# Section B: Proposals Five and Six - Protect temporary migrant workers



We can make it easier for temporary migrant workers, including international students, to find and report exploitation in the workplace. We also consider that once government agencies receive reports of exploitation, the Ministry of Business, Innovation and Employment (MBIE) can do better at handling these reports and taking action. MBIE’s agencies include those that investigate and take action against exploitation – the Labour Inspectorate and Immigration New Zealand (INZ).

We want to overcome the barriers to reporting exploitation for temporary migrant workers. We are also interested in knowing if international students, women or other groups face any additional barriers to reporting exploitation.

We would like feedback on our ideas to better **protect** temporary migrant workers. We want your ideas on how best to design new ways for people to report exploitation, which will improve referrals and the handling of reported cases of exploitation. We would also like your views on barriers to reporting, and some options to reduce these. We also are interested in gathering views on how to deal with situations where migrant workers accept being exploited to some degree.

**How do temporary migrant workers report exploitation now?**

There is a range of ways that temporary migrant workers can report exploitation. The two main points of contact for reporting exploitation are the MBIE Service Centre and the Immigration New Zealand (INZ) Contact Centre. Other agencies (including WorkSafe) can refer temporary migrant workers to either or both of these two contact centres. Other places that migrants report exploitation to are:

MBIE received over 200 complaints of migrant exploitation in the year 2018/19, of which approximately 60 per cent were received by LI, and the remainder by INZ.

* Citizens Advice Bureau
* Police
* Community Law Centres
* Crimestoppers

**Annex B** provides a diagram of the current process.

**What are the problems with the current ways of reporting?**

There are already many ways migrant workers can report exploitation, but none of them are specifically focused on temporary migrant worker exploitation. Evidence suggests some temporary migrant workers do not report exploitation because:

* they might not know what their employment rights are, about employment standards in New Zealand, or what exploitation is.
* they might not know how or where to report exploitation, or they cannot contact or access those who could help them.
* they don’t always understand the processes that will follow on from their report, and whether they will be helped.

In addition, the multiple points of contact for receiving and handling reports of exploitation can result in inconsistencies and delays in handling individual complaints. These factors can deter people from reporting in the first place. They might not believe their report will be dealt with properly, fear that it might get lost in the system, or think that it will take too long to get a result. As a result, the worker can miss out on the **protection** that reporting would give them, and the exploitation might continue.

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| **What do other countries do?**There are various reporting functions relating to migrant worker exploitation used in other countries, though none that operate as the sole portal for migrant worker exploitation.The United Kingdom has a number of first responders for human trafficking and modern slavery. These include Migrant Help, a helpline for victims of trafficking and slavery, and for refugees seeking assistance with settlement. The Salvation Army’s Modern Slavery Helpline also receives reports of modern slavery which are then referred through a centralised process for appropriate agency action. In Australia, the Fair Work Ombudsman handles reports of workplace exploitation of migrants, but does not have a dedicated reporting line for migrant exploitation. In Canada, Employment and Social Development Canada does not have a dedicated reporting line for migrant worker exploitation, but they do have an online tool for reporting breaches of the temporary foreign worker program. |

**What do we propose to do?**

## Proposal Five: Establish an MBIE dedicated migrant exploitation 0800 phone line and online reporting AND establish an MBIE specialised migrant worker exploitation-focused reporting and triaging function

We want to make it easy for temporary migrant workers to report exploitation, by making sure the way to report is easy to find, understand and access.

For migrant workers to come forward and report exploitation, they will need to know the way to do so. They will need to be aware of the phone line and online reporting tool, and both need to be easy to use.

A decision has been made to put in place a dedicated migrant exploitation 0800 phone line and online reporting tool that will make reports to MBIE. While there will be costs to Government associated with setting up and running these reporting lines, our analysis indicated that a dedicated 0800 line through to MBIE will offer an efficient and effective approach, bringing these complaints directly through to the regulator that can deal with the allegations.

We want to ensure the design of the phone line and reporting tool make it easy to use and access. Our questions for you focus on different options for how we design the phone line and reporting tool, and when and how we make people aware of it.

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| **5A. Question:** **How can MBIE make sure temporary migrant workers know about the 0800 phone line and the online reporting tool?** |
| Click here to enter text. |
| **5B. Question: When should migrant workers be told about the 0800 number and online reporting?Please choose from the following options: (you can select more than one)** |
| [ ] In visa application information[ ] On their visa application form[ ] When their visa is granted[ ] When they start their job[ ] As part of information they receive about study and working while studying[ ] When they reapply for a visa |
| **5C. Question: How do you think online reporting could be made easy to use and access? We are considering these options; please tick as many of those you think we should use.** |
| [ ] Text message[ ] Online form[ ] App[ ] Social media platform (e.g. Facebook, Instagram, Twitter, etc.) |
| **5D. Question: What do you think are the advantages of these options?**  |
| Click here to enter text. |
| **5E. Question: What do you think are the disadvantages of these options?** |
| Click here to enter text. |
| **5F. Question: Can you suggest other means of reporting exploitation that would also be easy to use and access?** |
| Click here to enter text. |

**International students** are often the most vulnerable of temporary migrant workers, even though there are ways to provide them with information about their employment rights and employment standards in New Zealand. We also believe women could be particularly vulnerable.

We are interested to hear about particular barriers faced by international students and women in reporting exploitation, and to hear suggestions for what is needed to address these barriers.

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| **5G. Question:** **Do you think there are particular barriers that international students face to reporting exploitation in the workplace?** |
| [ ] Yes[ ] No [ ] Unsure |
| **5Gi. Supplementary question only if answered YES:** **What do you think those barriers are, and how can they be overcome, to encourage international students to report exploitation?** |
| Click here to enter text. |
| **5H. Question:** **Do you think there are the particular barriers that women face to reporting exploitation in the workplace?** |
| [ ] Yes[ ] No [ ] Unsure |
| **5Hi. Supplementary question only if answered YES:** **What do you think those barriers are, and how can they be overcome, to encourage women to report exploitation?** |
| Click here to enter text. |
| **5I. Question:** **Do you think there are other group(s) of migrant workers who face barriers to reporting exploitation in the workplace and, if so, who are those groups?** |
| [ ] Yes (please specify: Click here to enter text.)[ ] No  |
| **5Ii. Supplementary question only if answered YES: What do you think those barriers are, and how can they be overcome, to encourage the group(s) you identified to report exploitation?** |
| Click here to enter text.  |

Currently migrant workers can report exploitation to government agencies in different ways, meaning their reports can be received and handled by different teams. None of the teams are specifically focused on migrant exploitation in the workplace.

We propose to establish a specialised team in MBIE which would receive migrant worker reports of exploitation (including through the proposed 0800 phone line and online reporting tool). This team would take reports from a temporary migrant worker (or people ringing on behalf of one); triage them, and refer them to the appropriate agency (such as the Labour Inspectorate or INZ). This process would provide a more timely process to take a complaint and deal with it, including investigation.

We are interested to know how migrants can feel protected and supported in coming forward to report exploitation.

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| **5J. Question: What types of information could a specialised team provide to someone reporting exploitation?** |
| Click here to enter text. |
| **5K. Question:** **What other support could a specialised team offer a migrant worker who reports exploitation?** |
| Click here to enter text. |
| **5L. Question:** **How could a specialised team support the migrant worker, throughout the process (from the time they first make a report, through to when their report is dealt with)?** |
| Click here to enter text.  |
| **5M. Question: What do you think is a reasonable response time for a decision on a report to be made?** |
| Click here to enter text. |
| **5N. Question:** **What other functions should a specialised team perform?** |
| Click here to enter text. |
| **5O. Question:** **How do you think a specialised team should deal with reports of exploitation that are investigated but are inaccurate or false?** |
| Click here to enter text. |
| **5P. Question: Is further support needed to encourage migrants to report exploitation? If so, what do you think this could be?** |
| Click here to enter text. |

## Proposal Six: Develop a bridging-type visa for exploited migrant workers OR Improve the current Immigration New Zealand visa status consideration process

**What are barriers to reporting and leaving exploitative jobs?**

Temporary migrant workers, including international students, can face barriers which make reporting exploitation hard. These barriers can stop people from reporting, and/or leaving an exploitative employer. Migrants often fear the consequences of reporting, such as potentially having to:

The Review’s independent research indicated almost all migrants who are exploited have accepted, to some degree, their situation.

* leave New Zealand if they are unable to obtain a work visa for a new employer,
* face retaliation from their employer or agent, including through physical violence or psychological bullying against them or their family, or
* face deportation or prosecution for breaching employment or immigration laws.

In particular, migrant workers can be concerned if they have accepted an exploitative situation (for whatever reason) or gave false or misleading information to Immigration New Zealand (INZ) for their visa application. They might have colluded with the employer in their exploitation, or been coerced into staying silent. Their acceptance can reflect many factors, including a power imbalance between the employer and employee. Examples may include:

* a person applying for a visa who pays for a fake or exaggerated job offer from a business that they know exploits workers, to show they have a job on their visa application, or
* a worker forced to falsify and undercount the hours they have been working, as their employer threatens otherwise to report them to INZ so they will be deported, or
* a worker accepting exploitation as they have no other way to pay off a debt to an offshore agent who is threatening otherwise to take the family home as payment, or
* an international student enrolling in a work-place training course they know is a front for illegal and exploitative work – but a student visa will let them enter New Zealand.

**How are barriers are dealt with now?**

There is an existing INZ process for migrant workers claiming exploitation but it is not widely known about or used - a migrant worker may apply for another visa (of the same type as the visa they currently hold) of initially up to six months duration if they are:

* lawfully in New Zealand, and
* make a claim of exploitation which is accepted for investigation.

An application of this type is assessed on a case-by-case basis.

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| **What do other countries do?**Canada and Australia have recent initiatives providing some assurance for exploited migrant workers to help them to come forward to report exploitation. **Canada** has recently allowed migrant workers on employer-specific work permits either experiencing or at risk of abuse in their employment to apply for an open work permit. This provides them with a way to leave their employer. In **Australia**, the Australian Assurance Protocol (AAP) (established in 2017) provides assurance to migrants in breach of their work-related visa conditions through exploitation that their current visa will not be cancelled. |

We have two options for the situation when a temporary migrant worker claims exploitation and needs to apply for a new visa to leave their exploitative employer. We consider either of the two options could help *reduce the barriers* *to reporting exploitation*, especially a migrant’s concerns about their immigration status. These options would either revise or replace the current process of applying for a new visa. We are seeking your view on both which option you prefer, and also the design of your preferred option.

The options are to EITHER:

* **Proposal Six (A) - develop a bridging-type visa specifically for temporary migrant workers who have reported exploitation.** This visa would allow the migrant worker to leave an exploitative employer, and give them some assurance about their immigration status while their report of exploitation is assessed by INZ.

OR

* **Proposal Six (B) - improve the current Immigration New Zealand visa process** for when a temporary migrant worker reports exploitation, **to allow Immigration Officers to re-issue a visa of the same type that the migrant is already on** (note: if the exploited migrant is currently on an Employer-Assisted visa, they would be considered for a new visa with open work rights, and able to leave the exploitative employer).

Either option needs to be able to *preserve the integrity of the immigration system* from fraud and abuse. It is important to balance this objective with that of **protecting** temporary migrant workers and encouraging them to report exploitation. Related to this, we are considering how to take into account in a visa application whether the migrant accepted their exploitation to some degree, whether it was by collusion, coercion, control, or for some other reason.

In terms of the options proposed, we are mindful that introducing a bridging visa (Proposal Six(A)) carries the risk that it could encourage people to make false reports of employer exploitation, or to collude in exploitation to stay in New Zealand. We would need to design the visa to address these risks.

The risk of Proposal Six(B) is that it might not go far enough to address the barriers that prevent migrants from reporting their exploitation, such as fears of being penalised if the migrant colluded in their exploitation, and the impact on their future visa applications. Again, we will work to mitigate the barriers, by reviewing the design of the existing process.

Both options are likely to encourage an increase in exploitation claims received by the government. Additional funding would be required to triage and deal with these claims appropriately, including investigation.

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| **6. Question:** **Which of these options do you prefer? Please select one.** |
| [ ] **Proposal Six (A) -** develop a bridging-type visa for exploited migrant workersOR[ ] **Proposal Six (B)** - improve the current INZ visa status consideration process |
| **6Ai. Supplementary questions if you chose Proposal Six (A):** **Why do you prefer the option of a bridging-type visa?** |
| Click here to enter text. |
| **6Aii. How long do you think this visa should be for (that is, what should be its duration)?** |
| Click here to enter text. |
| **6Aiii.What conditions or restrictions (if any) do you think should be put on this visa?** |
| Click here to enter text. |
| **6Aiv. What evidence do you think migrant workers who report exploitation should have to provide? Please list your ideas.** |
| Click here to enter text. |
| **6Av. Do you think a temporary migrant worker who reports exploitation should be required to cooperate with INZ with the following actions? Please tick those you agree with.** |
| [ ] Giving their name [ ] Cooperating with those investigating their report[ ] Providing information when asked[ ] Providing any changes to contact information, such as a postal or email address[ ] Other requirements (please provide your ideas here)Click here to enter text.  |
| **6Avi. How do you think exploited migrants can be made aware that this visa type exists?** |
| Click here to enter text. |
| **6Avii. What grounds (i.e. reasons) do you think might be acceptable for declining a request from a temporary migrant worker for a bridging-type visa?** |
| Click here to enter text. |
| **6Bi. Supplementary questions if you chose Proposal Six (B):** **Why do you prefer the option of improving INZ’s current process for re-issuing visas to temporary migrant workers who have been exploited?** |
| Click here to enter text. |
| **6Bii. What do you think the problems are (if any) with the current process?** |
| Click here to enter text. |
| **6Biii. What changes to the current process do you think are needed to address these problems?** |
| Click here to enter text. |
| **6Biv. How do you think we can ensure that migrant workers who are exploited are aware of the existing visa process?** |
| Click here to enter text. |
| **6C. Question:** **Do you think a migrant’s acceptance of their exploitation (and the reasons for this acceptance) should be an important factor when INZ considers that exploited migrant’s visa application?**  |
| [ ] Yes – please explain: Click here to enter text.[ ] No – please explain: Click here to enter text.[ ] Unsure |

**What other ways to improve reporting and referrals are we considering?**

MBIE is bringing together all the information it provides (e.g. through INZ and the Labour Inspectorate) on employment standards and rights, and how to report exploitation. It is also working with other agencies that use and provide similar information, to make sure that their information is clear and consistent with ours. MBIE is also looking at ways to assess whether migrant workers and employers are aware of the information available to them and whether it helps them.

We are interested to hear your views on how best to provide information and make sure it is useful and effective.

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| **6D. Question:** **When do you think would be a good time to provide temporary migrant workers with information on what employment standards to expect, what exploitation is, and what to do if they think their employer is exploiting them? Please choose as many as you like from the following:** |
| [ ] In visa application information[ ] On their visa application form[ ] When their visa is granted[ ] When they start their job[ ] As part of information they receive about study and working while studying[ ] When they reapply for a visa |
| **6E. Question:** **How should this information be made available?Please choose as many as you like from the following:** |
| [ ] Online (web-based)[ ] Paper-based[ ] Other - please explain: Click here to enter text. |
| **6F. Question: How else do you think we can educate temporary migrant workers and employers about employment standards and rights, and also immigration requirements?** |
| Click here to enter text. |

**Other options you might suggest**

We are interested to hear if you have any other ideas on how to improve reporting of exploitation and how to reduce barriers to exploitation. Your ideas do not necessarily need to focus on what government can do. You might want to consider what others, such as community groups, can do.

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| **Section B, Final Question:****Do you have any other thoughts on how to improve reporting of exploitation?** |

Click here to enter text.

# Submitter Questionnaire - Tell Us About Yourself

**If you are writing a submission on multiple sections of the discussion document, please only fill this questionnaire out once, and send all sections in one email or envelope.**

In order to make sure that the views of different groups, sectors, and regions are properly

shown in any analysis, please provide some preliminary information about your submission.

**Questions that are marked \*** **are mandatory**. The other questions are optional.

**\* AA. What sector(s) are relevant to your work or business, or other interest?** You can tick more than one.

|  |  |
| --- | --- |
| [ ] General submission - no specific sector[ ] Aged Care[ ] Construction[ ] Finance[ ] Education[ ] Energy[ ] Forestry[ ] Healthcare (other than aged care)[ ] ICT | [ ] Labour hire[ ] Manufacturing[ ] Natural resources[ ] Petroleum and minerals[ ] Retail[ ] Tourism and hospitality[ ] Transport and freight[ ] Viticulture and horticulture[ ] Other (please specify) Choose an item. |

**\* BB. Which region(s) do your responses most closely relate to?** You can tick more than one.

|  |  |
| --- | --- |
| [ ] All regions[ ] Auckland[ ] Bay of Plenty[ ] Canterbury[ ] Gisborne[ ] Hawke’s Bay[ ] Manawatu-Whanganui[ ] Marlborough[ ] Northland | [ ] Nelson[ ] Otago (Other than Queenstown lakes)[ ] Queenstown lakes[ ] Southland[ ] Taranaki[ ] Tasman[ ] Waikato[ ] Wellington[ ] West Coast |

**\* CC. Which of the following most closely describes you?** Please tick one.

[ ] Employer - \***Please tell us the size of business by total number of employees.**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| [ ] 1-10 | [ ] 10-19 | [ ] 20-49 | [ ] 50-99 | [ ] 100-499 | [ ] 500+ |

[ ] Employee - New Zealander citizen or resident

[ ] Employee - Temporary work visa holder - **What type of visa do you hold?**

[ ] *Essential skills*

[ ] *Post-study work visa*

[ ] *Partner of a visa holder*

[ ] *Special purpose*

[ ] *Talent*

[ ] *Other (please specify)* Click here to enter text.

[ ] Employee - Study visa holder

[ ] Employee - Visitor visa holder

[ ] Employee – Other (please specify) Click here to enter text.

[ ] Industry organisation

[ ] Economic development agency

[ ] Licenced immigration advisor

[ ] Union

[ ] Non-Governmental Organisation (NGO)/Social services provider

[ ] Local Government

[ ] Other (please specify) Click here to enter text.

**\* DD. *FOR EMPLOYERS ONLY* - Is your business primarily any of the following? (tick as many as apply)**

[ ] Franchisor

[ ] Franchisee

[ ] Primary contractor or other contractor that engages subcontractors

[ ] Subcontractor

[ ] Labour hire provider

[ ] If none of the above, please briefly describe your business Click here to enter text.

[ ] Don’t know or would rather not say.

**\* EE. *FOR EMPLOYERS AND EMPLOYEES ONLY* - Are you currently living in New Zealand?**

[ ] Yes

[ ] No

**\*FF. *FOR EMPLOYERS AND EMPLOYEES ONLY* - Did you come to New Zealand as a migrant?**

[ ] Yes

[ ] No

**\* GG . *FOR EMPLOYERS AND EMPLOYEES ONLY IF ANSWERED YES FOR FF -*  Where did you come from?**

Choose an item.

**\* II. If you are submitting on behalf of an organisation, what is the name of that organisation?**

Click here to enter text.

**\* JJ Would you prefer your submission, either in part or in full, be withheld from public release? (Personal information such as your name and contact details would not be released).**

[ ] No, the contents of my submission are able to be publicly released in full.

[ ] Yes, please withhold my entire submission from any public release of submissions.

[ ] Yes, please withhold private or confidential information as indicated in my submission within square brackets. I do not need to be consulted further regarding public release of submissions.

[ ] Yes, private or confidential information has been indicated in my submission within square brackets. Please consult me before releasing my submission as part of a public release.

**The following questions are optional so you don’t have to answer them. We are asking them to help with analysing the submissions and how different groups in the communities might view the proposals.**

**KK. If you are making a submission as an individual, what is your gender?**

[ ] Male

[ ] Female

[ ] Other – please specify: Click here to enter text.

**LL. If you are making a submission as an individual, what is your age group?**

[ ] Under 19 years

[ ] 20–29 Years

[ ] 30–39 Years

[ ] 40–49 Years

[ ] 50–59 Years

[ ] 60–69 Years

[ ] Over 70 years

**The following questions are optional. We are asking them in case we want to contact you to ask for some clarification on your answers, or if your submission is requested under an Official Information Act request.**

**What is the name of the person completing this submission?**

Click here to enter text.

**What are your contact details?**

Email (preferred) Click here to enter text.

Phone Click here to enter text.

Alternative contact Click here to enter text.