnership. PPI is required as this is information that requires comment. Meets PPI definition because this is information we hold- the applicant doesn't know this until we tell them.
10. VV CP – CAPP Nurse – client has provided as evidence of funds and OWT a bank statement that indicates sufficient funds. INZ verification reveals bank statement is false. No PPI needed. IO can decide on information available in relation to bona fide concerns.

Any questions – please ask a TA.

Visa Conditions and Validity

- Under these instructions, an applicant can be granted a Critical Purpose Visitor visa for up to 6 months OR a maximum of 12 months provided a CXR isn't required.

Critical Purpose Visitor Visas

- Unless there is a compelling reason otherwise, CP VVs should be granted as single entry visas. If you think a multiple entry visa should be granted, consult a Technical Advisor.

Critical Purpose Variation of Conditions

- A Critical Purpose Variation of Conditions can be granted for a duration in line with the substantive visa.

- If the visa has been activated, the CP VOC should not be given a first entry date, they should be given an expiring date in line with their substantive visa.
- If the visa has not been activated, the CP VOC will require a 6 month F/E date.
- CP VOCs should be granted as multiple entry and in particular, it is important to ensure that **Work to Residence** visas are granted as multiple entry.

Validity

- If the applicant's critical purpose is reuniting with a partner, the visa they are granted should not be valid for longer than their partner's visa in New Zealand.

If their partner's visa is expiring imminently and there is no further visa applied for, first:

- Confirm whether the partner should have had their current visa extended by the Epidemic Management Notice and have this amended if so.
 - If not, consider whether the applicant meets bona fide requirements- consult a TA for further advice.
- There are some visa types that will lose their original visa conditions if a Critical Purpose Variation of Conditions is raised on top of their original visa. This is because their 'expiry date stay' date cannot be altered in AMS. In these cases, a Critical Purpose Visitor visa will need to be raised and the applicant informed that their original visa conditions (multiple entry) will not apply to the new visa.

Visa types where raising a Variation of Conditions is a known issue. Holders of these visa types will need to agree to be issued a Critical Purpose Visitor visa before the visa is finalised:

- 60 month General Visitor Visas issued for Chinese nationals.
- Parent/Grandparent Visitor visas.

Conditions

- Any applicant approved under the Critical Health Worker category, their employer and occupation **must** be recorded on the visa label.