



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

July 2018

Victims of Domestic Violence

Immigration Instructions Training



OFFICIAL INFORMATION ACT
RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Purpose of the instructions

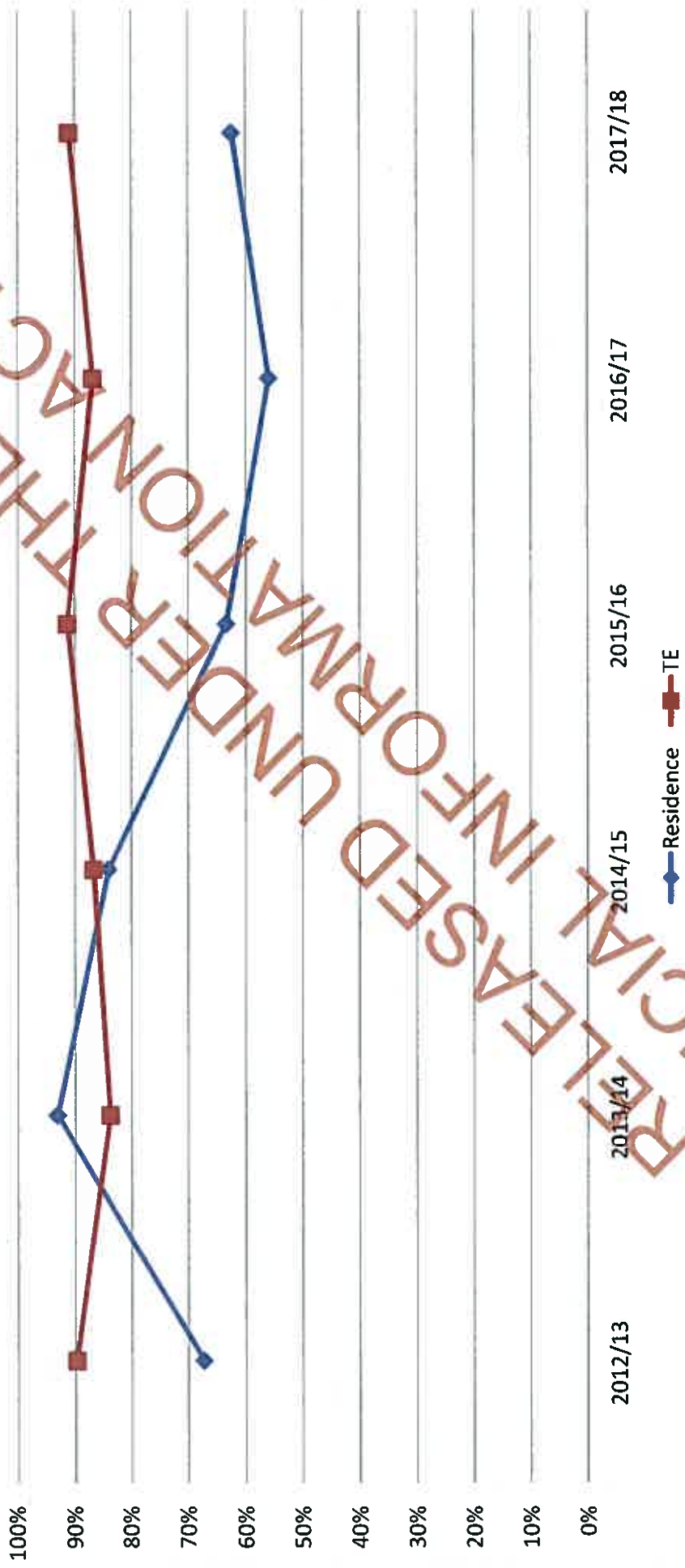
The Domestic Violence Instructions provide for a two-phase process of work and residence visas to be available to assist individuals.



Application numbers



Approval rates



3 Meaning of domestic violence

In this Act, *domestic violence*, in relation to any person, means violence against that person by any other person with whom that person is, or has been, in a domestic relationship.

- In this section, *violence* means—
- a. physical abuse:
 - b. sexual abuse:
 - c. psychological abuse, including, but not limited to,—
 - intimidation:
 - harassment:
 - damage to property:
 - threats of physical abuse, sexual abuse, or psychological abuse:
 - financial or economic abuse (for example, denying or limiting access to financial resources, or preventing or restricting employment opportunities or access to education):



4 Meaning of domestic relationship

(1)

For the purposes of this Act, a person is in a *domestic relationship* with another person if the person—

(a)

is a spouse or partner of the other person; or

(b)

is a family member of the other person; or

(c)

ordinarily shares a household with the other person; or

(d)

has a close personal relationship with the other person.



S4.5 Residence Category for victims of domestic violence

S4.5.1 Objective

The objectives of the residence category for victims of domestic violence is to:

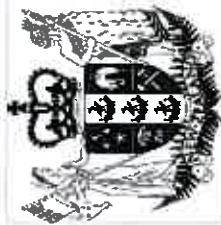
- enable partners of New Zealand citizens or residence class visa holders to remain in New Zealand where they:
 - intended to seek residence class visas on the basis of their relationship which has ended because of domestic violence to either the non-resident partner or their dependent child; and
 - cannot return home because of the impacts of stigma, or because they would have no means of independent financial support from employment or other means; and
- recognise New Zealand's international obligations, particularly to:
 - end discrimination against women in all matters related to marriage and family relations (Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women); and
 - protect children from mental and physical violence (Article 19 of the United Nations Convention on the Rights of the Child);



Country Research Branch

- <http://thelink/groups/Pages/country-research-branch.aspx>





Ministry of Business, Innovation & Employment

Requestor Name

External requestor

Response required by * Allow 5 working days per standard;
1-2 working days for urgent

Flexible deadline?

Business unit *

Is this related to DV Immigration instructions? Please see [CRB Information](#) on submitting a research request

Client number

Country *
We recommend you use one request from per country.

Select at least one country

- Afghanistan
- Albania
- Algeria
- Angola
- Argentina

Location in country
Province, region, etc

OFFICIAL INFORMATION ACT



Request context

Please provide a brief summary of the client and their situation - information such as are they in detention, their gender, age, ethnicity, religious background, political affiliations etc. as relevant.

Priority research questions *

Please provide variant spellings of names if you know of any

Other research questions

Total number of questions

What information or supporting material do you have?

Please specify

Attachments

 [Click here to attach a file](#)

Submit

Cancel

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S4.5.2 Who is eligible for a resident visa for victims of domestic violence

People in New Zealand who:

- a. are, or have been, in a partnership (see [F2.5b](#)) with a New Zealand citizen or residence class visa holder; and
- b. had intended to seek a residence class visa in New Zealand on the basis of that relationship; and
- c. that partnership has ended due to domestic violence by the New Zealand citizen or residence class visa holder or by someone with whom the applicant is living with in a domestic relationship; and
- d. are unable to return to their home country because:
 - a. would have no means of independent financial support from employment or other means, and have no ability to gain financial support from other sources; or
 - b. would be at risk of abuse or exclusion from their community because of stigma; and
- e. meet health and character requirements (see [A4](#) and [A5](#));
- f. may be granted a resident visa.

Note: For the purpose of these instructions, 'domestic relationship' has the meaning set out in s4 of the Domestic Violence Act 1995.



Evidence of domestic violence

Evidence of domestic violence means:

- a. a final Protection Order against the New Zealand citizen or resident partner, or someone with whom the applicant is living in a domestic relationship, under the Domestic Violence Act 1995; or
- b. a relevant New Zealand conviction of the New Zealand citizen or residence class visa holder partner, or someone with whom the applicant is living in a domestic relationship, of a domestic violence offence against the principal applicant or a dependent child of the principal applicant; or
- c. a complaint of domestic violence against the principal applicant or a dependent child investigated by the New Zealand Police where the New Zealand Police are satisfied that domestic violence has occurred; or
- d. a statutory declaration from the applicant stating that domestic violence has occurred and two statutory declarations completed by persons competent to make statutory declarations that domestic violence has occurred (see S4.5.6 below).



Persons competent to make a statutory declaration

Statutory declarations from the following persons stating that they are satisfied that domestic violence has occurred are acceptable as evidence of domestic violence:

- social workers who are:
 - registered with the Social Workers Registration Board, or
 - full members of the Aotearoa New Zealand Association of Social Workers, or
 - employed in the public service under the State Sector Act 1988;
 - doctors registered with the New Zealand Medical Council;
 - nurses registered with the Nursing Council of New Zealand;
 - psychologists registered with the New Zealand Psychologists Board;
 - counsellors who are members of the New Zealand Association of Counsellors; and
 - experienced staff members of Child Youth and Family approved women's refuges. Such staff members must be nominated by:
 - the National Collective of Independent Women's Refuges
 - Shakti Community Council.
- a. In order to meet the requirements above, an applicant must supply a statutory declaration from people acting in their professional capacity from **two of the groups listed above**. The two people must be unrelated professionally (for example, they cannot be a doctor and a nurse from the same practice).
- b. Immigration officers may verify that statutory declarations provided as evidence of domestic violence have been made by the appropriate person by contacting the professional bodies listed above.



Evidence that the principal applicant* has been in a partnership with a New Zealand citizen or residence class visa holder

Evidence may include, but is not limited to, original or certified copies of:

- a. an original or certified copy of a marriage certificate
- b. correspondence (including postmarked envelopes) addressed to both principal applicant* and the New Zealand citizen or residence class visa holder;
- c. evidence of communication between the couple;
- d. photographs of the couple together;
- e. documents indicating public recognition of the relationship;
- f. evidence of any specific arrangements and/or engagement ceremonies which have been carried out;
- g. communication between the parents of the couple and/or a person acting as a go-between or matchmaker;
- h. other documents indicating public recognition of the arrangements and/or engagement ceremony;
- i. confirmation from independent sources that such arrangements and/or engagement ceremonies are in accordance with the cultural custom of the parties concerned;
- j. a joint mortgage, tenancy agreement or rent book;
- k. birth certificates of their children;
- l. proof of joint assets;
- m. proof of shared income; and
- n. proof of shared bank accounts.



Evidence of living in a domestic relationship with the perpetrator of domestic violence

Evidence that the principal applicant has been living in a domestic relationship with the perpetrator of domestic violence includes:

- a. confirmation from the New Zealand Police that they are satisfied the domestic violence was perpetrated by someone living at the same address;
- b. a statutory declaration by the applicant that the perpetrator of domestic violence lived at the same address as the applicant and was a member of applicant's partner's family;
- c. a statutory declaration by one of the professionals listed at S4.5.6 stating that the person lived at the same address as the applicant;
- d. any other documentary evidence that the person lived at the same address as the applicant.



Evidence of inability to return to the home country – residence applicants only

- Principal applicants* must provide evidence in the form of documents and/or information provided at an interview with an immigration officer, that if they returned to their home country they:
 - a. would have no means of independent financial support from employment or other means, and have no ability to gain financial support from other sources, or
 - b. would be at risk of abuse or exclusion from their community because of stigma.
- The INZ may refer to any relevant information when determining the ability to return to their home country.



WI7.1 Who is eligible for a special work visa

People in New Zealand:

- a. who are, or have been in a partnership (see [F2.5b](#)) with a New Zealand citizen or residence class visa holder; and
- b. had intended to seek residence in New Zealand on the basis of that partnership; and
- c. that partnership has ended due to domestic violence by the New Zealand citizen or residence class visa holder or someone with whom the applicant is living in a domestic relationship; and
- d. who show a need to work in order to support themselves;
- e. may be granted work visas valid for 6 months. This may be extended to nine months if the applicant applies for residence.

Note: For the purpose of these instructions, 'domestic relationship' has the meaning set out in section 4 of the Domestic Violence Act 1995.

Effective 29/11/2010



Making an application

- a. Applications must be made in the prescribed manner (see R2.40); but an appropriately delegated immigration officer may waive:
 - the application fee; and
 - police certificates, if these are not available from a particular country.
- b. Where police certificates are not available, the applicant must make and provide a separate statutory declaration in both English and their own language. The statutory declaration must:
 - detail the applicant's attempts to obtain a police certificate; and
 - state whether the applicant and any accompanying family members have been convicted; or found guilty of, or charged with offences against the law of that country, or have not been charged with any offences against the law of that country; and
 - be corroborated by other information confirming the applicant's character.).

Any work visas granted under this provision may be endorsed with conditions that allow work for any employer.



Determination of applications

- Applications will be determined by immigration officers who have received specialist training on this instructions.
- Applications under these instructions will be given priority processing.



Scenario One

- Mark is applying for a Resident Class Visa as the Victim of Domestic Violence.
- Mark is currently on a Temporary Visa under the Domestic Violence Instructions.
- Mark has provided the following evidence that domestic violence has occurred:
 - Statutory Declaration from Dr Katherine Mitchell from Angels Surgery in Auckland and evidence of her registration with the medical council of New Zealand
 - Statutory Declaration from Nurse Brian Seamore from Angels Surgery in Auckland and evidence of his registration with the nursing council of New Zealand.
 - Statutory Declaration from Mark himself confirming that Domestic Violence has occurred.

Is the evidence provided by Mark sufficient evidence that Domestic Violence has occurred?



Scenario Two

- Mark is applying for a Resident Class Visa as the Victim of Domestic Violence.
- During the course of his Interview with an Immigration Officer Mark provided the following facts:
 - Mark is from Surrey in the United Kingdom and moved to New Zealand to be with his partner three years ago.
 - Mark was a teacher back in the United Kingdom and both his parents live in Surrey.
 - Mark has three sisters who also live in Surrey and whom he is in regular contact with.
 - Mark completed his Teaching credentials from Oxford University in the United Kingdom.
 - Surrey has several organizations and platforms that provide financial aid for victims of domestic violence.
 - Surrey is well known for advocating for victims of domestic violence.

Has Mark demonstrated that he is unable to return home? If not, why?

