



NEW ZEALAND
IMMIGRATION

Character

Facilitator Guide

Version 1.0



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

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

4 hours 20 mins

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Preparation

Pre-work

Completing [First steps](#) via INZ@Learn.

Required course resources

- Facilitator computer and projector
- Participant computers
- [Operational Manual](#)
- [Immigration Act 2009](#)
- Pens/markers (enough for the participants in group activities)
- Hand-outs:
 - Activity 3: A5.20
 - Crimes and terms of imprisonment
 - Concurrent vs cumulative Sentences
 - Activity 4: Police Certificate
 - Activity 5: Mrs Solar's case
 - Mrs Solar PPI and response
 - Activity 6: Character Waiver Mrs Solar Debate
 - Activity 7: Mrs Solar Waiver Assessment Template

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 (e.g. A5.5)

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.	<p>Includes:</p> <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.	<p>Background information to help the facilitator prepare. Includes:</p> <ul style="list-style-type: none">facilitator topics: information on topics including links to relevant instructionswhere the content is specific to a particular role/audience e.g. immigration officer, border officer, or compliance officer. <p>Includes space so the facilitator can add their own written notes during preparation.</p>



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Course outline

Time (mins)	Topic
30 mins	Welcome, Opening Karakia and Objectives Purpose: To open the workshop and understand what the workshop will cover
10 mins	Why do we need to assess character? Purpose: To explain why there is a need for applicants to meet character requirements.
50 mins	Character checks Purpose: How to interpret the immigration instructions for character requirements.
105 mins	Character issues Purpose: Understand the different character issues that may exist in applications and assess the visa application against the provisions in the character section (A5) of the Operational Manual.
20 mins	Assessing whether an applicant is caught by character instructions Purpose: How to identify whether an application is caught by character provisions.
35 mins	Character waiver Purpose: Differentiate when a character waiver may apply to an applicant.
10 mins	Course closure

Welcome, Opening Karakia and Objectives

Outcomes

By the end of this topic, learners will be able to explain the course purpose and structure.

Resources

- Character PowerPoint (link)

Lesson plan

Time	Topic	Resource	Your notes
5 mins	<p>Course welcome and karakia Kia ora and welcome!</p> <p>Show slide and explain: Before we start, we are going to say our MBIE karakia. <i>Tāwhia tō mana kia mau, kia māia</i> <i>Ka huri taku aro ki te pae kahurangi,</i> <i>kei reira te oranga mōku</i> <i>Mā mahi tahi, ka ora, ka puāwai</i> <i>Ā mātau mahi katoa, ka pono, ka tika</i> <i>TIHEI MAURI ORA</i></p> <p>TRANSLATION: Retain and hold fast to your mana, be bold, be brave We turn our attention to the future, that's where the opportunities lie</p>	<p>Slide 1</p> <p>Slide 2</p>	

Time	Topic	Resource	Your notes
	By working together, we will flourish and achieve greatness Taking responsibility to commit to doing things right TIHEI MAURI ORA		
20 mins	Introduction <i>Introduce yourself</i> and the week ahead – include any information that is relevant to your role facilitating this training e.g., experience facilitating, experience in the role/area of work the learners are in.		<i>Option to do an Ice breaker as well.</i>
5 mins	Kawa Show slide and explain: To enable us to work together effectively, it's important to talk about how we will do that. This week will be facilitated in a safe and respectful way: <ul style="list-style-type: none"> • Wellbeing is priority and there is support available if you need it • Remember in your conversations to respect the confidentiality of the others in the team who have shared and only speak about your own experience. • Please keep our MBIE Values in mind as we start our discussions together and when we leave each day. Ask: <i>What else do you need to make this a safe space where we can work collaboratively?</i>	Slide 3	<i>Set expectations of the week and how you like to work</i>

Time	Topic	Resource	Your notes
2 mins	<p>Objectives Show slide and explain: By the end of this workshop you will be able to:</p> <ul style="list-style-type: none"> • 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. 	Slide 4	

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Why do we need to assess character?

Outcomes

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

Resources

- Participant computers
- Operational Manual
- Whiteboard and markers

Lesson plan

Time	Topic	Resource	Your notes
1 min	Introduction Show slide and say: 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.	Slide 5	
9 mins	Ask: <i>Why do we need to assess character?</i> Explain: At the beginning of the character chapter in the Operational Manual (at A5.1), it says that applicants for all visas must:	Slide 6 Whiteboard/ Markers Click	Discussion

Time	Topic	Resource	Your notes
	<ul style="list-style-type: none"> • be of good character; and • not pose a potential security risk. <p>Ask: <i>What does it mean to be of 'good character?'</i></p> <p>Potential answers:</p> <ul style="list-style-type: none"> • Clear criminal history • Providing truthful information • Being compliant with Immigration laws <p>Ask: <i>Why do we have the A5.1 requirement (be of good character and not pose a potential security risk)? (Facilitate answers).</i></p> <p>Answer/ Explain: 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 • and damage to New Zealand's international reputation 	<p>Click</p> <p>Click</p>	<p>Write up suggestions on whiteboard</p> <p>*It costs \$150,000 a year to house one person in prison.</p>

Character Checks

Outcomes

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

Resources

- Facilitator computer and projector
- Operational Manual
- INZ Website

Lesson plan

Time	Topic	Resource	Your notes
1 min	<p>Introduction</p> <p>Ask:</p> <p><i>So, what sort of documents/sources would help us to assess an applicant's character?</i></p> <p>Possible answers:</p> <ul style="list-style-type: none">• Police certificates• Character section of the application form• Alerts and warnings on AMS s 6(c)• Previous immigration history (notes from old applications)• Interviews with the applicant or people supporting the app	<p>Discussion</p> <p>White board</p>	<p><i>Could write this up again on whiteboard/ or just have a discussion.</i></p> <p>If questions arise about how external information is received, you can mention that people can report immigration issues on Crime Stoppers or through calling the Immigration Contact Centre.</p>

Time	Topic	Resource	Your notes
9 mins	<p>Ask: <i>Where do you think we might find what the character requirements are?</i></p> <p>Answer: Operational Manual.</p> <p>Explain: This is your go-to place for character instructions. If you haven't done so already, make sure you bookmark this for easy access in future.</p> <p>Ask: <i>Who can tell me where you can find immigration instructions relating to character requirements?</i></p> <p>Answer: A5</p> <p>Show slide and explain: We will have a look at all of these over the course of the day, but here's an overview of the different sections covered under character instructions:</p> <ul style="list-style-type: none"> • A5.5 sets out when Character checks need to be done • A5.10 sets out how character checks are done – through providing police certificates • A5.20 applies to people who have serious character concerns and must not be granted a visa in NZ. • A5.25/A5.45 applies to people with character issues that are less serious than in A5.20, but still requires further assessment before a visa can be 	<p>Operational manual</p> <p>Slide 7</p>	<p>False, misleading and withheld information - A5.25.6</p>

Time	Topic	Resource	Your notes
	granted.		
5 mins	<p>Who needs a character check? <i>Learners go to A5.5 to read to find when and how character checks are done.</i></p> <p>Ask: <i>Who do we need to carry out character checks on and what do they involve?</i></p> <p>Following points need to be covered in discussion:</p> <ul style="list-style-type: none"> • A5.5(a) of the Operational Manual: <ul style="list-style-type: none"> ○ people aged 17 and over; and ○ applying for resident visas or applying temporary visas for a stay of 24 months or longer, and ○ who immigration officer decides it is necessary. • There are different requirements for resident visa versus temporary visa applicants: <ul style="list-style-type: none"> ○ A5.5 (b) applies to resident visa applicants ○ A5.5 (c) is for temporary visa applicants <p><i>Allow learners some time to look at the rest of the section (A5.5 (d) – (h) and discuss any questions before moving on.</i></p>	<p>Slide 8 Operational Manual Click</p> <p>Slide 9 Click</p>	<p>Questions about Clean Slate - A5.5.1 Impact of the Criminal Records (Clean Slate) Act 2004: To summarise, if applicants have convictions under the covered by the Act, we cannot use the information when assessing whether the person meets the applicable character requirements.</p> <p>This is because the applicant has successfully applied to have the convictions concealed through Ministry of Justice.</p>
10 mins	<p>Activity 1 – Is a PC required? <i>In pairs look at the three situations on the slide and discuss if a police certificate is required and what specific instruction gave you the answer i.e. A5.5 (b).</i></p>	<p>Slide 10 Operational Manual</p>	<p><i>Give learners 5-10 mins for discussion, then chose different pairs to give you the answers. Answer any questions or</i></p>

Time	Topic	Resource	Your notes
	<p>Answers:</p> <p>1. <i>George is applying for a temporary visitor visa to visit NZ for 3 months. Does he need to provide any police certificates?</i> NO, because total time in NZ will be less than 24 months. A5.5(a)(ii)</p> <p>2. <i>Meryl has been living in New Zealand for 18 months. She is now applying for a temporary work visa to stay in NZ for another year. Does she require any police checks?</i> YES, if the visa is approved, she will be in NZ for more than 24 months. The 24-month period includes any time spent in NZ previously, plus the time she will stay on the new visa if it is approved. See note below A5.5(a)(iii).</p> <p>3. <i>Idris, a UK citizen, is applying for a resident visa to live in NZ. He has been living in NZ for the last 12 months. He lived in Spain for five years immediately prior to the application. Which police certificates would he need to provide?</i> Needs to provide a UK PC, Spain PC and NZ PC. A5.5(b).</p> <p>Ask: <i>In what situation we can ask for a police certificate (PC) even though the applicant is not required to provide one?</i></p> <p>Possible Answers: A5.5 (a)(iii) (h) – if you decide it is necessary. This might be because they have declared character issues in the application form or because of an alert or warning on file that relates to their character.</p>		<p>discrepancies.</p>

Time	Topic	Resource	Your notes
10 mins	<p>Requirements for Police Certificates</p> <p>Ask: <i>When we are looking at the police certificates in applications, how do we know the document meets the requirements?</i></p> <p>Have the group read through A5.10.</p> <p>Ask: <i>How old must a PC be when an application is lodged?</i></p> <p>Answer: Less than six months old.</p> <p>Ask: <i>If a PC was submitted with a previous application, how long does it remain valid?</i></p> <p>Answer: 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>Ask: <i>What if someone is unable to provide a police certificate? What can they provide instead?</i></p> <p>Answer: 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</p>	<p>Slide 11 Operations manual</p> <p>Click</p> <p>Click</p> <p>Click</p>	<p>Play this like a kahoot quiz, can get them to do individually/ pairs or groups.</p> <p>Options: Get them to come up with a funny buzzer – have chocolate for each fastest right answer.</p>

Time	Topic	Resource	Your notes
	statutory declaration.		
10 mins	<p>Activity 2</p> <p>Show slide and explain:</p> <ul style="list-style-type: none"> • Participants to go to the INZ website and search for “How to get a police certificate”. • Click on the link third link provided ‘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>Countries to allocate:</p> <ul style="list-style-type: none"> • <i>India</i> • <i>Philippines</i> • <i>United States of America</i> • <i>United Kingdom</i> • <i>Samoa</i> • <i>France</i> 	<p>PowerPoint - Slide 12</p> <p>INZ Website</p>	<p><i>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.</i></p>
5 mins	<p>Wrap up</p> <p><i>Learners to write key messages on post-it notes from this topic on how an applicant should be assessed, using the Operational Manual.</i></p> <p>Once they have shared these, ask if there are any questions before we move on.</p>		

Character issues

Outcomes

By the end of this topic, learners will understand the different character issues that may exist in applications and assess the visa application against the provisions in the character section (A5) of the Operational Manual.

Resources

- Facilitator computer and projector
- Immigration Act 2009
- Operations Manual
- **Hand-out:** Activity 3 A5.20
Common Crimes and maximum terms of imprisonment
Concurrent vs cumulative Sentences
Activity 4 Police certificate

Lesson plan

Time	Topic	Resource	Your notes
2 mins	Introduction Show slide and explain: Now that we know the requirements for character checks and police certificates, when looking at police certificates, you will find that the majority of people have no character issues or very minor ones that won't affect the outcome of the application. However, there are some applicants who pose character concerns which	Slide 13	

Time	Topic	Resource	Your notes
	<p>means we cannot grant them visas without doing further assessment. The Operational Manual has split the character concerns into two sets of provisions.</p> <p>You would recall we briefly mentioned these earlier:</p> <ol style="list-style-type: none"> 1. A5.20 is for people who have serious character concerns and must not be granted a visa in NZ, which are cases that are uncommonly seen. 2. A5.25/A5.45 is for people with character issues that are less serious than in A5.20, but who still require further assessment before a visa can be granted. Comparing with A5.20, it is more common for people with character issues to be captured under this part of the instructions. 		
15 mins	<p>Instruction A5.20 and S15, 16 &17 of the Immigration Act 2009</p> <p>Show slide and explain:</p> <p>All of the character issues we are going to learn about impact visa applications. However, we are starting with the ones covered under A5.20 – who must NOT be granted a visa or entry permission.</p> <p><i>Learners read A5.20(a). Make sure they understand the requirements that people who fall under Section 15 and Section 16 of the Immigration Act 2009 cannot be granted a visa unless Section 17 applies.</i></p> <p><i>Allow learners time to go through A5.20 (b) – (d) and clarify any questions.</i></p>	<p>Slide 14</p> <p>Immigration Act Operations Manual</p>	<p>If participants ask how we can find out if a person was deported if they do not declare it, S 6(c)</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

Time	Topic	Resource	Your notes
	<p>Show slide and use following notes to summarise:</p> <p>A5.20(b)/Section 15</p> <p>This covers 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 if you do, they need to be handled with care.</p> <p>A5.20(c)/Section 16</p> <p>Section 16 deals with what a person <i>might</i> do in the future based on what behaviour they have shown in the past. It should also be based on adequate, reliable evidence rather than speculation or personal opinions.</p> <p>Use the following examples to explain further:</p> <ul style="list-style-type: none"> • An applicant who has multiple serious convictions over a period and an extensive criminal history. S16(1)(a)(i) might apply. • Or an applicant has a character alert with information from Interpol, shared through the NZ Police. It states that they are a member of a known drug cartel. We do open-source research and find articles which further proves their involvement in drug trafficking. We have reason to believe that they will be a risk to public security. <p>Explain:</p> <p>S16 is not likely to apply to someone who has one or two minor convictions, or if they committed a serious offence in the distant past but can demonstrate that they have changed their behaviour and have not reoffended since.</p>	<p>Slide 15</p> <p>Click</p>	<p>s 6(c)</p> <p>[Redacted notes]</p>

Time	Topic	Resource	Your notes
	<p>Ask: Section 16 (a)(iv) mentions ‘public interest’, what does this mean?</p> <p>Answer: The Ombudsman categorised public interest as broadly equivalent to the concept of the public good. It can cover a wide range of values and principles relating to the public good, or what is in the best interests of society. It does not mean ‘interesting to the public’. It means the issue is one of legitimate public concern.</p> <p>Explain: S16 cases are uncommon, and sometimes contentious. If you feel you may have a case under Section 16, you should talk to your TA or IM about this.</p> <p>Section 17: Special Directions Show slide and explain: If someone is subject to section 15 or 16, this does not automatically mean they will <u>never</u> get a visa. An immigration officer with the appropriate delegated authority may grant a special direction under section 17 of the Act if there are exceptional circumstances. The special direction means a visa can be granted.</p> <p>Note: The decision to give a special direction is in the absolute discretion of the decision-maker.</p> <p>Ask the following questions: Ask:</p>	<p>Public interest.docx (live.com)</p> <p>Slide 16 Operational Manual Immigration Act</p>	<p>Choose to share if there are current news articles as examples.</p> <p><i>Use the following notes to explain if needed:</i></p> <p>Immigration Act:</p> <ul style="list-style-type: none"> • The Immigration Act provides legislative framework for NZ’s Immigration system • It is the highest and primary source of immigration law as it reflects the will of Parliament • If a visa decision is made on the basis of the Immigration Act, there are fewer appeal rights than if the decision is

Time	Topic	Resource	Your notes
	<p><i>Would you grant a special direction to someone who had served 27 years of imprisonment? Why/why not?</i></p> <ul style="list-style-type: none"> • <i>What if they had been imprisoned for speaking out against human rights violations?</i> • <i>What if that person was now the President of South Africa (i.e. Nelson Mandela)?</i> <p>Ask: <i>Would you grant a special direction to someone who was deported from New Zealand for overstaying for two years?</i></p> <ul style="list-style-type: none"> • <i>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?</i> • <i>What if the person had actively tried to evade Compliance Officers during those two years?</i> <p>Explain: The point is every case is different and should be assessed on its merits. Giving special direction is an absolute discretion. They must be decided by higher delegated decision makers. TAs can decide Special Directions for temporary class visas, while Practice Leads or Immigration Managers consider them for residence.</p> <p>Point out to the learners that A5.20 (b) – (d) replicates the section 15, 16 and 17 of the Immigration Act 2009 and let them go to Immigration Act 2009 for a quick look to validate the point.</p>		<p>made on immigration instructions</p> <p>Immigration Instructions:</p> <ul style="list-style-type: none"> • Set out the rules and criteria used for determining the eligibility of a person for the grant of a visa of particular class and type • They can be changed a lot easier than changing the Immigration Act • The instructions are certified by the Minister of Immigration and any big changes to them reflect the wishes of the Government of the day • They are published in the Operational manual and followed by INZ when it assesses applications.

Time	Topic	Resource	Your notes
	<p><i>Check learners' understanding of the relationship between the Immigration Act and Immigration Instructions.</i></p>		
15 mins	<p>Activity 3 <i>Distribute Activity 3 hand-out. Ask the group to attempt the questions individually first, then compare answers with someone else in the group when completed.</i></p> <p>Scenario 1: Paolo wants to study English in New Zealand. However, seven years ago he was sentenced to 12 months in prison for a drink driving offence in his home country. He served 8 months of the sentence and his country's parole board authorised an early release.</p> <p>Question: <i>Does section 15 of the Act apply to Paolo?</i></p> <p>Answer: Yes. Section 15 (1)(b) applies. Note that it doesn't matter that he only served eight months of the sentence. Section 15 refers to the sentence itself, not the length of time someone was actually in prison.</p> <p>Scenario 2: In an incident last year, Jackson got drunk and became violent towards his best friend. Jackson pleaded guilty in court and the judge gave him a 13-month deferred prison sentence pending a probation period. Jackson wants to put the whole thing behind him and thinks spending some time travelling</p>	<p>Slide 17 Hand-out: Activity 3 A5.20 Operational Manual</p>	<p>If asked about prohibition on entry (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, 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 who then leave NZ are considered to be deported. Section 179 and periods of prohibition only apply to a person who has been deported. It will normally be clear from an AMS warning whether the person is</p>

Time	Topic	Resource	Your notes
	<p>in New Zealand for a year off will do him good.</p> <p>Question: <i>Does section 15 of the Act apply to Jackson?</i></p> <p>Answer: Yes. Section 15 (1)(b) applies. Deferred sentences are still included as a consideration for character requirements. See section 15(2)(a).</p> <p>Scenario 3: Mosese is from Fiji and has family in New Zealand. Three years ago, he arrived in New Zealand on a visitor visa and overstayed 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. Mosese’s New Zealand-based grandmother has died, and he now wishes to return to New Zealand to attend her funeral.</p> <p>Question: <i>Does section 15 of the Act apply to Mosese?</i></p> <p>Answer: No because he was not deported and does not fall under any other provisions in Section 15. However, we would consider the issue of his overstaying when we assess if he is a bona fide applicant with genuine intentions to return home at the expiry of his visa.</p> <p>Ask: <i>Would you consider Section 16 for any of these scenarios?</i></p>		<p>considered deported.</p>
20 mins	<p>Convictions, false information and other matters which may cause applicants not to meet character requirements for residence</p>		

Time	Topic	Resource	Your notes
	<p>Show slide and explain: We have now looked at the serious but uncommon character issues captured by A5.20.</p> <p>Direct participants to read A5.25.5 and A5.45.5, 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 A5.25.5(a) is longer than in A5.45.5. • The character issue in A5.45.5(b) is not included in A5.25.5. • Look at A5.25.6 -Even if the applicant has no knowledge of the false information, and only the agent was responsible for providing it, the applicant is still caught by A5.25.5/ A5.45.5 • The IO does not need to determine whether or not the person, or agent knows the information was false or misleading 	<p>Slide 18 Operational Manual</p> <p>Click</p>	
5 mins	<p>Character provisions that need more explanation: Crimes and maximum terms of imprisonment – A5.25.5(a)(vi) and A5.45.5(a)(iii) Explain:</p>		

Time	Topic	Resource	Your notes
	<p>Judges can impose different sentences for the same offence (i.e. someone could receive a fine for drink driving while someone else could be imprisoned if they have offended previously). This instruction applies if the court had the power to impose a term of imprisonment for three months or more, regardless of if they actually went to prison or not. This means that we need to check what the maximum term of imprisonment could have been. This can be found online in the legislation that relates to the offence.</p> <p>Also note that this only applies to offences that were committed in New Zealand while the applicant either held a temporary visa, was here unlawfully, or was exempt from holding a temporary visa under the Immigration Act.</p> <p>Handout common crimes and maximum terms of imprisonment handout. Explain that this is not an exhaustive list.</p>	<p>Handout: Common Crimes and maximum terms of imprisonment</p>	
10 mins	<p>Show slide and ask: <i>Person A has a conviction (dated 23/04/2005) for stealing a car. Do any provisions in A5.25.5 apply?</i></p> <p>Answer: Yes - A5.25.5(a)(iii) Offence involving <u>dishonesty</u>*</p> <p>Ask: <i>Person B has a conviction for drunk driving (with blood alcohol content in excess of a specified limit), convicted on 12/05/2021. Do any of the provisions at A5.25.5 apply?</i></p>	<p>Slide 19 Operational Manual</p> <p>Click</p>	<p>*Crime involving dishonest means any of the crimes or offenses described in</p> <ul style="list-style-type: none"> a) sections 100 to 105F b) Part 10, except sections 267 to 272, 298A and 298B c) the Secret Commissions Act 1910 <p>Highlight to learners that they can use legislative.govt.nz or</p>

Time	Topic	Resource	Your notes
	<p>Answer: A: Yes – A5.25.5(viii)</p> <p>Show slide and ask: <i>Person C has a conviction for wilful damage, they received a fine of \$2000. This conviction occurred in New Zealand while Person C held a Visitor Visa. Do any of the provisions at A5.45.5 apply?</i></p> <p>Answer: Yes – A5.45.5(iii). Although they did not receive a prison sentence, the court had the power to impose a maximum term of three months’ imprisonment if they chose to. See Summary Offences Act 1981, Section 11: <u>Summary Offences Act 1981 No 113 (as at 28 October 2021), Public Act 11 Wilful damage – New Zealand Legislation</u></p> <p>Ask: <i>Would Person C would also fall under A5.25.5 if they were to apply for residence?</i></p> <p>Answer: Yes, they would fall under this character instructions (A5.25.5 (a)(vi) if they applied for a residence application as they were convicted of wilful damage while on a temporary visa – Visitor Visa.</p>	Slide 20	Google to search for the latest up-to-date legislation or for a general idea about the possible sentencing.
10 mins	<p>False and Misleading Information – A5.25.5(b)(c) and A5.45.5(c)(d)</p> <p>Explain: The New Zealand immigration system relies on factual information</p>		

Time	Topic	Resource	Your notes
	<p>provided by applicants to determine in each particular case if the requirements allowing the grant of a visa are met. The Immigration Act imposes a strict obligation on applicants to truthfully inform Immigration New Zealand (INZ) of all material facts, including when their circumstances change after they make their application.</p> <p>As an IO you will need to understand the difference between false and misleading and what they actually mean. They seem to be clear enough, but there are some important aspects of these words to know and keep in mind.</p> <p>False Information Show Slide and explain: False information is a purported fact or set of facts which is not true. In order for you to consider whether information is false, it may be useful to ask yourself if it contradicts other information which is more likely to be true.</p> <p>Ask: <i>What examples can you think of potential false information?</i></p> <p>Answers:</p> <ul style="list-style-type: none"> • False documents (bank statements/ degrees/ employment offers) • Changing the date on documents • False signatures 	<p>Slide 21</p>	<p><i>Facilitate discussion (perhaps write list up on whiteboard)</i></p>

Time	Topic	Resource	Your notes
	<p>a visa applications, if there is an instance of false or misleading information provided, or relevant information withheld. The correct provision to use, depends on the circumstances.</p> <ul style="list-style-type: none"> • For current applications with false or misleading information this is Section 58 of the Immigration Act 2009 • For false and Misleading information in a past application you use Character instructions. <p>Refer learners to section A24 of the manual.</p> <p>Explain: It's important to note that even if the applicant has no knowledge of the false information, and only the agent was responsible for providing it, the applicant still falls under either s58 or character instructions at A5.25 or A5.45.</p> <p>We won't be going further on S58 and A24 today, as you will receive further learning on False and Misleading instructions at a later stage. For now, we will focus on character instructions – A5.</p>	<p>Click</p>	
5 mins	<p>Police certificate sentences –Concurrent vs cumulative sentences</p> <p>Handout and explain: Before we move into an activity where we will examine a police certificate and see if there are any concerns with the applicant's PC provided, and/or their character, first we must touch on how to interpret sentences.</p>	<p>Handout: Concurrent vs cumulative Sentences</p>	

Time	Topic	Resource	Your notes
	<p>When we are assessing character issues where people have multiple convictions that were given in the same proceedings or for the same occasion, we need to establish whether the sentence imposed on each of the convictions is concurrent or cumulative.</p> <p>Refer learners to A5.20 (b) bullet points 2 and 3. Direct learners to handout of concurrent vs cumulative sentences.</p> <p>Show slide and ask: <i>Learners why we need to check whether the multiple sentences are concurrent or cumulative?</i></p> <p>Show slide and answer: Correctly calculating the total sentencing period is important for IOs to determine which part of the character instructions are triggered. As per handout examples, if the sentences are concurrent, the person was only in prison for 9 months where A5.45/A5.25 will apply, but if the sentences are cumulative then the person would be in prison for 20 months, which means S15 may apply.</p>	<p>Slide 24</p> <p>Slide 25</p>	
10 mins	<p>Police certificate examples</p> <p>Show slide and explain: Character police certificates are an important source of information for assessing whether someone meets character requirements. Experience with police certificates will help you know what to look for, but there are several attributes you need to give attention to.</p>	Slide 26	<ul style="list-style-type: none"> • See Section 4 of the Immigration Act for the definition of “imprisonment”. • PC valid date is the date of lodgement of current application. • Result vs offense date: Result

Time	Topic	Resource	Your notes
	<p>Distribute the 'Police certificate example handout' for a temporary visa to the group, ask them to read through the police certificate and facilitate discussion to questions.</p> <p>Answers</p> <ol style="list-style-type: none"> 1. Looking at the issue date, is this a valid Police certificate? Yes 2. Do any character provisions apply? Yes, due to convictions 3. Does Section 15 or 16 apply? No, as Total sentence not 12 months or longer. 4. Is it Cumulative or Concurrent? Concurrent 5. What is the total sentence? 10 Months 	<p>Handout: Activity 4 Police certificate</p> <p>Slide 27</p>	<p>vs offence date: result is when the sentence was decided and used to consider the timeframe, as up until this point the individual had not been found to have committed the offence by the court. Some countries will differ, but you will get guidance on this.</p> <ul style="list-style-type: none"> • The majority of NZ sentences are concurrent.
3 mins	<p>Character waiver</p> <p>Show slide and ask:</p> <p><i>A single drink-driving conviction in the last five years would make someone subject to A5.25.5/A5.45.5. Does that mean everyone who has a conviction of this nature is automatically declined?</i></p> <p>Direct participants to read A5.25.10 and A5.45.10 and ask them to note anything that stands out.</p> <p>Answers:</p> <ul style="list-style-type: none"> • This includes 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. 	<p>Slide 28</p> <p>Operational Manual</p>	

Assessing whether an applicant is caught by character instructions

Outcomes

By the end of this topic, learners will be able to identify whether an applicant is caught by character provisions and apply relevant character instructions and processes when assessing visa applications.

Resources

- Facilitator computer and projector
- Operations Manual
- **Hand-outs:** Activity 5: Mrs Solar case
Mrs Solar PPI and response

Lesson plan

Time	Topic	Resource	Your notes
1 min	<p>Introduction</p> <p>Show slide and explain:</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 learnt about.</p> <p>To help you understand this process of PPI and Waiver assessment, we will be looking at one scenario in the last half of the workshop. We will also split you into two groups for and against, finishing with each teams presenting their case of why the applicant waiver should be granted or declined.</p>	Slide 28	

Time	Topic	Resource	Your notes
9 mins	<p>Activity 5: Mrs Solar <i>Handout the Mrs. Solar’s case handout and give learners time to read the information and answer the questions.</i></p> <p><i>Use the following information to guide the learners through the case information.</i></p> <p>Question 1: <i>Based on the information above, do you think it is this a character issue or S58(6)? And why?</i></p> <p>Answer: It is a character issue as it was in a past application.</p> <p>Question 2: <i>What specific instructions are triggered based on the convictions/issues identified from the case?</i></p> <p>Answer: A5.25.5(a)(viii) Drinking Having Consume Excessive alcohol. And A5.25.5(b)(i). Potentially A5.25.5(a)(vi) as well as the conviction.</p> <p>Question 3: <i>Now you have identified the relevant instructions apply to Mrs. Solar, what is the next step?</i></p> <p>Answer: At INZ, we normally give applicants the opportunity to comment on material that is potentially prejudicial to their visa application. This is set out at</p>	<p>Slide 29 Handout: Activity 5: Mrs. Solar’s Case Operations Manual</p>	

Time	Topic	Resource	Your notes
	<p>R5.20.5 Potentially prejudicial information (PPI) in the Ops Manual.</p> <p>Explain: You may recall that you were introduced to last week in First Steps: Step 7 in Application Lifecycle. As per instruction requirements, INZ has sent out the PPI letter regarding the character concerns.</p>		
10 mins	<p>Asking the applicant for comment As part of this process, INZ has sent a Potentially Prejudicial Information or PPI letter to Mrs Solar.,</p> <p>Explain: For all character issues we send the letter which explains our concerns about the applicant not meeting the character instructions and the potential impact the character issues may have on the application outcome.</p> <p>The PPI letter also asks the applicant to:</p> <ul style="list-style-type: none"> • comment on the character issues. I.e., we think false information was provided in a past application, what do you have to say; AND... • explain why they think we should give them a character waiver. <p>This information will help us assess the applicant’s circumstances and make a fair and balanced decision. The template letters are carefully worded to make it clear we are not pre-determining that they in fact provided false information. You’ll also learn more about PPI letters later in your induction.</p>		

Time	Topic	Resource	Your notes
	<p>Show slide and explain: In summary, there are two stages to assessing an applicant against:</p> <ol style="list-style-type: none"> 1. Assess whether someone ‘falls under’ a character provision, which can be more complicated than you think. For example, at first 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. 2. Once we’ve confirmed that someone does ‘fall 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. <p>Handout the PPI letter and response to the learners and explain: We’ll start by first assessing whether someone ‘falls under’ a character provision.</p> <p>Learners read the PPI letter and then the applicant’s response.</p> <p>Discuss what information can be included in the response letter. Point out to the learners that PPI response can include:</p> <ul style="list-style-type: none"> - Explanation letter - Support letters - Evidence of fine paid - Evidence of any drink driving course completed if relevant - Anything that the applicant wishes to provide to support the waiver to be granted. 	<p>Slide 30</p> <p>Handout: PPI letter and Response</p>	

Time	Topic	Resource	Your notes
	<p>Ask: <i>Does Mrs Solar still have character concerns after the PPI response, or have our concerns been mitigated?</i></p> <p>Facilitate discussion around this.</p>		

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Character waiver

Outcomes

By the end of this topic, learners will be able to apply character waiver instructions and follow correct process to assess relevant visa applications.
CO outcome: learners will be able to explain what a character waiver is.

Resources

- Facilitator computer and projector
- Operations Manual
- **Hand-outs:** Activity 6 Character Waiver for Mrs Solar Debate
Activity 7 Mrs Solar Waiver template

Lesson plan

Time	Topic	Resource	Your notes
4 mins	<p>Introduction</p> <p>Ask: <i>Now that we have established Mrs Solar does fall under character instructions, and we have received the response from Mrs. Solar, what's next?</i></p> <p>Answer: We move to Step 2: Considering a character waiver.</p> <p>Ask: <i>Thinking back to when we read A5.25.10 and A5.45.10, can an IO decide if a waiver can be granted?</i></p>	Operational Manual	<p>If you are only training COs, you do not need to complete the full Character Waiver section.</p> <p>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</p>

Time	Topic	Resource	Your notes
	<p>Answer: Technical advisors and senior immigration officers decide if an applicant will be granted a character waiver, not an immigration officer. Immigration officers will become more familiar the character waiver process in consultation with their local technical advisor as they occur.</p> <p>Review with participants in what situations a character waiver can and cannot be granted.</p> <p>Remind that each case is based on its own merit, so there are not set situations where a CW would not be granted.</p>		<p>Also is it worth noting that the CW process would only be considered if all other substantive instructions are met? (i.e., we would still want to raise all concerns in PPI, but then if we are declining on bona fide for example, we wouldn't bother with a CW).</p>
20 mins	<p>Activity 6 – Character Waiver for Mrs. Solar Debate Allocate learners into two groups, for and against, and hand out Activity 6.</p> <ul style="list-style-type: none"> Remind them their task is come up with as many reasons in favour of Mrs Solar being granted a character waiver, or against. <p>Allow 10 minutes for coming up with each groups arguments and 10 minutes to facilitate debate. Have each team present their arguments - starting with the 'in favour' team.</p>	<p>Slide 31</p> <p>Handout: Activity 6 Character Waiver for Mrs. Solar Debate</p>	<p>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>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 7 Distribute Activity 7; Mrs Solar's character waiver assessment and give the group time to read through it.</p> <p>Discuss as a group:</p>	<p>Handout: Activity 7 Mrs Solar Waiver</p>	

Time	Topic	Resource	Your notes
	<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>Explain: Granting a waiver is discretionary; there are many cases where there is no one 'right' answer.</p>		
1 min	<p>Wrap up</p> <p>Explain: Completing the character waiver requires a TA or SIO to give their views on a number of facts particular to the application, and the template invites them to assign weight on those facts, and then balance them against the other facts. It's not always easy – a hard case, for example, might be one where there are serious convictions, but the applicant also has strong ties (like family) to New Zealand.</p> <p>When your TA or an SIO decides a waiver for any character case you have in the next few months, read the waiver carefully and feel free to discuss anything they've written that you are not clear about. You may also think about taking time to read other waivers. In this way, you can gain experience and confidence in making tricky decisions.</p>		<p><i>Use their arguments in the debate to link back to the key messages of the workshop.</i></p>

Course closure

Time	Topic	Resource	Your notes
9 mins	<p>Course closure</p> <p>Show slide and ask:</p> <ul style="list-style-type: none"> • The group to volunteer things they've learnt from this course. • Ask learners to reflect on the session and capture any additional key points in their Learning Journal. <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). • The relevance of section 15 to police certificates. • False vs misleading and when character or 58(6) is at play • The conditions or instructions that apply to character waivers. <p>Answer any final questions from the group.</p>	Slide 32	
1 min	<p>Summarise:</p> <p>Show slide and say: Thank you for your time today. We will close with our MBIE Closing Karakia.</p> <p><i>Ka hiki te tapu Kia wātea ai te ara Kia tūruki ai te ao mārama Hui e, Taiki e</i></p> <p>Thank you for attending today. Mā te wā (see you later).</p>	<p>Slide 33</p> <p>Slide 34</p>	

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