



BRIEFING

Sector Agreements: Further policy decisions

Date:	10 May 2019	Priority:	Medium
Security classification:	Sensitive	Tracking number:	3325 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	<p>Agree to what terms a Sector Agreement should include; the types of commitments expected from sectors; and the benefits on offer from Government.</p> <p>Note further advice will be provided on negotiation process, implementation and costs, and which sectors to negotiate with first.</p>	13 May 2019

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Katherine MacNeill	Policy Director, Labour and Immigration Policy	04 489 65810	Privacy of natural persons	✓
Paige Wilburn	Policy Advisor, Immigration Policy	04 901 4951	N/A	
Nat Christensen	Policy Advisor, Skills and Employment Policy	04 896 5140	N/A	

The following departments/agencies have been consulted
The Ministry of Education, Ministry for Social Development and the Tertiary Education Commission.

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



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Purpose

This briefing seeks your agreement to what terms a Sector Agreement should include to shift dependency on lower-skilled migrant workers to ensure that employers place more New Zealanders into jobs.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that you have agreed to report back to Cabinet in June on final proposals for the new approach to employer-assisted work visas and regional workforce planning, including the design of Sector Agreements. *Noted*
- b **Note** that you have agreed to the key design principles and outcomes for Sector Agreements. *Noted*
- c **Agree** that a Sector Agreement will need to include the following key components:
 - an agreed starting point of a sector (baseline and trajectory of workforce growth);
 - the sector's plan to place more New Zealanders into occupations covered by an agreement and manage their migrant workforce well; and
 - how many employer-assisted temporary migrant workers the Government is willing to allocate in those occupations over the three year duration of a Sector Agreement. *Agree/Disagree*
- d **Agree** to the types of commitments that the Government would expect to be in a sector's plan to achieve an increase in the numbers of New Zealanders employed. *Agree/Disagree*
- e **Agree** the main benefit on offer from Government is certainty of access to migrant workers. *Agree/Disagree*
- f **Agree** the additional benefits Government could offer in exchange for stronger commitments from the sector and that these should be linked to supporting the delivery of the sectors plan. *Agree/Disagree*
- g **Note** that your decisions on what terms a Sector Agreement may include will inform further advice to you on the negotiation process; implementation and costs; and which sectors to negotiate with first. *Noted*

Katherine MacNeill
Policy Director
Labour and Immigration Policy, MBIE
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Hon Iain Lees-Galloway
Minister of Immigration
.... / /

Background

1. On 10 December 2018, Cabinet agreed to undertake public consultation on a set of proposals on a new approach to employer-assisted temporary work visa settings and regional workforce planning [CAB-MIN-0608.01 refers].
2. As part of this consultation, Sector Agreements were proposed to be negotiated with key sectors which are high users of migrant labour for lower-skilled roles in order to shift this dependency and ensure that employers place more New Zealanders into jobs.
3. You have agreed to report back to Cabinet in June on final proposals following public consultation. The Cabinet paper will need to seek agreement to:
 - key design features of Sector Agreements [as agreed in 3040 18-19];
 - what terms Sector Agreement should include;
 - negotiation process;
 - implementation and costs; and
 - which sectors to negotiate with first.
4. This briefing addresses what terms a Sector Agreement should include and your decision will shape advice on the remaining points, which you can expect next week.

What terms a Sector Agreement should include

5. Following public consultation you agreed to our advice on key design features of Sector Agreements, including:
 - the outcomes being sought from Sector Agreements are to support employers to place more New Zealanders into jobs and, as a consequence, reduce demand for lower-skilled migrant workers over time;
 - Sector Agreements should be compulsory for employers hiring an employer-assisted temporary migrant for a role covered by an agreement;
 - a sector will primarily be defined by the ANZSCO 4-5 occupations within an industry (with scope to expand the coverage of an agreement to other occupations, including at a higher skill level, as part of negotiations);
 - Cabinet should agree to a framework setting out the range of benefits and commitments that could be sought through a Sector Agreement; and
 - the exact mix of benefits and commitments will be negotiated on the basis of the specific circumstances of a sector.

A Sector Agreement commits employers to an action plan to increase New Zealanders employed in return for certainty of visa numbers

6. Under the current system applications for employer-assisted temporary work visas are dealt with on a case by case basis, including the labour market test. Introducing Sector Agreements will provide a new bulk route for employers to seek approval of visas for specific occupations in their sector. This sector based approach is intended to secure a greater scale and pace of change.
7. To deliver these outcomes above and leverage the scale benefits of a sector based approach, officials propose a Sector Agreement will need to include the following key components:
 - an agreed 'starting point' of a sector (baseline and trajectory of workforce growth);

- the sector's plan to place more New Zealanders into jobs and manage their migrant workforce well; and
 - how many employer-assisted temporary migrant workers the Government is willing to allocate in the occupations covered over the three year duration of the Sector Agreement.
8. In exchange for firmer sector commitments towards faster and stronger progress, we recommend Sector Agreements could include additional benefits, but these should be directly related to supporting the sector to deliver their plan.

Each Sector Agreement must include an agreed baseline and trajectory of workforce growth

9. It is important to include an agreed 'starting point' between the sector and Government informed by:
- the current level of reliance on lower-skilled employer assisted temporary migrant workers;
 - available domestic labour supply; and
 - projected sector and associated vacancy and workforce growth.
10. This 'starting point' will inform the level of commitments we are seeking from the sector. It will ensure that we manage the risk that the benefits offered by Government are disproportionate to the level and speed of change proposed by the sector. Getting the 'starting point' right will support the design of an agreement that balances the need to both increase the share of New Zealanders employed while also meeting the sector's workforce needs.
11. Sector Agreements could look very different based on the 'starting point' in each sector.
- **Sectors with projected high workforce growth.** For example the residential aged care sector is projected to see an increasing need for lower-skilled workers due to the aging population. A Sector Agreement with this type of sector would ensure that New Zealanders are placed into a higher proportion of roles in these occupations to shift the relative shares of migrant and domestic workers in the long term. However, in order to meet growing workforce needs in the short term, this could mean an increase in absolute numbers of employer-assisted temporary migrant workers.
 - **Sectors with consistent but flat demand.** A Sector Agreement would be expected to demonstrate a real decrease in the numbers of lower-skilled employer-assisted migrant workers through, for example, the setting of a cap on visa numbers. In some sectors increased investment in technology could result in an overall decrease in employment including both the total numbers of migrant and domestic workers in lower-skilled occupations.
12. There are limits to the data available on the number of Essential Skills visa holders in occupations within a sector, which will make the 'starting point' complex to determine.¹ As part of the next stage of advice, officials will provide an assessment of sectors proposed for the first Sector Agreements (based on the currently available data), as well as further advice about the information that will be needed to determine a sector's 'starting point.'
13. Agreeing a shared 'starting point' and getting the trajectory for the workforce growth right will support long term planning and setting the right pace of change. Each Sector Agreement will need to strike a balance between giving the sector time to invest to increase the supply of domestic workers and keeping strong incentives on employers to deliver progress. Sector Agreements are proposed to be negotiated for a three year period and change could be sought over multiple agreements.

¹ For example Essential Skills visa holders are tracked by occupation, not by the industry of their employer, which makes it difficult to determine how many migrants in occupations that appear in multiple sectors would be covered by a Sector Agreement.

Sectors will need to propose a plan to place more New Zealanders into jobs and manage their migrants well

14. Each sector would be required to provide a plan to achieve an increase in the number of New Zealanders employed in the occupations covered by a Sector Agreement. They would be required to identify the main barriers to employing New Zealanders and actions they will take to address them. The actions should also identify how sectors intend to improve conditions for the employer-assisted temporary migrants the Sector Agreements permit them to employ as well as domestic workers.
15. You have agreed high level objectives for the types of sector commitments that the Government would expect to be included in a Sector Agreement. These are to:
 - improve wages and conditions for both domestic and migrant workers;
 - reduce reliance on lower-skilled employer assisted temporary migrant workers;
 - incentivise the training and upskilling of domestic and migrant workers; and
 - demonstrate commitment to hiring domestic workers.
16. We expect each Sector Agreement to look different and Figure One provides examples for how commitments consistent with these objectives could be varied by sector with different levels of ambition.

Figure One: Framework for commitments in scope of Sector Agreement negotiations with examples

Improve wages and conditions for both domestic and migrant workers				
Equality of wages and conditions between migrants and domestic workers	Meet 'market rate' for the role over the course of the agreement	Maintain relativity to median/average wages	Annual review of sector wage increases to increase in line with living costs	Binding wage increases over the term of the agreement
Reduce reliance on lower-skilled temporary migrants				
Target to reduce the percentage of workforce that are employer-assisted temporary migrant workers	Binding maximum percentage of migrant workers for a particular employer	Regionally allocated cap on employer-assisted temporary migrant workers based on the regional labour market	Per-firm or sector level cap on the number of migrant workers that can be employed through an agreement	
Incentivise training and upskilling of domestic and migrant workers				
Demonstrate pathways for upskilling workers to higher level occupations within a sector	Specific joint programs with training providers beyond mandatory training to develop workforce	Spend a percentage of wages/payroll on training domestic workers or to an industry training fund	Take on a certain percentage of recent graduates or apprentices	
Demonstrate commitment to hiring domestic workers				
Provide evidence that domestic workers have not been displaced	Offer variety of working arrangements if appropriate and if identified as barrier to employment	Provide contribution to accommodation/ transportation/ childcare if identified as barrier to employment	Take on a percentage of MSD clients or school leavers	

Additional benefits may be offered if a sector commits to faster or stronger progress

17. The main benefit on offer in a Sector Agreement is certainty of access to migrant workers with tighter or more generous caps on employer-assisted temporary work visas based on the credibility of the plan put forward by the sector and workforce needs.
18. The more we ask the sector to commit to and the faster the pace of change, the more we can expect the sector to ask for support in delivering their plan and visa concessions. Any

additional benefits offered by Government should only be in exchange for stronger commitments from the sector or to build greater confidence in their ability to deliver.

Negotiations

20. Based on discussion with businesses and submissions received, officials understand that these types of benefits are of value to employers and should incentivise credible and robust sector plans.
21. In order to manage the risk that employers are provided with benefits but do not deliver on their commitments, officials recommend that consideration be given to phasing the benefits provided to sectors with some upfront and some provided as they demonstrate successful delivery of commitments. The exact mix will depend on the sectors track record, credibility and stretch of the plan.
22. Further details of each of these benefits are set out in **Annex One**.

Benefits unrelated to a sector plan should be explicitly out of scope of Sector Agreements

23. Officials recommend that certain benefits related to the immigration, education/skills and welfare systems should be out of scope if they are not consistent with the Government's broader policy objectives or Budget processes, including:
 - new funding for existing initiatives or new initiatives: where issues are identified that may require new funding these should be considered through usual Budget processes.
 - concessions on other visas, including pathways to residence: removing the stand-down period completely or providing a pathway to residence for lower-skilled temporary migrant workers through Sector Agreements would undermine the objectives of this policy review as outlined in the previous briefing on the employer-led gateway framework [3095 18-19 refers].
24. Sectors may also ask for unrelated benefits, such as research and development funding, however our advice is that any benefits on offer should be directly related to the delivery of the sector's plan.

Further advice will be informed by your decisions on what a Sector Agreement will include

25. Your decisions on what terms a Sector Agreement may include will inform the next stage of advice on:
 - negotiation process;
 - implementation and costs; and

- which sectors to negotiate with first.
26. In order to develop this advice, officials are working with agencies and external stakeholders who have experience with similar sector-based negotiations (e.g. the Recognised Seasonal Employer scheme and the Construction Sector Accord). We are also looking at overseas comparisons, including Australia's Designated Area Migration Agreements. In addition, officials are working to develop a picture of the different sectors and their readiness for negotiation and the materiality of impact a Sector Agreement could have.
27. We expect to provide you with this advice prior to the Labour Market Ministers' Group (LMMG) meeting on 23 May.

Next steps

28. Officials would like to discuss this briefing and the timetable to reach Cabinet agreement (table below) with you at the Immigration Officials meeting on Monday 13 May.

Timing	Advice
Monday 13 May	Discussion of this briefing at Immigration Officials meeting
Friday 20 May	Briefing with advice on negotiation process, implementation and costs and which sectors to negotiate with first.
Monday 20 May	Discussion of briefing at Immigration Officials meeting
Tuesday 21 May	Materials circulated to LMMG
Thursday 23 May	LMMG meeting
Thursday 30 May	Draft Cabinet paper provided
Tuesday 4 June – Wednesday 19 June	Ministerial consultation period
Thursday 20 June	Cabinet paper lodged
Wednesday 26 June	DEV meeting
Monday 1 July 2019	Cabinet meeting

PROACTIVELY RELEASED

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