



## COVERSHEET

<b>Minister</b>	Hon Iain Lees-Galloway	<b>Portfolio</b>	Immigration
<b>Title of Cabinet paper</b>	Business Case On Implementing The Reforms To The Employer-Assisted Work Visa System	<b>Date to be published</b>	21 February 2020

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
12 December 2019	Cabinet Paper: Business Case On Implementing The Reforms To The Employer-Assisted Work Visa System	Office of the Minister of Immigration
12 December 2019	Cabinet Minute: Employer-Assisted Work Visa System: Business Case for Implementing the Reforms	Committee Secretary

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the following reasons:

- Commercial information
- Constitutional conventions

In Confidence

Office of the Minister for Social Development  
Office of the Minister of Immigration

Chair, Cabinet Economic Development Committee

## **BUSINESS CASE ON IMPLEMENTING THE REFORMS TO THE EMPLOYER-ASSISTED WORK VISA SYSTEM**

### **Proposal**

1. We seek Cabinet agreement to the funding needed to implement the reforms to the employer-assisted work visa system, which Cabinet agreed to in September 2019.

2. The cost of the proposed investment is:

■ Commercial Information [Redacted]

■ [Redacted]

■ [Redacted]

3. This funding is to establish and maintain the IT solutions, associated processes and project costs required to implement the new gateway framework and employer accreditation, including to enable MSD to undertake a key component of the labour market test for lower-paid roles.

4. The preferred investment options and delivery pathway, on which these costs are based, are outlined in the attached single stage business case and summarised in this paper. This investment will enable the reforms to be phased in as anticipated, with implementation completed in 2021.

### **Executive Summary**

5. Major policy decisions have already been made and announced. On 2 September 2019, Cabinet agreed to a new gateway framework and employer accreditation for employer-assisted work visas, to be phased in by 2021 [CAB 19-MIN-0439 refers]. This package of changes, which included related changes to regional workforce planning, will support:

- 5.1 the priorities set out in the Government's This is Our Plan and the coalition agreement between the New Zealand Labour Party and New Zealand First and
- 5.2 the Government's wider labour market objectives by ensuring that:
  - 5.2.1 employers are placing more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders; and
  - 5.2.2 foreign workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand norms.
6. The high level objectives of the changes are to:
  - 6.1 ensure that foreign workers are only recruited for genuine shortages, and that businesses across New Zealand can access the skills and labour they need;
  - 6.2 increase expectations on employers to employ and train more New Zealanders;
  - 6.3 create better connections between the immigration, education/skills and welfare systems;
  - 6.4 reduce exploitation of foreign workers and misuse of the immigration system; and
  - 6.5 make the system easier to navigate.
7. The changes recognise that we need an immigration system that is flexible enough to respond to the economic context that New Zealand is operating in. In the current economic conditions, we can expect the demand for temporary foreign workers to be strong. However, should economic conditions change, the immigration system needs to remain fit for purpose by being flexible and able to respond to different conditions. The changes to employer-assisted work visas agreed by Cabinet will ensure that the system puts pressure on employers where New Zealanders are ready, and able, to do the work, and facilitates access to temporary foreign workers where they are not.
8. Delivering the new gateway framework and employer accreditation requires new IT solutions in MBIE (in Immigration New Zealand (INZ)) and investment in existing systems within MSD. Changes in both agencies are integral to achieving the benefits sought, given INZ's responsibility for implementing immigration settings and MSD's role to support INZ to undertake a key component of the labour market test for lower-paid roles, by facilitating the appointment of "suitable, trainable and available New Zealanders" before employers can consider foreign workers for jobs.
9. A business case has been developed, using the Treasury's Better Business Case model, and is summarised in this paper. Given the policy decisions already made by Cabinet, the analysis in this business case is limited to options to deliver the system capability needed to realise the new gateway framework and employer accreditation as agreed.
10. We recommend, in line with the business case, that investment in technology components is made both in INZ and MSD systems. An application processing interface will be built to deliver an effective end-to-end solution (from employer accreditation through to issuance of a visa).

11. We are seeking:

- Commercial Information  
[Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

12. The investment in INZ technology components is the more significant. The business case process has concluded that INZ requires two key technology components – Client Relationship Management (CRM) technology to provide the interface with employers and Intelligent Business Process Management (iBPM) technology to allow for applications to pass through the system based on specified criteria and business rules. A cloud hosting service for this technology is also needed.
13. INZ’s ongoing operational costs will be fully funded from fees paid by employers and migrants, in accordance with the Immigration Act 2009 (this does not apply to MSD, which is fully Crown funded). Originally I anticipated coming back to Cabinet in mid-2020 to seek agreement to a replacement fee schedule for the employer-assisted visa system, which needs to be established in order to recover costs from foreign workers and employers, and the corresponding appropriation changes. Advice from officials now suggests that it would be simpler to do this closer to the time of implementation, to ensure that fees are set on the most developed assumptions. For this reason, I now intend to report back to Cabinet by February 2021.
14. The business case process has concluded that MSD will not require a new technology platform to deliver their components of the gateway system. Instead, existing technology, such as rules engines, can be leveraged to deliver the changes.
15. Both INZ and MSD have confirmed sufficient market capability is available to support them in implementation upon approval of this business case.
16. Given the strong interdependence with economic factors and other key work underway by this Government, including the Reforms of Vocational Education, the Welfare Overhaul and the Review of Migrant Exploitation, the direct impact of this investment will be hard to measure. The proposed investment in IT solutions will not, in isolation, achieve the outcomes sought (outlined in paragraph 5 and 6 above).
17. However, without this investment and the resulting system capability to ensure, for example, that non-compliant employers are effectively screened out of the immigration system and that MSD can better match clients with jobs, these objectives would be unattainable.

18. There are wider benefits that are associated with the policy changes as a whole, as opposed to the implementation of the IT solution. These will be monitored, as per usual policy evaluation practice.
19. Significant further operational and policy design work is required to implement the new gateway framework, employer accreditation and associated changes. The bulk of the changes will be implemented in 2021. This lead time is essential in order to ensure successful implementation, including to design and trial the changes in consultation with employers, to manage the transition for immigration system users and MSD clients and to ensure that the necessary IT system changes are in place.

## **Background**

### ***Cabinet has agreed to significantly reform the current employer-assisted work visa system***

20. It is recognised, and well-evidenced through a public consultation exercise, that the current employer-assisted visa system is not supporting our wider labour market objectives. There are a number of challenges and issues with the current system, namely that it:
  - 20.1 is needlessly complex;
  - 20.2 is unable to respond appropriately to regional and sectoral variation;
  - 20.3 does not create an incentive for industry to help address domestic labour market shortcomings;
  - 20.4 is not able to provide information back to other government systems to support domestic investment and responses; and
  - 20.5 does not adequately screen out employers with poor track records of compliance.
21. Cabinet agreed, on 2 September 2019, to a new gateway framework and employer accreditation system to address these challenges and issues, and announcements about the policy reforms have been made.

### ***The changes will establish a new gateway framework and employer accreditation***

22. The changes agreed by Cabinet will:
  - 22.1 shift the focus of the system from foreign workers to employers, in order to better target those with poor track records of regulatory compliance;
  - 22.2 require three gateways or checks before a foreign worker can be hired on an employer-assisted work visa:
    - 22.2.1 the employer gateway – where employers will be accredited to enable them to hire a foreign worker;
    - 22.2.2 the job gateway – where the job is checked to ensure that no New Zealander is able to fill the job being recruited for; and

- 22.2.3 the worker gateway – where checks are made to ensure that the foreign worker is of good character and health;
- 22.3 automate low-risk activities where possible and reduce compliance costs for users of the system;
- 22.4 ensure that the system is able to respond to regional and sectoral variation through new pathways through the job gateway, which take into account labour market variation;
- 22.5 strengthen and clarify labour market test settings, where there are New Zealanders available for work;
- 22.6 create an incentive for industry to help address domestic labour market shortcomings; and
- 22.7 provide information back to other government systems to support domestic investment and responses.

**A business case for the necessary investment has now been developed**

- 23. A business case has been developed jointly by MBIE and MSD, using the Treasury's Better Business Case model. As an initial step, MBIE completed a Risk Profile Assessment which confirmed a risk rating of low and confirmed that a Gateway review was therefore not required to be submitted alongside this business case.
- 24. The analysis in this business case is limited to options to implement the system capability needed to deliver the requirements for the new gateway framework and employer accreditation, as already set down by Cabinet.

**The business case has identified the preferred option for investments required in INZ**

- 25. The business case has determined that the key technology components required in INZ are:
  - 25.1 a CRM which provides the user profile and interface;
  - 25.2 an iBPM suite which will allow applications to pass through the system based on specified criteria and business rules;
  - 25.3 an upgrade to the existing Business Rules Engine;
  - 25.4 internal and external knowledge management;
  - 25.5 integration/connector capability between the new systems and internal MBIE and external systems;
  - 25.6 Cloud Hosting Services; and
  - 25.7 analytics to facilitate reporting.

26. The capabilities acquired by these components will be dependencies for other projects within INZ such as the Automated Decision Assist (ADA)<sup>1</sup> project.
27. The preferred delivery method for INZ's required systems change is Cloud Hosted Software as a Service. This would allow access to the CRM and the iBPM products in the cloud and achieve better value for money than other options given that it could be leveraged across other projects without significant increased funding requirements.
28. The Government Chief Digital Officer has reviewed the business case and considers it shows alignment with relevant principles in their investment criteria for Budget 2020, in particular around agile delivery, use of common capabilities and cloud and data sharing via APIs.

### **MSD's technology requirements can be enabled by changes to existing core systems**

29. The business case has identified that the preferred option to allow MSD to enable the necessary changes is digitising the filtering process and some minor automation enabled by changes in MSD's core technology systems. Constitutional conventions

### **A proposed procurement approach has been determined**

30. Both INZ and MSD have established that the required resources are available in the market.
31. The business case has also concluded that:
  - 31.1 a closed competitive bid process is likely to produce the best outcome to source the CRM and iBPM components;
  - 31.2 a direct sourcing approach is recommended to acquire a supplier to manage integration with INZ's existing core systems, specifically AMS and IGMS<sup>2</sup>. (The operation, maintenance and management of these is contracted to IT service firms Datacom and DXC under Master and Service Level Agreements); and
  - 31.3 a single vendor (or partnership of vendors) responsible for the end-to-end delivery of INZ components is likely to lead to lower costs and a lower risk profile.
32. A market scan has been undertaken of potential products and suppliers for the technology requirements. This identified four products that have the technical attributes to deliver the architectural design for both the new gateway framework and employer accreditation and ADA whilst meeting the future state architecture requirements.

### **Governance arrangements spanning the Ministry of Business, Innovation and Employment and the Ministry of Social Development will be critical to managing risks**

33. A critical success factor of this programme of work is the ability for INZ and MSD to work together in a cooperative way in the further design and implementation phases.

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<sup>1</sup> A technology project to allow automation of visa processing activity.

<sup>2</sup> Application Management and Immigration Global Management Systems.



34. A strong and engaged governance board, consisting of decision-making representatives from both agencies, has been established to oversee the conclusion of the business case and will oversee the implementation of key aspects of the programme of work. These will include the final design of the customer interface and the interoperability of the INZ and MSD systems.
35. A joint agency steering group will also be set up to oversee the design and implementation of the job check component of the gateway system. This steering group will work closely alongside a reference group that MBIE will convene – comprising employers, unions and others – where this is needed to ensure the workability of the final design of the changes.

### **Implementation will be phased in with the changes in place in 2021**

36. The business case confirms the implementation timelines:
  - 36.1 Changes that are not dependent on new technology are set to be made in July 2020. These include, for example, replacing the skill bands for the Essential Skills visa (based on the Australian and New Zealand Classification of Occupations, or ANZSCO), with a simple remuneration threshold based on the national median wage.
  - 36.2 Rolling out the new technology will allow for all other changes to be phased in during 2021, e.g.:
    - 36.2.1 new employer-led, three stage application process – the employer check, job check and migrant check will replace the six current temporary work visa categories;
    - 36.2.2 jobs paying below the median wage will be subject to a strengthened labour market test; and
    - 36.2.3 no labour market test will be required for jobs paying above the median wage in regions.
37. We expect to see, as a result of this investment, impacts which are able to be measured using indicators such as those set out in Appendix One. Quantification of these ongoing policy impacts will be a priority for the monitoring and evaluation of the system (across both INZ and MSD).

### **Consultation**

38. Agency consultation included providing the draft paper to: the Treasury; the Department of the Prime Minister and Cabinet; the Ministry of Foreign Affairs and Trade; Inland Revenue; the Ministry for Primary Industries; the Ministry of Education; the Ministry of Health; the New Zealand Police; the Department of Internal Affairs, including the Government Chief Digital Officer; the Tertiary Education Commission; Te Puni Kōkiri; The Ministry of Housing and Urban Development; the Department of Corrections; and WorkSafe New Zealand.
39. Agency feedback has been taken on board in the development of this paper.




## Treasury comment

40. We have consulted with the Ministry of Business, Innovation and Employment and the Ministry of Social Development on the development of the business case, and are comfortable with the level of funding being sought.
41. We have provided the Minister of Finance's office with alternative recommendations for a repayable capital injection, which would make this investment fiscally neutral, as fees collected for the visas would be used to pay back the Crown for the capital injection. It therefore would not have an impact on Budget 2020 allowances.
42. We do not support this funding approach, as the repayments would reduce MBIE's cash balance compared to the funding approach sought in this paper. MBIE's cash balance has been impacted by the deficits in the Immigration Visa memorandum account since 2013/14. Furthermore, the cash used to pay back the Crown would come from the part of the fees associated with depreciation of the asset; using it to pay back the Crown would mean that MBIE will not have built up enough cash reserves to purchase a replacement system at the end of the asset's life (seven years). At this point, Crown funding will likely be sought for the replacement asset.

## Financial Implications


43. The proposals in this paper have the following financial implications:

Commercial Information



- 43.2 New Crown funding for MSD to support the implementation of the strengthened labour market test, comprising:

Commercial Information



44. The capital costs for INZ are \$4.700 million higher than the estimates indicated to Cabinet in September 2019. The increase reflects the inclusion of office fit-out costs required for INZ to accommodate the additional processing staff included in the estimates, along with additional resources required to sufficiently manage delivery of the IT system change.

45. To allow for cost over-run in the further development and implementation of the new system, Commercial Information  
Any draw down would be agreed by the Minister of Immigration and the Minister of Finance. Commercial Information
46. INZ's ongoing operating costs outlined in paragraphs 43.1.2 – 43.1.4 will be recovered through third party application processing fees, which will be used to maintain and replace the asset at the end of its useful life (this does not apply to MSD, which is fully Crown funded). The Minister of Immigration will report back to Cabinet by February 2021 on a new fees system and related appropriation changes.
47. As noted by Cabinet [CAB 19-MIN-0439 refers], the Minister of Immigration will consider separately the need for further funding through Budget 2020 for additional investigation, compliance and intelligence resources for INZ to investigate and prosecute non-compliant employers identified as a result of the changes.

### **Legislative Implications**

48. The proposals in this paper do not require legislative change.

### **Impact Analysis**

49. This paper does not require a Regulatory Impact Assessment as it has no direct legislative implications. A Cost Recovery Impact Statement will be provided when Cabinet agreement to the new fees for the gateway system is sought.

### **Human Rights**

50. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Gender Implications**

51. There are no gender implications associated with this paper.

### **Disability Perspective**

52. There are no disability implications associated with this paper.

### **Publicity**

53. Cabinet has already agreed to extensive consultation on proposals for change in the employer-assisted work visa system (that took place between December 2018 and March 2019). The changes have been announced and communications and engagement are ongoing.

### **Proactive Release**

54. I propose to release this paper proactively subject to any relevant redactions as appropriate, consistent with the Official Information Act 1982.

## Recommendations

The Minister for Social Development and the Minister of Immigration recommend that the Committee:

1. **note** that on 28 August 2019, the Cabinet Economic Development Committee agreed to a new approach to the employer-assisted work visa system and related changes to regional workforce planning, to be phased in by 2021 [CAB 19-MIN-0439 refers];
2. **note** that on 28 August 2019, the Cabinet Economic Development Committee invited the Minister for Social Development and the Minister of Immigration to report back to Cabinet, subject to a business case agreed by the Minister of Finance, Minister for Social Development and Minister of Immigration, seeking agreement to:
  - 2.1 the funding required for the online portal system changes and associated costs;
  - 2.2 whether any costs of the IT system would be recovered from fees;
  - 2.3 the associated appropriation changes;
3. **agree** to provide for the implementation of the employer-assisted work visa system as agreed by Cabinet [CAB 19-MIN-0439 refers] and in the attached business case;
4. **approve** the following changes to appropriations and capital injection to provide for the decision in recommendation 3, with a corresponding impact on the operating balance and net core Crown debt:

	\$m – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Outyears
<b>Vote Labour Market</b>	Commercial Information				
<b>Minister of Immigration</b>					
Immigration Services MCA:					
Assessment and Processing (funded by revenue Crown)					
<b>Vote Business, Science &amp; Innovation</b>					
Ministry of Business, Innovation and Employment – Capital Injection					
<b>Total Operating</b>					
<b>Total Capital</b>					
<b>Vote Social Development</b>					
<b>Minister for Social Development</b>					
<b>Improved Employment and Social Outcomes Support MCA</b>					
Departmental Output Expense: Improving Employment Outcomes (funded by revenue Crown)					
<b>Ministry of Social Development:</b>					
Capital Injection					
<b>Total Operating</b>					
<b>Total Capital</b>					

5. **agree** that that the expenses incurred under recommendation 4 be charged as a pre-commitment against the Budget 2020 operating allowance and that the departmental capital injections under that recommendation be charged as a pre-commitment against the Budget 2020 capital allowance;
6. **agree** that the proposed change to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
7. **agree** to establish tagged capital contingencies of up to the amounts as follows as a pre-commitment against Budget 2020, to provide for cost over-run in the implementation of the employer-assisted work visa system:

	\$m – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Outyears
<b>Vote Labour Market Minister of Immigration</b>					
<b>Vote Business, Science &amp; Innovation</b> Ministry of Business, Innovation and Employment – Capital Injection		Commercial Information			

8. **authorise** the Minister of Finance and the Appropriation Minister, acting jointly, to draw down on the contingency included in recommendation 7 above if required (establishing any new appropriations as necessary);
9. **note** that the ongoing operating costs of the employer-assisted work visa changes can be recovered from employers and visa applicants (used to maintain and replace the asset at the end of its useful life) and that the current estimate of the final cost-recovery fees are Constitutional conventions
10. **invite** the Minister of Immigration to report back to Cabinet by February 2021 to seek agreement to a replacement fee schedule for the employer-assisted visa system, which would need to be established in order to recover costs from foreign workers and employers, and the corresponding appropriation changes;
11. **note** that the Minister of Immigration will consider the need to seek further funding in Budget 2020 for investigation, compliance and intelligence resources to support the employer-assisted work visa changes, alongside any proposals resulting from the review of migrant exploitation;
12. **note** the changes to the employer-assisted work visa system will be phased in over time with the bulk of the changes coming into force in 2021 alongside the enabling IT system; and

13. **note** that, in addition to the monitoring of benefits realised as part of the Better Business Case methodology, the Ministry of Business, Innovation and Employment will be developing a policy monitoring and evaluation plan that will look at the broader policy objectives and how well these are being achieved.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development

Hon Iain Lees Galloway

Minister of Immigration

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## Appendix One: Measuring impacts of the investment

Objective	Potential measures
1. Ensure that foreign workers are only recruited for genuine shortages, and that businesses across New Zealand can access the skills and labour they need	<ul style="list-style-type: none"> <li>• <b>Improved vacancy rates</b> (i.e. vacancy rates decrease over time)</li> <li>• <b>Improved employer experience</b> (e.g. NZIE Quarterly Business Survey – ease of sourcing skilled/unskilled labour)</li> </ul>
2. Increase expectations on employers to employ and train more New Zealanders	<ul style="list-style-type: none"> <li>• <b>Increased successful placements of New Zealanders</b> into jobs as part of the labour market test (including successful transition from jobseekers' benefit)</li> </ul>
3. Reduce exploitation of temporary foreign workers and misuse of the immigration system	<ul style="list-style-type: none"> <li>• <b>Pay rates for temporary foreign workers</b> are in line with market rates and with New Zealanders' wages and conditions</li> <li>• <b>Increased skill level for temporary foreign workers</b> and those transitioning to residence</li> <li>• <b>Reduced incidence of intentional employer-related fraud</b> and misuse of the immigration system</li> </ul>
4. Create better connections between the immigration, education/skills and welfare systems	<ul style="list-style-type: none"> <li>• <b>Increased share of New Zealand workers</b> in key occupations/key sectors over time</li> <li>• <b>Increased number of MSD clients</b> getting employment</li> </ul>
5. Make the system easier to navigate	<ul style="list-style-type: none"> <li>• <b>Reduced processing times</b> and ease of use through the online system</li> </ul>