

5 December 2023

Hon Erica Stanford
Minister of Immigration

By email: erica.stanford@parliament.govt.nz

Tēnā koe Minister

I am writing on behalf of the New Zealand Law Society Te Kāhui Ture o Aotearoa (Law Society), to congratulate you on your appointment as Minister of Immigration.

The Law Society is committed to continuing its active participation in the development and interpretation of immigration law and policy. We take this opportunity to share with you some of our key priorities in this area, and extend an invitation to discuss this further.

Background

The Law Society is the professional body for lawyers in New Zealand. We are an independent statutory body constituted under the Lawyers and Conveyancers Act 2006 to regulate and represent the legal profession. We regulate just over 16,000 practising lawyers and represent over 98% of lawyers.

The Law Society's role in law reform and advocacy

The Law Society has a statutory function to 'assist and promote, for the purpose of upholding the rule of law and facilitating the administration of justice in New Zealand, the reform of the law.' This is a regulatory function carried out in the interests of the public.

The Law Society is consistently called upon to ensure workable legislation by providing reasoned and impartial submissions on law reform proposals. Law Society submissions also represent the public interest on matters such as access to justice, the administration of justice, constitutional protections, and the rule of law. We also act as an impartial intervenor in leading court cases of general and public importance in the higher courts.

The Immigration and Refugee Law Committee

To carry out this work,¹ the Law Society has over 170 volunteer lawyers, sitting on 17 committees, who contribute to submissions on bills, policy papers, working groups, and the like. The **Immigration and Refugee Law Committee**² is one these committees, comprised of eight experienced immigration lawyers, including members working with Community Law Centres and in large firms. We work with Immigration New Zealand (INZ) where possible, and

¹ Further information about the breadth of our law reform and advocacy work can be found on our [website](#).

² Further information about the Immigration and Refugee Law Committee and its members, can be found [here](#).

participate in a number of reviews and working groups, including the Immigration Reference Group and the Focus Group arising out of the 2021 Casey Review.

Key priorities

Adherence to policy processes and consultation

Robust policy process and early consultation helps ensure effective and workable laws, and reduces the need for subsequent remedial reforms and litigation. By engaging stakeholders and allowing meaningful consultation (including providing draft legislation or amendments to the Operational Manual at an early stage, where possible), INZ and the Ministry of Business, Innovation, and Employment (MBIE) can develop fair and practical immigration law and process.

However, public consultation seems not to be routine for INZ³ and industry consultation can at times appear to be a 'tick box' exercise. Legislation such as the Mass Arrivals Bill has been developed and drafted out of sight, and insufficient consultation has occurred around changes to the Operational Manual, such as recent amendments relating to the provision of false and misleading information.⁴

Victims of Family Violence Visa Review

In late 2022, MBIE commenced a review of the Victims of Family Violence Visa, including its eligibility requirements. In June this year, MBIE advised it had placed scoping work on hold until September/October.

There remain pressing issues with these visas, which have not been substantially amended since their introduction and are no longer fit for purpose. These issues include the information accepted as evidence of family violence, and the requirement (for a resident visa) that the applicant cannot return to their home country due to financial hardship or stigma. Some applicants may have come to New Zealand from reasonably affluent countries in which there is no great stigma around marriage dissolution or family violence, yet as victims of family violence here in New Zealand on the basis of their partnership, they will be left in the position of having to leave what may now be their home, and potentially even their children.

Refugee Family Support Category Tier 2

The Refugee Family Support Category (RFSC) visa category allows refugees in New Zealand to sponsor visa applications from overseas family members. RFSC sponsor registrations are managed by a two-tier system, which offers 600 spaces annually across both tiers. Tier 1 sponsors have no other family in New Zealand and are given first access. Any places which remain after that are then offered to tier 2 sponsors, who already have some adult family members (for example, a spouse or an adult child) in New Zealand.

The last tier 2 selection took place in 2016. As at 31 October 2023, there were 954 tier 2 registrations in the queue, representing 4207 family members.⁵ While it remains 'closed', no further potential tier 2 sponsors can register. Some applications have been queued for over five years, affecting family members who are often living in dire circumstances (including refugee camps). Once a tier 2 registrant is selected, it can take years for the process to be completed and the family members to arrive in New Zealand.

³ The number of closed public consultation items since May 2017 is seven:
[https://www.mbie.govt.nz/have-your-say/?topic\[5\]=5&type\[closed\]=closed](https://www.mbie.govt.nz/have-your-say/?topic[5]=5&type[closed]=closed)

⁴ We will be writing to INZ regarding these specific changes in due course.

⁵ <https://www.immigration.govt.nz/documents/statistics/statistics-refugee-and-protection.pdf>

For some time now it has been unclear when selections would next occur, and tier 2 would 'open' again so as to allow further registrations. For many overseas families of refugees, there is no visa pathway open to them while tier 2 remains closed, and for family members here in New Zealand, this can make it more challenging to settle and thrive. Meaningful progress on the current pool of tier 2 registrations will only become more difficult, and we encourage you to consider addressing this in the immediate future.

Future engagement

We would appreciate an initial opportunity to meet with you or to answer any questions arising from the above, and would welcome regular, perhaps annual, meetings. To arrange a meeting at a time convenient to you I invite your officials to please contact [Aimee Bryant](#), Manager Law Reform and Advocacy.

You can contact me via [Bronwyn Jones](#), General Manager Policy, Courts and Government, or president@lawsociety.org.nz.

Nāku noa, nā

A handwritten signature in black ink that reads "Frazer Barton". The signature is written in a cursive style with a large initial 'F'.

Frazer Barton
President