



NEW ZEALAND
IMMIGRATION

Character

Facilitator Guide



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
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New Zealand Government

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Introduction

Purpose

The purpose of this course is to give officers the knowledge and skills to be able to ensure an applicant meets Immigration New Zealand's character requirements, as defined in the immigration instructions.

Learning outcomes

At the end of this course, learners will be able to:

- explain why there is a need for applicants to meet character requirements
- interpret and apply immigration instructions for character requirements
- analyse police certificates to determine if an applicant's history affects their character eligibility
- identify whether an application is caught by character provisions
- differentiate between when a character waiver may apply to an applicant and when it may not.

Audience

This course has been developed for Immigration Officers and Compliance Officers

Course duration

5 hours

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Preparation

Prerequisites

N/A

Pre-work

N/A

Required course resources

- Facilitator computer and projector
- Participant computers
- Operational Manual
- Immigration Act 2009
- Internet access to <https://www.immigration.govt.nz/>
- Pens/markers (enough for the participants in group activities)
- Access to Learn@MBIE
- Hand-outs:
 - Activity 1
 - Crimes and maximum terms of imprisonment handout
 - Activity 3
 - Police certificate examples
 - Activity 4
 - Activity 5
 - Activity 6
 - IPT's assessment of INZ's Lunar decision

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Preparation

- Check all links are still working and going to the correct places
- Wherever possible, give participants keywords to search for using navigating the Operational Manual so they become familiar with searching, rather than referencing sections they won't be familiar with (eg A15.5)
- No breaks have been allocated to this workshop. Timings and breaks will need to be managed by the facilitator
- Where there are activities that involve group discussion, the facilitator can change these to be pair work, group work, Post-it note submissions, to provide the best learning experience and opportunity for state changes

Room set-up

Refer to the Learning Delivery Team for suggested room set-ups.

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How to use this guide

This guide sets the order and key talking points, and is laid out as follows:

.Time	Topic	Resource	Your Notes
Suggested time for each section.	Includes: <ul style="list-style-type: none">• instructions on how to deliver each section of the topic.• model answers or links to the immigration instructions where questions relate.	Resources needed for each section of a topic.	Background information to help the facilitator prepare. Includes: <ul style="list-style-type: none">• facilitator topics: information on topics including links to relevant instructions• where the content is specific to a particular role/audience eg immigration officer, border officer, or compliance officer. Includes space so the facilitator can add their own written notes during preparation.

There are notes within the guide to highlight when a topic needs to be amended, added, or removed for a specific audience. Please check the 'Topic Outcomes', 'Topic Resources', and 'Your notes' sections for details

Course outline

Time (minutes)	Topic
10 mins	Why do we need to assess character? Purpose: Why we assess against character requirements.
80 mins	Character instructions Purpose: How to interpret the immigration instructions for character requirements.
65 mins	Police certificates Purpose: Key information to look for when viewing police certificates.
75 mins	Assessing whether an applicant is caught by character instructions Purpose: How to identify whether an application is caught by character provisions.
60 mins	Character waiver Purpose: Differentiate when a character waiver may apply to an applicant.
10 mins	Course closure

Why do we need to assess character?

Topic outcomes

By the end of this topic, learners will be able to explain why there is a need for applicants to meet character requirements.

Topic resources

- Participant computers.
- Operational Manual.
- Immigration Act 2009.
- Internet access to <https://www.immigration.govt.nz/>

Time	Topic	Resource	Your notes
	Remind learners they can note any key points in their Learning Journal throughout this session.		
1 mins	Introduction INZ aims to strike the appropriate balance between facilitating the migration our country needs while protecting New Zealand and those who travel here from harm. Assessing an applicant's history, actions, and potential actions against INZ's character requirements goes toward striking that balance.		
5 mins	Why do we need to assess character? At the beginning of the character chapter in the Operational Manual (at A5.1), it says that applicants for all visas must: <ul style="list-style-type: none">• be of good character; and	Operational Manual	

Time	Topic	Resource	Your notes
	<ul style="list-style-type: none"> • not pose a potential security risk. <p>Ask: Why do we have this requirement?</p> <p>Applicants who do not meet character requirements present a risk to New Zealand. This can take many forms, including:</p> <ul style="list-style-type: none"> • difficulty settling into New Zealand due to past offences limiting their ability to find employment • committing crime in New Zealand • costs to New Zealand taxpayers for imprisonment • eroding the integrity of the immigration system • damage to New Zealand’s international reputation. 		
4 mins	<p>Character issues</p> <p>Ask: What kinds of things might make someone not of good character?</p> <ul style="list-style-type: none"> • There are many possible character issues, some of which will be more serious than others. • The majority of people present with no character issues. • Then there are those who have comparatively minor issues. • Finally, and most uncommonly, there are those with potentially serious issues. • Different character issues require different approaches. 	Whiteboard	

Character instructions

Topic outcomes

By the end of this topic, learners will be able to interpret the immigration instructions for character requirements.

Topic resources

- Facilitator computer and projector
- Hand-outs:
 - Activity 1
 - Crimes and maximum terms of imprisonment handout

Time	Topic	Resource	Your notes
5 mins	<p>Introduction</p> <p>We are now going to look at the parts of the Operational Manual that relate to character requirements.</p> <p>Introduce:</p> <ul style="list-style-type: none">• A5.1 - Overarching purpose statement – must be ‘of good character’ and not pose a security risk• A5.5 and A5.10 - Police checks/certificates• A5.20/A5.40 - People subject to section 15 or 16 (for being deported, or ‘serious’ convictions, or potential security or public order risk)• A5.25/A5.45 – Convictions, False/misleading information, Prejudice or racist speech• A5.35 - Deferral of residence applications if, for example, someone is charged (but not yet convicted) of certain offences.	Operational Manual	

Time	Topic	Resource	Your notes
10 mins	<p>Instruction familiarisation and the Immigration Act 2009</p> <p>Ask the group to search for A5.20 in the Operational Manual. Then ask them to search for A5.40 (ideally in a separate window and screen).</p> <p><i>Ask: What's the difference between these provisions?</i></p> <p>A5.20 is for residence and A5.40 is for temporary visas. However, there is actually no difference between the two: A5.40 simply directs you back to A5.20. This is because sections 15 and 16 apply equally to both.</p> <p>Ask the group to look at sections 15, 16 and 17 of the Immigration Act 2009 as well to show how A5.20 and A5.40 are replicating those sections. This means that these provisions are not immigration instructions – the rules they contain are set out in the Act, and are not additional requirements certified by the Minister of Immigration.</p> <p>Section 15 (A5.20)</p> <p>This covers character issues which generally might be considered more serious – people who have been sentenced to long periods of imprisonment, or who have been previously deported. You may not see cases like this very often, but they need to be handled with care.</p>	Operational Manual Immigration Act	
25 mins	<p>Activity 1</p> <p>Distribute Activity 1 hand-out.</p> <p>Ask the group to attempt the questions individually first, then compare answers with someone else in the group when completed.</p> <p><i>Scenario 1: XXXXX wants to study ----- in New Zealand. However, seven years ago he was sentenced to 12 months in prison for a ----- offence in</i></p>	Activity 1 hand-out Operational Manual	<p>Facilitator note</p> <p>If asked about PPEs, ask the group to refer to section 179 of the Immigration Act. An overstayer may have a two or five year PPE against them,</p>

Time	Topic	Resource	Your notes
	<p>his home country. (He served ----- months of the sentence and his country's parole board authorised an early release.)</p> <p><i>Question:</i> Does section 15 or 16 of the Act apply to XXXXX?</p> <p>Yes. Section 15 (1)(b) applies. Note that it doesn't matter that he only served ----- months of the sentence. Section 15 refers to the sentence itself, not the length of time someone was actually in prison.</p> <p><i>Scenario 2:</i> In an incident last year, XXX ----- XXX pleaded guilty in court and the judge gave him a 13-month deferred prison sentence pending a probation period. XXX wants to put the whole thing behind him and thinks spending some time travelling in New Zealand for a year off will do him good.</p> <p><i>Question:</i> Does section 15 or 16 of the Act apply to Jackson?</p> <p>Yes. Section 15 (1)(b) applies. Deferred sentences are still included as a consideration for character requirements. See section 15(2)(a).</p> <p><i>Scenario 3:</i> XXXX is from XXXXXXXX and has family in New Zealand. Three years ago, he arrived in New Zealand on a visitor visa and over stayed its term by three months. He eventually left before being served with a deportation order and so was not subject to any period of prohibition on entry. XXXX's New Zealand-based ----- has died, and he now wishes to return to New Zealand to attend her funeral.</p> <p><i>Question:</i> Does section 15 or 16 of the Act apply to XXXX?</p> <p>No (because he is not subject to a PPE – see section 15(1)(d) and 15(3)(c)), but we would need to consider bona fides.</p>		<p>depending on how long they overstayed. However, if they leave NZ before a deportation order is served on them, they are not subject to any PPE. (If someone does have a PPE against them, there is usually an information warning or alert on their profile.)</p> <p>Not all over stayers are considered to be deported. Section 179 and periods of prohibition only apply to a person who has been deported.</p>

Time	Topic	Resource	Your notes
5 mins	<p>Special Directions</p> <p>If someone is subject to section 15, this does not automatically mean they will never get a visa. If they meet all other requirements, an immigration officer with the appropriate delegated authority may grant a special direction under section 17 of the Act if there are exceptional circumstances.</p> <p>Note: The decision to give a special direction is in the absolute discretion of the decision-maker.</p> <p><i>Ask:</i> Would you grant a special direction to someone who had served 27 years of imprisonment? Why/why not?</p> <ul style="list-style-type: none"> • What if they had been imprisoned for speaking out against human rights violations? • What if that person was now the President of South Africa (i.e. Nelson Mandela)? <p><i>Ask:</i> Would you grant a special direction to someone who was deported from New Zealand for overstaying for two years?</p> <ul style="list-style-type: none"> • What if the person had been in a car accident a week before their visa ran out and was in a coma for two years? • What if the person had actively tried to evade Compliance Officers during those two years? • The point is, every case is different and should be assessed on its merits. Giving special direction is an absolute discretion decision. <p>An IO cannot decide to grant a resident visa by way of a special direction – these have to be signed off by an IM or above. However, an IO can currently grant a temporary visa by way of a special direction, though they should have such a decision checked by a TA.</p>	Operational Manual	

Time	Topic	Resource	Your notes
5 mins	<p>Section 16</p> <p>Have the group read who is covered by section 16.</p> <p><i>Ask:</i> How are these cases different from section 15?</p> <p>Section 15 deals with what a person has done in the past, and is a 'black and white' test (they were sentenced to prison or not, they were deported or not).</p> <p>Section 16 deals with what a person <i>might</i> do in the future. It is more of a 'judgment call', though that judgment can be based on what behaviour they have shown in the past.</p> <p>These cases are fairly uncommon, and sometimes contentious.</p>	Operational Manual	<p>Examples for discussion:</p> <ul style="list-style-type: none"> • http://www.stuff.co.nz/editors-picks/9997356/The-story-behind-the-Odd-Future-ban • https://www.rnz.co.nz/news/national/362218/controversial-canadian-speakers-issued-visas
20 mins	<p>Applicants normally ineligible for a residence class visa or temporary entry class visa unless granted a character waiver</p> <p>These are the cases that are not normally as "serious" as sections 15 and 16, but still potentially of concern. Direct participants to read A5.25 and A5.45, ask them to note anything that stands out.</p> <p>Key things to notice:</p> <ul style="list-style-type: none"> • convictions can be "at any time" (so a 12-month sentence 20 years ago makes someone fall under this part of instructions even if they are not subject to section 15) • The list of criminal convictions falling under A5.25 is longer than in A5.45 • Items (i) and (l) in A5.25 and (b) and (e) in A5.45 reflect the need to maintain the integrity of the immigration system by ensuring that immigration officers consider accurate and complete information. 	Operational Manual	

Time	Topic	Resource	Your notes
	<ul style="list-style-type: none"> • Items (j) and (k) in A5.25 aren't common, but in this age of social media these things can be very public. • Turn their attention to the 'Note' sections of both A5.25 and A5.45 <ul style="list-style-type: none"> – The first note in each location says that a 'more likely than not' test is needed for an applicant to be found to have provided false information or withheld relevant information. Officers do not need to establish that the applicant committed the act 'beyond reasonable doubt'. <p>Explain the 'avoidance of doubt' note. There are some offences in the NZ Crimes Act where the <i>maximum</i> penalty is three months prison (eg an excess breath alcohol/drink-driving offence).</p>		
5 mins	<p>Crimes and maximum terms of imprisonment</p> <p>Distribute the 'Crimes and maximum terms of imprisonment handout'. This is a list of crimes and their maximum possible period of imprisonment.</p> <p>Give participants a chance to read this and ask any questions. You may wish to re-iterate the 'avoidance of doubt' note referring to a few crimes which have a three month maximum sentence.</p> <p><i>Ask:</i> What other offences carry a maximum sentence of three months? Possible answers include: obtaining by deception, disorderly behaviour, wilful damage, reckless/dangerous driving.</p>	Crimes and maximum terms of imprisonment handout	
4 mins	<p>Character waiver</p> <p>A single drink-driving conviction in the last five years would make someone subject to A5.25/A5.45.</p>	Operational Manual	

Time	Topic	Resource	Your notes
	<p><i>Ask:</i> Does that mean everyone who has a conviction of this nature is automatically declined?</p> <p>Direct participants to read A5.25.1 and A5.45.1, and ask them to note anything that stands out.</p> <p>This includes:</p> <ul style="list-style-type: none"> • The list of surrounding circumstances an IO must take into consideration are longer in residence than in temporary. • This reflects that more is at stake for someone applying for residence than for a temporary stay in NZ. 		
1 min	<p>Wrap up</p> <p>This topic has given you guidance and the criteria on <i>how</i> an applicant should be assessed, using the Operational Manual.</p> <p>Later in this workshop we will learn more about character waivers and other discretionary aspects of character assessment.</p>		

Police certificates

Topic outcomes

By the end of this topic, learners will be able to analyse police certificates and how the information contained in them relates to an assessment of a visa application against the provisions in the character section (A5) of the Operational Manual.

Topic resources

- Facilitator computer and projector
- Immigration Act 2009
- Hand-outs: Police certificate examples

Time	Topic	Resource	Your notes
1 min	<p>Introduction</p> <p>Police certificates are an important source of information for assessing whether someone meets character requirements.</p> <p>Experience with police certificates will help you know what to look for but there are a number of attributes you need to give attention to.</p>		
4 mins	<p>Who needs a character check?</p> <p><i>Ask: Who needs a character (that is, a police) check?</i></p> <p>If stuck, refer participants to A5.5(a) of the Operational Manual. Also draw attention to A5.5(d) (which is the exception for students), and A5.5(f) where an immigration officer can ask for a police certificate, even if one is not required. There are provisions about Police checks in the restricted section of the Operational Manual.</p>	Operational Manual	<p>ADEPT note</p> <p>Police checks required by immigration instructions will automatically be requested if INZ doesn't already hold them</p> <p>Regardless of processing a visa application in AMS or ADEPT, IO's retain ability to request additional Police checks if required.</p>

Time	Topic	Resource	Your notes
	<p><i>Ask: Why might we ask for this when one isn't required?</i></p> <p>Looking for answers to include applicants who have made lots of short trips to New Zealand, and these now add up to a reasonable amount of time in New Zealand.</p> <p><i>Or</i></p> <p>If there is an alert in our systems that gives you cause to ask for one in order to be sure the applicant meets character requirements.</p>		
5 mins	<p>How do we check character: police certificates</p> <p><i>Ask the group: Which police certificates are required?</i></p> <p>If stuck, refer participants to A5.5(b) and (c).</p> <p>Note the differences in the information that applicants for residence class and temporary entry class visas must provide. A person who presents clean police certificates for a temporary entry class visa application may need to provide a wider set of police certificates if they apply for a residence class visa.</p>	Operational Manual	
10 mins	<p>Activity 2</p> <p>Ask participants to go to the INZ website and search for "obtain police certificate". Click the link for 'How to get a police certificate'. Use the filter to search for how to obtain a police certificate from that country, exploring if there are differences between being in that country, or being in New Zealand.</p>	https://www.immigration.govt.nz/	

Time	Topic	Resource	Your notes
	<p>Depending on the group size, allocate one country to each participant to look at, plus one country of their own choice. They can then report back to the group what they find.</p> <p>Countries to allocate:</p> <ul style="list-style-type: none"> • India • Philippines • United States of America • United Kingdom • Samoa • France. 		
5 mins	<p>Requirements for Police Certificates</p> <p>Have the group read through A5.10.</p> <p><i>Ask:</i> How old must a PC be when an application is lodged?</p> <p><i>Answer:</i> Less than six months old.</p> <p><i>Ask:</i> If a PC was submitted with a previous application, how long does it remain valid?</p> <p><i>Answer:</i> 24 months for most temporary applications and certain kinds of residence applications, 36 months for some student applications and partners or dependent children of PhD students.</p> <p><i>Ask:</i> What if someone is unable to provide a police certificate? What can they provide instead?</p>	Operational Manual	

Time	Topic	Resource	Your notes
	<p><i>Answer:</i> If an IO is satisfied the PC is genuinely unavailable, a statutory declaration may substitute. There's also discretion to not require the production of a statutory declaration.</p>		
10 mins	<p>Police certificate sentences</p> <p>Explain that sometimes police certificates can be difficult to interpret, including what the penalty or sentence(s) were in relation to a particular offence.</p> <p>However, it's important to accurately determine, for example, sentence lengths because:</p> <ul style="list-style-type: none"> • a 'total sentence' of 12 months or more in the last 10 years, or a five years or more sentence, at any time, causes the applicant to fall under section 15. This means the applicant can only be granted a visa by a special direction. (Tell participants that you'll explain what you mean by a 'total sentence' in a moment.) • the length of a sentence (or sentences) can provide an indication as to how serious a crime was and whether the applicant, in accordance with an immigration officer's discretion, is worthy of a character waiver. <p>It also can be important to know what the maximum penalty/sentence is for a particular listed offence, especially if it is a relatively minor offence for which the person was only fined or made to do community service. This is because, you'll recall, a person falls under A5.25(f) if the court had the power to impose a sentence of three months or more. We gave you the handout for New Zealand maximum sentences earlier, but for overseas convictions, if you</p>		

Time	Topic	Resource	Your notes
	<p>need to know the maximum sentence for a particular offence, ask your technical adviser or practice lead on how to obtain that information.</p> <p>Now, to explain what I mean by a ‘total sentence’. This is something you need to calculate when the applicant has been convicted for more than one offence on the same occasion or in the same proceedings. If the same judge is looking at a series of offences, the judge on the day can impose a cumulative (or consecutive) sentence for those offences, OR a concurrent sentence.</p> <p>A ‘consecutive’ or ‘cumulative’ sentence means that the offender has to serve the time in prison that you get by adding the two sentences together. For example, if the judge says he is sentencing the offender to four months for offence 1 and five months for offence 2, with the sentence being cumulative, then the offender has effectively been sentenced to nine months prison – in other words, nine months is the ‘total sentence’, and it’s this ‘total sentence’ you look at when determining whether someone falls under section 15(1)(a) or (b).</p> <p>This is because section 15(2)(b) of the Immigration Act 2009 says that the 12 months or more, and five years or more provisions of section 15(1)(a) and (b) apply to cases “where a person has been convicted of two or more offences on the same occasion or in the same proceedings, and any sentences of imprisonment imposed in respect of those offences are cumulative, as if the offender had been convicted of a single offence and sentenced for that offence to the total of the cumulative sentences”.</p>		

Time	Topic	Resource	Your notes
	<p>Instead of a 'cumulative' sentence, a judge may impose a 'concurrent' sentence, and this is much more common. This means the two or more sentences are served simultaneously. Concurrent sentences will usually be imposed when two or more offences are of a similar nature or connected to a single incident. (You can usually tell if the offences are related to the same incident by looking at the offence date.) The 'total sentence' in this case is NOT calculated by adding the sentences together, but by just finding the longest sentence in the series.</p>		
30 mins	<p>Police certificate examples Distribute the 'Police certificate examples handout' to the group, asking them to read through each police certificate and answer the questions for each example.</p> <p>Example 1: XXXXX XXXX <i>Question:</i> What is XXXXX XXXX's total sentence according to the information on her police certificate?</p> <p>XXXXX's total sentence is for 18 months. For the purposes of section 15, we do not add each of the four sentences of 18 months' duration each to get to a total of 72 months because the sentences are concurrent. However, in any character waiver assessment, four sentences of 18 months each will carry more weight than one sentence of 18 months.</p> <p><i>Question:</i> Does section 15(1) apply to XXXXX?</p> <p>XXXXX falls under section 15(1)(b) as she has been sentenced to imprisonment for 12 months or more in the past 10 years.</p>	<p>Police certificate examples handout Immigration Act 2009</p>	

Time	Topic	Resource	Your notes
	<p>Explain what ‘result date’ means in XXXXX’s police certificate. In New Zealand PC’s, the ‘result date’ is the day the applicant was sentenced. It does not necessarily reflect the date of conviction, which can be weeks or months earlier. This can be important in some instances where the conviction or sentence occurred close to exactly 10 years ago, and so it’s a close call if someone is subject to section 15(1)(b) or not. In these rare instances, it may be necessary to contact the Courts or Police to get the conviction date.</p> <p>Example 2: XXX XXX</p> <p><i>Question:</i> With respect to the 198X convictions only, what is XXX’s total sentence as per the information on the certificate?</p> <p>As previously seen, consecutive sentences start when an earlier sentence is completed so the 12 months started after the completion of the previous three months. That brings the total to 15 months. The third sentence of ‘----- 12 months’ is concurrent to the previous sentence so does not get added.</p> <p><i>Question:</i> Does section 15(1) apply to XXX?</p> <p>Section 15(1) does not apply to XXX. Although he was sentenced to imprisonment for a period of 15 months he was not convicted in the preceding 10 years. On -- ----- 198X, he was given three sentences:</p> <ol style="list-style-type: none"> 1. ----- three months 2. ----- 12 months consecutive 3. ----- 12 months (with one month concurrent) 		<p>Facilitator note: See Section 4 of the Immigration Act for the definition of “imprisonment”.</p>

Time	Topic	Resource	Your notes
	<p><i>Question:</i> If XXX is applying for residence, which provisions of A5.25 does he fall under? (Look at the whole history, not just the 198X convictions.)</p> <p>(c) convicted at any time of any offence involving dishonesty</p> <p>(e) because he was sentenced to a term of imprisonment in 19XX (A5.25 doesn't require the conviction to have been within a particular time period).</p> <p>(g) because the 19XX and 20XX offences may involve violence; would need further information</p> <p>Example 3: XXXXXX XX</p> <p><i>Question:</i> What is total of XXXXXX's total sentence as per the information on the certificate?</p> <p>With respect to the 19XX convictions, the total sentence was for -- months.</p> <p>With respect to the 19XX convictions, the total sentence was - years.</p> <p>With respect to the 20XX convictions, the total sentence was -- months.</p> <p>For these three unrelated incidents, you cannot add the sentences up to make five and a half years to try to make the applicant subject to section 15(1)(a).</p> <p><i>Question:</i> Does section 15(1) apply to XXXXXX?</p> <p>Section 15(1) does not apply to XXXXXX because her convictions were all more than 10 years ago, and all of the sentences imposed were less than five years.</p>		

Assessing whether an applicant is caught by character instructions

Topic outcomes

By the end of this topic, learners will be able to identify whether an applicant is caught by character provisions. This includes assessing the details provided by the applicant and their responses to our concerns.

Topic resources

Hand-outs: Activity 3 and 4

Time	Topic	Resource	Your notes
1 mins	<p>Introduction</p> <p>One of your tasks as an Immigration Officer will be to identify whether an applicant is caught by any of the character instructions we have learned about.</p>		
19 mins	<p>Activity 3</p> <p>Distribute Activity 3 hand-out, break the group into pairs and have them answer the question.</p> <p>XXXX is under investigation/wanted for questioning for an offence that, if XXXX is convicted, would make section 15 of the Act apply, see A5.45(c)(ii). On the face of it, XXXX <i>may have</i> withheld material information, so she might also be subject to A5.45(b). But we don't know yet for sure.</p> <p><i>Question:</i> Ask the group why they think you are saying we can't be sure yet. There are several reasons:</p>	Activity 3 hand-out	

Time	Topic	Resource	Your notes
	<ol style="list-style-type: none"> 1. We need to make sure the application form in fact asks applicants if they are 'under investigation'. 2. She may not have been aware she was under investigation when she applied. If she was not aware, then by definition she has not 'withheld' the information. 3. We don't yet have updated information to indicate whether or not the investigation was still happening on the day she applied. 		
5 mins	<p>Asking the applicant for comment</p> <p>At INZ, we normally give applicants the opportunity to comment on material that is potentially prejudicial to their visa application. This most commonly occurs through INZ sending a Potentially Prejudicial Information (PPI) letter.</p> <p>You'll learn more about PPI letters later in your induction, but the essential elements are:</p> <ul style="list-style-type: none"> • explaining why we think the applicant might not meet instructions • allowing them to provide additional information. <p>This information will help us assess the applicant's circumstances and make a fair and balanced decision. This is not the same as assessing whether a character waiver should be granted. We only do that once we are certain A5.25 or A5.45 applies.</p> <p>In summary, there are two stages to assessing an applicant against character instructions:</p> <ul style="list-style-type: none"> • <i>Stage 1:</i> Assess whether someone 'falls under' a character provision, which can be more complicated than you think. For example, at first 		

Time	Topic	Resource	Your notes
	<p>glance, it might seem that someone provided false information, but after their PPI response, if we're open minded, we might change our mind and say that actually the person didn't provide false information.</p> <ul style="list-style-type: none"> • <i>Stage 2:</i> Once we've confirmed that someone 'falls under' a character provision, only then do we consider a character waiver. This applies to A5.25/A5.45 people only and is covered in the next section. 		
45 mins	<p>Character Potentially Prejudicial Information (PPI)</p> <p>Distribute Activity 4 hand-out. Explain that page 1 is our PPI letter to XXXX, and page 2 is her response.</p> <p>Ask them to read these and answer the questions in pairs or small groups:</p> <p><i>Question 1:</i> The PPI letter raised two character issues, the first being the police investigation, the second regarding her apparently false declaration. On the first issue, what additional information has XXXX's response provided to us that we didn't know before, and why might that be important to assessing the application?</p> <p><i>Answers:</i></p> <ul style="list-style-type: none"> • She has confirmed the investigation is ongoing. This is important because the information we hold on the applicant is three months old, so we weren't sure if the investigation was still in train. • If we believe her, she first became formally aware of it just a few days ago. This is important because it helps us assess the second character issue (see Question 2 below). 	Activity 4 hand-out	

Time	Topic	Resource	Your notes
	<p><i>Question 2:</i> Regarding the second issue (the apparently false declaration), what do you think of her explanation? Is her story credible?</p> <p><i>Answer:</i> There is no one right answer; opinions may differ; however, you could say that on the face of it, without any other evidence on the file to suggest otherwise, it appears credible that she wasn't aware of the police investigation. Point out that a workplace disputes proceeding is not necessarily a criminal proceeding.</p> <p><i>Question 3:</i> Assuming we think her answer is credible, ie that she didn't know about the pending investigation, does that matter? In other words, does she still fall under A5.45(b) or not?</p> <p><i>Answer:</i> No, she doesn't. The instructions say that the applicant needs to have "provided false information". While her ticking 'no' was clearly incorrect information, it would be difficult to maintain the accusation that she set out to provide false information when she didn't know in the first place that the information was false.</p> <p><i>Question 4:</i> What if the second police visit she spoke of occurred on -- ---- (rather than -- ----), a week after she put in her application? Would that make a difference?</p> <p><i>Answer:</i> Yes, because an applicant is obligated to update Immigration New Zealand of any significant change of circumstances that may affect the outcome of their application. If she hadn't told us promptly after -- ---- that she was now formally under police investigation, that would be 'withholding material information' (A5.45(b)).</p>		

Time	Topic	Resource	Your notes
	<p>As it stands, while the second character issue (the non-declaration) has gone away, the first character issue is still outstanding. XXXX is still under investigation.</p>		
5 mins	<p>The two-stage character process</p> <p>In summary:</p> <p><i>Stage 1:</i> Assess whether someone ‘falls under’ a character provision, which can be more complicated than you think. For example, at first glance, it seemed that XXXX provided false information, but after her PPI response, we might have changed our minds on this.</p> <p><i>Stage 2:</i> Once we’ve confirmed that someone ‘falls under’ a character provision, only then do we consider a character waiver. The next step is to write a second PPI letter to XXXX, which confirms this (the letter should advise that INZ no longer has concerns regarding the second issue) and to give her an opportunity to make submissions on why she should be granted a character waiver.</p> <p>You may want to point participants to A5.45.1 and note that these instructions would be copied as an Appendix at the end of the PPI letter.</p>		

Character waiver

Topic outcomes

By the end of this topic, learners will be able to differentiate when a character waiver may apply to an applicant.

CO outcome: learners will be able to explain what a character waiver is.

Topic resources

- Facilitator computer and projector
- Hand-outs:
 - Activity 5 and 6 (Facilitator note: not needed for CO audience)
 - IPT’s assessment of INZ’s Lunar decision (double-sided) (Facilitator note: not needed for CO audience)

Time	Topic	Resource	Your notes
5 mins	<p>Introduction</p> <p>Review with participants in what situations a character waiver can and cannot be granted.</p> <p>Read through the instructions at A5.25.1 and A5.45.1. Ask participants if they have any observations or questions about what these instructions say.</p> <p>Technical advisors decide if an applicant will be granted a character waiver, not an immigration officer.</p> <p>Immigration officers will become more familiar the character waiver process in consultation with their local technical advisor as they occur.</p>	Operational Manual	Facilitator note: if you are only training COs, you do not need to complete the full Character Waiver section. Complete this ‘Introduction’, including reading through the act, and explain that a CO will need to understand what they are, and how they have been granted, but will not need to make a decision or grant them.

Time	Topic	Resource	Your notes
35 mins	<p>Activity 5</p> <p>Divide the group into two teams and distribute Activity 5 – the Case of XX XXXXX.</p> <p>Explain that this is based on a real case.</p> <p>Have one team to come up with as many reasons in favour of XX XXXXX being granted a character waiver, and the other team to come up with reasons against. Have them write their reasoning on a piece of flipchart paper.</p> <p>Have each team present their arguments - starting with the 'in favour' team.</p> <p>Ask the group: What decision would you come to?</p>	<p>Activity 5 hand-out</p> <p>Flipchart paper</p>	<p>Facilitator note: if some of the learners appear to have already made up their mind, assign them to argue the opposite side of the case.</p> <p>Suggest they review the relevant considerations in A5.25.1.</p> <p>Facilitator acts as a mediator, allowing each team to talk, but may allow the other team to deliver a 'rebuttal' afterwards.</p>
10 mins	<p>Activity 6</p> <p>Distribute Activity 6; XX XXXXX's character waiver assessment. Ask the group to read through it, then discuss as a group:</p> <ol style="list-style-type: none"> 1. What points did the officer make which we had not thought of? Are they valid? 2. What comments would you make about the way the officer worded their assessment? E.g. its tone, it's balanced, doesn't sound pre-determined. 3. Do you agree with the outcome? Did the way this waiver assessment was written up change your mind about how you would have decided? <p>Tell the group that whether to grant a waiver is discretionary; there are many cases like this one where there is no one 'right' answer. Given the close</p>	<p>Activity 6 hand-out</p>	

Time	Topic	Resource	Your notes
	family ties in this case, the officer could reasonably have considered granting a waiver.		
9 mins	<p>IPT assessment of INZ's XX XXXXX decision</p> <p>Have the group read through the Immigration Protection Tribunal's assessment. Then have an open discussion.</p> <p>Facilitator notes:</p> <ul style="list-style-type: none"> • The IPT is incorrect in paragraph 36. The IPT are apparently not aware of the Immigration Act's definition of 'imprisonment', see section 4 of the Act under 'imprisonment'. • When the IPT says an INZ decision is 'correct' in the context of a waiver, it doesn't mean that the immigration officer could only have come to a decline decision. It just means that the officer followed the correct process and made a decision reasonably open to them. 	IPT assessment of INZ's Lunar decision hand-out	
1 min	<p>Wrap up</p> <p>Character waivers may look simple, but they can be difficult as you weigh all the pros and cons.</p> <p>Interpreting the immigration instructions and applying them to each applicant objectively is the challenge. Your ability to do this will grow as you gain experience and confidence, and work with your technical advisor.</p>		

Course closure

Time	Topic	Resource	Your notes
10 mins	<p>Course closure Ask the group to volunteer things they've learnt from this course.</p> <p>Ask learners to reflect on the session and capture any additional key points in their Learning Journal.</p> <p>Key learnings may include:</p> <ul style="list-style-type: none"> • Why we assess character • The key provisions of the Operational Manual, including instructions, are and what they are used for (A5.1, A5.5, A5.20/A5.40, A5.25/A5.45, A5.30/A5.50, A5.35). • The relevance of section 15 to police certificates. • The conditions or instructions that apply to character waivers. <p>Answer any remaining questions from the group.</p> <p>Have participants go into the LMS and complete the evaluation for this course, and any assessments for this part of the induction pathway, while you turn off the projector and mark attendance.</p>	Participant computers	