



## COVERSHEET

<b>Minister</b>	Hon Priyanca Radhakrishnan	<b>Portfolio</b>	Associate Workplace Relations and Safety
<b>Title of briefing</b>	<i>Government Response to the Report of the Education and Workforce Committee: Inquiry into migrant exploitation</i>	<b>Date to be published</b>	24 January 2023

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
3 November 2022	<i>Government Response to the Report of the Education and Workforce Committee: Inquiry into migrant exploitation</i>	Associate Minister for Workplace Relations and Safety
10 November 2022	LEG-22-MIN-0187 Minute: Government Response to the Report of the Education and Workforce Committee on the Inquiry into Migrant Exploitation	Cabinet Office

### **Information redacted**

**NO**

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.

In Confidence

Office of the Minister of Immigration

Office of the Associate Minister for Workplace Relations and Safety

Cabinet Legislation Committee

## **Government Response to the Report of the Education and Workforce Committee: Inquiry into migrant exploitation**

### **Proposal**

- 1 This paper seeks approval of the Government's response (the Response) to the Report of the Education and Workforce Committee: Inquiry into migrant exploitation (the Report).

### **Relation to Government priorities**

- 2 The Government has been pursuing a broad programme of work to target and combat migrant exploitation. The Committee's report covers a number of these initiatives which are either already underway or under development.

### **Background**

- 3 Accurate measurement of the true extent of migrant worker exploitation is challenging. But the evidence from research, survey data, and newly established reporting confirms it as a serious issue in the New Zealand labour market which, in its most extreme forms, includes forced labour, people trafficking, and slavery. Consequently, Government has pursued a number of initiatives which aim to reduce and, ultimately, eliminate these practices.

#### *Temporary Migrant Worker Exploitation review*

- 4 In September 2018, Cabinet agreed to progress the Temporary Migrant Worker Exploitation Review to take serious action on migrant exploitation, particularly of international students. In 2019, the Ministry of Business, Innovation and Employment (MBIE) undertook public consultation on a set of proposed changes to reduce the exploitation of temporary migrant workers in New Zealand.
- 5 Based on the Review, Cabinet agreed in March 2020 to a package of legislative, operational and policy changes to address temporary migrant worker exploitation. These changes were accompanied by \$50 million in funding over 2020 to 2024, to support an end-to-end approach to reduce migrant exploitation and ensure employer compliance with their immigration and employment law.

- 6 The first changes came into force on 1 July 2021. These included the introduction of new tools – such as a dedicated 0800 number and reporting and triaging web form – to make it easier to report migrant worker exploitation, and the Migrant Exploitation Protection Visa (MEPV) which supports migrants to leave exploitative situations quickly and remain lawfully in New Zealand.
- 7 The new reporting tools and MEPV have both seen significant uptake since their launch. There have been 956 reports of potential exploitation between 1 July 2021 and 30 June 2022 – up from just 173 in the previous year. Further, over 156 MEPVs have been granted between 1 July 2021 and 14 October 2022 to help migrant workers escape exploitative employment.
- 8 The *Worker Protection (Migrant and Other Employees) Bill* has also been introduced to the House and had its first reading on 18 October 2022. The Bill gives effect to a March 2020 decision to amend the *Companies Act 1993*, the *Immigration Act 2009* and the *Employment Relations Act 2000* to strengthen the offence and penalty regime to deter employer non-compliance with immigration and employment law. It has been referred to the Education and Workforce Committee with a report back date of April 2023.

#### *The Accredited Employer Work Visa*

- 9 Accreditation of employers is intended to be a powerful lever to address migrant exploitation, and the Accredited Employer Work Visa (AEWV) introduced on 4 July 2022 is the new process that all employers must go through if they are wanting to hire migrant workers.
- 10 To achieve and maintain accreditation, employers must meet a number of standards. This includes satisfying certain financial requirements and demonstrating a history of compliance with both employment and immigration laws. The new system incorporates the ability for Immigration New Zealand (INZ) to conduct post-accreditation verification and compliance checks to ensure that employers are meeting the employment and visa conditions which they agree to provide for migrant workers.
- 11 Employers with business models that are associated with a greater risk of exploitation (for example, those using triangular employment arrangements, and franchises) must meet additional accreditation standards such as committing to cover all recruitment costs of migrant workers and not using agents that charge fees to the workers for securing employment.
- 12 Accreditation for these 'riskier' employers remains for 12-month periods and they will be subject to more upfront and post-decision verification and assurance (standard employers will move to 2-year accreditation periods). Employers who have a record of non-compliance or are proven non-compliant are not able to recruit migrant workers.

#### *The Recognised Seasonal Employer (RSE) Policy Review*

- 13 The RSE Policy Review, which began in 2019 but was delayed due to COVID-19, is currently underway, with proposals for Cabinet anticipated by

mid-2023. This includes a workstream on strengthening the compliance framework to ensure that appropriate tools are available to retain good employers in the scheme and remove poor employers. In particular, officials are prioritising the review of the Accommodation Standards to ensure that RSE workers are not housed in substandard accommodation that negatively affects their wellbeing.

## The Education and Workforce Committee's Report

- 14 Based upon concerns about the prevalence of migrant exploitation, the Education and Workforce Committee initiated an inquiry into migrant exploitation on 20 October 2021.
- 15 The Committee met between 20 October 2021 and 24 August 2022, receiving 74 written submissions and hearing oral evidence from 31 submitters. Submitters recounted their experiences of migrant exploitation in New Zealand, identifying a number of reasons and risk factors. The most commonly cited were employer-assisted visas (which tie a worker to the employer), lack of clear pathways to residency, a lack of support for migrants on the ground, failures by employers to meet minimum employment standards, and employers being undeterred by existing enforcement measures.
- 16 Following its consideration of submissions, the Committee reported back to the House on 25 August 2022, and made eleven recommendations for Government action to combat migrant exploitation:

### *Employers of migrant workers*

- a. that there be ongoing evaluation of the Accredited Employer Work Visa to determine whether accreditation and ongoing compliance checks are comprehensive and preventing exploitation.
- b. that the Government work to ensure that employers who provide accommodation to their employees do not lock workers into substandard accommodation arrangements.
- c. by majority<sup>1</sup> that the Government should investigate whether it should consult with unions as part of the employer accreditation process for the Accredited Employer Work Visa.
- d. that the Government investigate ways for migrants to be better informed about their employment rights through the information provided in the Employment New Zealand learning modules, including about relevant trade unions, the Labour Inspectorate, and WorkSafe New Zealand.

### *Employer-assisted visas*

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<sup>1</sup> Some members objected to this recommendation.

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- e. that there be ongoing evaluation of whether Migrant Exploitation Protection Visas and variations of conditions are easily and quickly accessible. This evaluation must consider processing times.
- f. increasing the length of time for which Migrant Exploitation Protection Visas can be issued.

*Barriers to reporting exploitation*

- g. that the Government allocate more funding to organisations that support victims of migrant exploitation.
- h. that the Government investigate how it can prevent exploitation from occurring in the first place.

*Work rights for partners of visa holders*

- i. that the Government closely monitor instances of family violence in migrant families and consider whether immigration settings should be changed to prevent violence.
- j. that the Government prioritise work to make sure that migrant partners and families are suitably supported by the immigration system after situations of family violence.
- k. that the Government consider the eligibility criteria for the Victims of Family Violence Visa to enable more migrants to access it.

17 The Committee also noted that legislation was expected to be introduced to the House later in 2022 to address migrant exploitation.

**Proposed Government response to Education and Workforce Committee Report**

*We recommend that the Government response to the Committee's report note work currently underway or planned that would address most of the recommendations in the report.*

18 The submissions received by the Committee, and its recommendations, reflect many of the findings of the 2019 Temporary Migrant Worker Exploitation Review. As noted above, as a consequence of that review, Government has announced a package of legislative, policy and operational changes to reduce migrant exploitation. A number of these changes came into force from 1 July 2021, and MBIE is currently implementing the remaining recommendations.

19 Accordingly, we recommend that the Government response to the Committee's report note work currently underway or planned that would address most of the recommendations in the report. This includes:

*Employers of migrant workers*

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- a. *Monitoring the AEWV* – as part of the ongoing monitoring and evaluation of AEWV, officials will track indicators of migrant exploitation. Indicators could include the number of reports of exploitation by accredited employers; number of MEPVs issued; number of post-decision risk assurance activities undertaken (e.g. desk-based assessments and site visits); number of investigations for potential exploitation or breaches of employment standards by accredited employers; number of accreditations revoked or warnings issued to accredited employers for breaches of employment standards; and the number of prosecutions and convictions for exploitation of unlawful employees or temporary workers (or other offences under the *Immigration Act* by accredited employers. In addition, INZ has an agreed approach (Accredited Employer Risk Monitoring and Review) to determine whether accredited employers are meeting relevant requirements. Additional work could be undertaken if AEWV settings appear to be contributing to marked growth in migrant exploitation.
- b. *Worker accommodation* – the RSE Policy Review has a specific focus on the wellbeing of the RSE worker, including the quality of accommodation and the rules for deductions.
- c. *Involving unions in the accreditation of employers* – unions can provide evidence that an employer does not meet a particular accreditation standard to INZ at any time, including after an accreditation application has been approved. It is intended that unions will regularly be consulted as part of the ongoing monitoring and review of the accreditation standards, giving them the opportunity to influence the standards as the accreditation system develops and is refined over time. However, it is not feasible to pre-emptively give unions the opportunity to comment on every individual accreditation application, due to the large number of employers that need to be accredited and the delay it would cause to processing applications.
- d. *Migrant education* – INZ provides information for migrants on work rights (linking to Employment New Zealand, MBIE Mediation Service, New Zealand Police, Citizens Advice Bureau, Community Law and unions) via the [immigration.govt.nz](https://www.immigration.govt.nz) and [live-work.immigration.govt.nz](https://www.live-work.immigration.govt.nz) websites. Similar content is also included in emails to all migrant workers who are approved for visas with work rights (these emails have been suspended during the COVID pandemic and will be activated in November). INZ also provides information on the Migrant Exploitation Protection Work Visa and where to get help for those experiencing migrant exploitation.

### *Employer-assisted visas*

- e. *Evaluating the MEPV* – an evaluation of the changes made as part of the Review will take place in 2023. As part of this evaluation, MBIE will examine the MEPV reporting pathways, how employer and migrant employee education is reducing migrant exploitation, and how the changes fit with the wider changes made to the immigration system.

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This will look at the uptake of the MEPV, processing times and will include consideration of the minimum and maximum length of the MEPV.

*Barriers to reporting*

- f. *Allocation of funding to organisations that support victims of migrant exploitation* – we consider that agreement in principle should be given to consider the recommendation of the Select Committee that the Government allocate more funding to organisations that support victims of migrant exploitation. This recommendation is discussed in more detail below at paragraph 20.
- g. *Preventing the exploitation of migrants in the first place* – the totality of the changes made to the system to date are intended to help prevent the exploitation of migrants.

*Work rights for partners of visa holders*

- h. *Family Violence Visa* – MBIE has begun work to consider wider eligibility for the Family Violence Visa, including the partners of temporary migrants, and will shortly provide options for the Minister of Immigration to consider taking to Cabinet in late November. MBIE will also conduct a broader review of partnership and family settings in 2023, which will likely include further aspects of how the immigration system supports victims and responds in instances of family violence.

*We recommend that Cabinet agree to consider the recommendation to allocate more funding to organisations that support victims of migrant exploitation*

- 20 There is no Government financial support available for victims in all but the most serious incidences of human trafficking and exploitation (for which existing funding and services are very limited). Victims of exploitation who do not meet these criteria can access Employment Services liaison support services, who work with the complainant to determine what supports are most useful for them. The most common types of support that they connect migrants to are:
  - a. Access to food banks, counselling, direction to Citizen Advice Bureau or Community Law and support navigating the visa or investigation process.
  - b. Navigating the New Zealand job market. Often migrants have skills that are sought after in New Zealand but lack confidence due to the exploitation they have experienced. Liaison officers provide moral support and direct them to resources to support them.
- 21 Many submitters stated that the organisations above were constrained by a lack of financial support. We do not yet know where the most need lies, or where there are shortfalls in support. Establishing the needs of those

exploited and the areas where more support is needed will require further work by officials.

- 22 We recommend that Cabinet agree to consider the recommendation of the Select Committee that the Government allocate more funding to organisations that support victims of migrant exploitation.

### **Timing of the Government response**

- 23 The Government response must be presented to the House by 17 November 2022.

### **Consultation**

- 24 The following agencies were consulted during the development of the response: the Treasury, the Department of the Prime Minister and Cabinet, the Ministry of Justice, Ministry for Pacific Peoples, Ministry for Ethnic Communities, Ministry of Social Development, and the Department of Internal Affairs.

### **Financial implications**

- 25 There will be no financial implications in relation to the Government's proposed response. There may be financial implications in the future, if following further policy work, Government decides to allocate more funding to organisations providing support to the victims of migrant exploitation.

### **Te Tiriti o Waitangi**

- 26 There are no direct Te Tiriti o Waitangi considerations from this response. However, efforts to prevent migrant exploitation are expected to have a positive impact on Māori as both employers and employees.

### **Publicity**

- 27 We expect the Government's response to the Review will receive some positive feedback. During the inquiry process, many groups and individuals were supportive of Government initiatives implemented as part of the Review. Others however, thought the Government was not doing enough to stop migrant exploitation and we can expect criticism from some members of the Committee as well as some interested groups.

### **Proactive Release**

- 28 This paper will be proactively released (subject to redactions in line with the *Official Information Act 1982*) within 30 business days of decisions being confirmed by Cabinet.



## Recommendations

- 29 The Minister of Immigration and the Associate Minister of Workplace Relations and Safety recommend that Cabinet Legislation Committee:
- 1 **note** that on 25 August 2022 the Education and Workforce Committee presented its report to the House entitled “Inquiry into migrant exploitation”;
  - 2 **note** that the Education and Workforce Committee has made eleven recommendations to address migrant exploitation in its report;
  - 3 **note** that the majority of the Education and Workforce Committee’s recommendations are, or will be, addressed by a range of policy, legislative and operational initiatives planned or underway to prevent and address migrant exploitation;
  - 4 **agree** to consider the recommendation of the Education and Workforce Committee that the Government allocate more funding to organisations that support victims of migrant exploitation;
  - 5 **approve** the proposed Government response to the Report of the Education and Workforce Committee, attached as Appendix One;
  - 6 **note** that the Government response must be presented to the House by 15 November 2022; and
  - 7 **invite** the Minister of Immigration and the Associate Minister for Workplace Relations and Safety to present the Government response to the House, in accordance with Standing Order 256.

Authorised for lodgement

Hon Michael Wood  
Minister of Immigration

Authorised for Lodgement

Hon Priyanca Radhakrishnan  
Associate Minister for Workplace Relations and Safety