



NEW ZEALAND
IMMIGRATION

REFUGEE STATUS UNIT

PRACTICE NOTE

(Refugee and protection
status determination)

October 2022



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

New Zealand Government

This Practice Note takes effect from

October 2022

Refugee Status Unit

PRACTICE NOTE

(REFUGEE AND PROTECTION STATUS DETERMINATION)

Table of Contents

DOCUMENT CONTROL	6
JURISDICTION.....	6
PRINCIPLES.....	6
DEFINITIONS.....	7
CONTACTS.....	9
INFORMATION ONLINE	11
Statistics	11
COMMUNICATIONS AND CORRESPONDENCE	11
OVERVIEW OF A CLAIM.....	12
PROCESS FOR MAKING A CLAIM	12
REFUGEE AND PROTECTION CLAIM PROCESS MAP AND TIMELINE	14
VARIATIONS IN PROCESS FOR SOME CLAIMS AND MATTERS	15
Manifestly unfounded, clearly abusive or repeat subsequent claims	15
Claimants in detention.....	15
Travel.....	16
Cohorts.....	16
Vulnerable claimants	16
Complex claims	16
Timeframe for decisions between December and January (Christmas/ New Year Period)	17
CLAIMANTS’ RIGHTS AND RESPONSIBILITIES.....	17
Claimants’ rights	17
Claimants’ responsibilities	18
CONFIDENTIALITY	19
REPRESENTATION	19
SPECIAL NEEDS OF CLAIMANTS	19
FAMILY CLAIMS AND CHILDREN	20
INFORMATION, EVIDENCE AND SUBMISSIONS	21
Shared inquiry	21
Information Sources.....	21

Country information	22
Format of information	23
Evidence from psychologists and mental health professionals.....	23
Potentially prejudicial information	23
Translations.....	24
Additional information – powers of RPOs	24
OFFICIAL INFORMATION ACT AND PRIVACY ACT REQUESTS.....	25
Privacy Act requests.....	25
Official Information Act requests.....	25
PROCEDURAL STEPS.....	25
Making a Claim.....	25
Acknowledgement of claim	26
WRITTEN STATEMENT.....	26
Conditional statements.....	27
THE INTERVIEW.....	27
Preparing for the interview.....	27
The interview day.....	28
Biometric enrolment.....	29
What to bring to the interview	29
Role of representative at interview	29
Observers and support people	30
INTERPRETER.....	30
REFUGEE AND PROTECTION INTERVIEW REPORTS	31
RESPONSE	32
DECISIONS	33
APPEAL PROCESS IF UNSUCCESSFUL.....	33
EXTENSIONS AND ADJOURNMENTS	33
Requests for extensions of time for written work.....	34
Requests to adjourn interview in advance of the interview date	34
Failure to attend on the day of interview or request for adjournment shortly prior to interview	34
WITHDRAWALS	35
CONSEQUENCES OF NON-COMPLIANCE.....	35
Failure to attend interview	36
FEEDBACK AND COMPLAINTS.....	36

DOCUMENT CONTROL

1. This original version of the Practice Note was effective from 1 March 2021.
2. This Practice Note is to be reviewed by the Refugee and Migrant Services branch in collaboration with stakeholders annually.
3. This version of the Practice Note was reviewed in September 2022 and is effective from October 2022.

JURISDICTION

4. This Practice Note provides guidance to claimants and their representatives and sets out expectations on them with respect to processes and procedures for determining a person's refugee or protected person status by a refugee and protection officer at the Refugee Status Unit. Section 149 of the Immigration Act 2009 specifically outlines the powers of refugee and protection officers.
5. Furthermore, under section 136 of the Act a refugee and protection officer may determine the procedures to be followed for any individual claim. This is subject to Part 5 of the Act, any relevant regulations and any general instructions given by the Chief Executive to refugee and protection officers under section 26(4) of the Act.
6. This Practice Note should be read in conjunction with the matters set out in the Act, and any relevant regulations and general instructions of the Chief Executive under section 26(4) of the Act. Where there is any inconsistency between this Practice Note, and the Act, regulations, or general instructions of the Chief Executive, the others will prevail over the Practice Note.
7. Refugee and protection officers are also guided by internal Standard Operating Procedures.
8. Refugee and protection officers only determine a person's status as a refugee or protected person. They do not make decisions on visas. If a claimant or refugee or protected person wishes to maintain their visa, they must apply for this separately to Immigration New Zealand. Claimants are responsible for ensuring their visas remains valid throughout the duration of the determination process.
9. For information on visas for claimants, refugee and protected persons see the Immigration New Zealand [website](#).

PRINCIPLES

10. The determination process is robust and objective standards apply.
11. As in all administrative decision making, principles of fairness and natural justice apply, which include giving a person a fair hearing and avoiding bias.
<https://www.immigration.govt.nz/opsmanual/#45333.htm>
12. Providing international protection (refugee or protected person status) is a humanitarian purpose, reflecting the universal right to seek and enjoy asylum.
13. The process reflects these humanitarian goals, and the Ministry of Business, Innovation and Employment's values including manaakitanga. It is respectful and considerate of those seeking international protection in New Zealand.

DEFINITIONS

14. In this Practice Note, most of the definitions for the terms below come from the interpretation section of the Act. Where there is a difference, an explanation is provided:

Act means the Immigration Act 2009. It may be accessed at www.legislation.govt.nz.

Asylum means refugee or protected person status.

Asylum seeker has the same meaning as claimant.

CAT means the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹

Chief Executive means the Chief Executive of the Ministry of Business, Innovation & Employment.

Claim means a claim by a person in New Zealand for recognition in New Zealand as a refugee and/or a protected person.²

Claimant means a person making a claim but not a person whose claim has been finally determined.³

Confirmation of Claim form means a Confirmation of Claim to Refugee and Protection Status in New Zealand form INZ 1071.

Country of origin information means information that is used in procedures that assess claims to refugee status or other forms of international protection. Examples include independent reports, articles or research on the country of origin or other relevant countries. For more information, see the INZ website at:
<https://www.immigration.govt.nz/documents/statistics/guidetocoisourcesonline.pdf>.

Cruel treatment means cruel, inhuman, or degrading treatment or punishment.⁴

Detention/Detained claimant means those who are subject to any restriction of liberty under the Immigration Act 2009. This includes a claimant who has been arrested and detained under section 313 of the Act or is detained under a warrant of commitment under section 316 or is subject to release conditions under section 320 or to residence and reporting requirements under section 315. A detained person may be in a Corrections' facility (prison), at Te Āhuru Mōwai o Aotearoa (Mangere Refugee Resettlement Centre), or living in the community.

Determination process means the process of making a decision as to whether a person should be recognised as a refugee or protected person, or whether a person's recognition as a refugee or protected person should cease or be cancelled.

¹ United Nations General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987, in accordance with article 27 (1). <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

² Defined in section 4 of the Act.

³ Defined in section 4 of the Act

⁴ Defined in section 131(6) of the Act.

ICCPR means the International Covenant on Civil and Political Rights.⁵

INZ means Immigration New Zealand.

Matter means a procedural or other issue relating to refugee or protected person status that is not a claim. For example, it is used to refer to cancellation or cessation of a person's status under sections 143 to 146 of the Act.

MBIE means the Ministry of Business, Innovation & Employment.

Minor means a person who is under 18 years of age and who is not married or in a civil union.⁶

Protected person means a person who has been recognised as qualifying for protection under the CAT or ICCPR as per sections 130 or 131 of the Act.

Refugee means a person who has been recognised as a refugee under the Act or was brought to New Zealand under the Refugee Quota Programme.⁷

Refugee Convention means the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees.

Regulations mean the Immigration (Refugee and Protection Processing) Regulations 2010.

Representative means a lawyer or licensed immigration adviser.

Review means cancellation or cessation of refugee or protected person status under sections 143 to 147 of the Act.

RPO means a refugee and protection officer. See sections 4 and 390 of the Act.

RSU means the Refugee Status Unit (formerly known as the Refugee Status Branch).

Subsequent claim means a claim under Part 5 of the Act by a person who has previously made a claim of any kind under that Part (or under Part 6A of the former Act) that has been finally determined.

Status determination means the decision and process to determine whether a person should be recognised as a refugee or protected person, or have that status cancelled or ceased.

Tribunal means the Immigration and Protection Tribunal.

UNHCR means the Office of the United Nations High Commissioner for Refugees. Canberra, Australia is the local office for New Zealand.

Working days mean a day of the week other than —(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Matariki Day, and Labour Day; and (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and (c) if 1 January falls on a Friday, the following Monday; and (d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and (e) if

⁵ United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966, and in force from 23 March 1976 in accordance with Article 49 of the covenant.

<https://www.ohchr.org/EN/Issues/RuleOfLaw/CompilationDemocracy/Pages/ICCPR.aspx>

⁶ Defined in section 375 of the Act.

⁷ Sections 126 and 129 of the Act.

Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday. See section 29 of the Interpretation Act 1999.

CONTACTS

15. The RSU can be contacted via the below:

Physical address

Refugee Status Unit
162 Victoria Street West
Auckland 1010

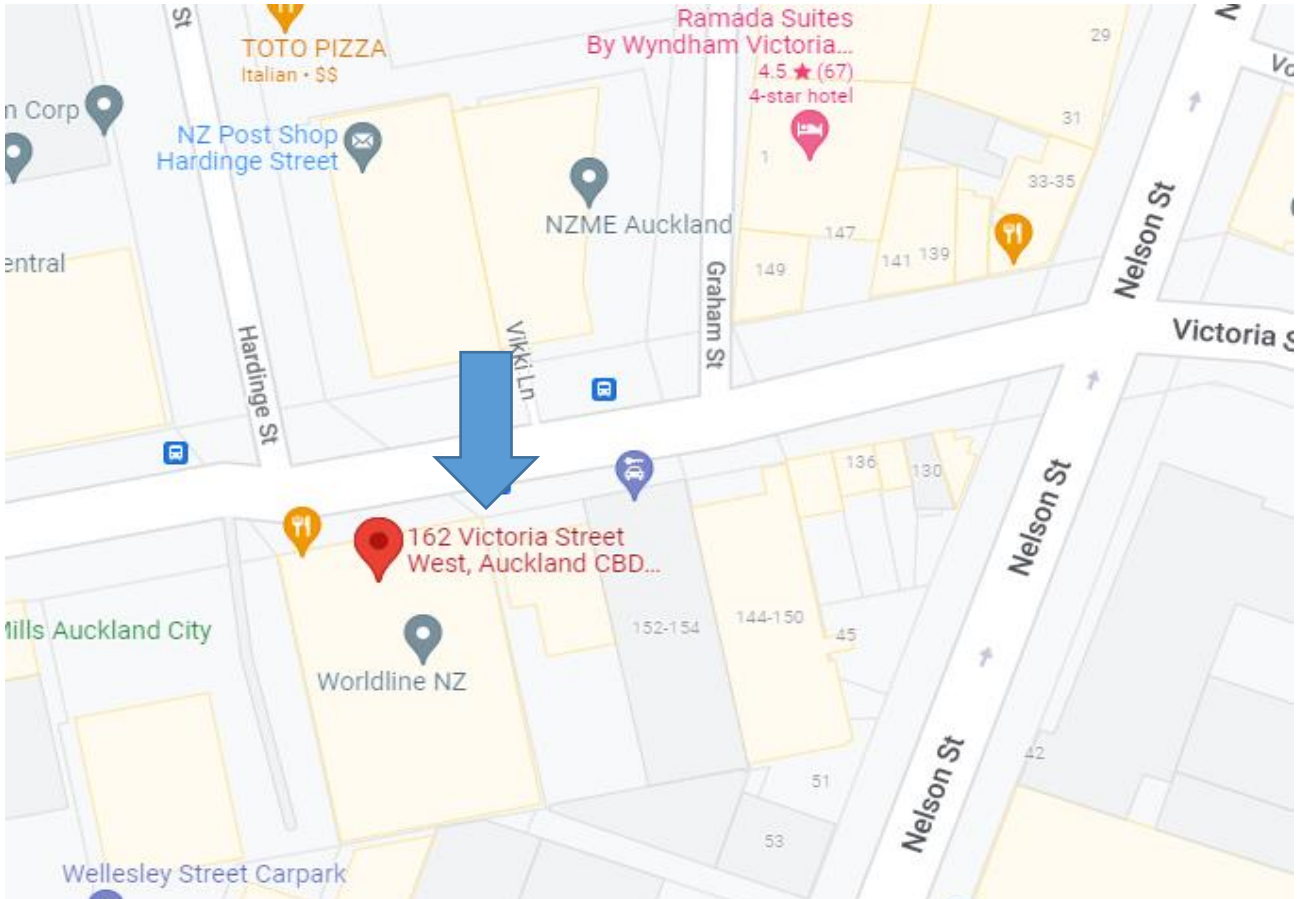
Postal address

Refugee Status Unit
PO Box 90533
Victoria Street
Auckland 1142

Email and Phone

Phone: + 64 9 928 2236
Fax: +64 9 914 5298
Email: RSU@mbie.govt.nz

16. Opening hours are 8.00 am to 5.00 pm, Monday to Friday. Closed weekends and public holidays.
17. The RSU does not have an after-hours emergency contact number. Please refer to the INZ website: <https://www.immigration.govt.nz/contact>
18. For those attending the RSU in person, the entrance to the building at 162 Victoria Street West.



Parking

19. The RSU cannot provide car parks. Paid parking is available at various parking buildings in the vicinity, such as Victoria Park Market, Halsey Street and Wellesley Street.

INFORMATION ONLINE

20. The [RSU page](#) on the INZ website has information in English and some other languages including:
 - a. This Practice Note;
 - b. Guidelines on how to make a claim;
 - c. The Confirmation of Claim form (INZ 1071) and Confirmation of Claim to Refugee and Protection Status Guide (INZ 1361);
 - d. Refugee and Protection Status Claim – Written Statement Guidelines (INZ 1362);
 - e. Requirements for medical examinations and x-rays for claimants wishing to apply for a work visa;
 - f. Appointing a lawyer or licensed immigration adviser as a representative and how to apply for legal aid;
 - g. Status determination process and timeframes;
 - h. Guidelines on children and minors, confidentiality and psychologically vulnerable claimants;
 - i. Information about the claims process in English and other languages;
 - j. Information about support and services for claimants in English and other languages; and
 - k. Information for people who have been recognised as a refugee or protected person.

The URL is: <https://www.immigration.govt.nz/audiences/supporting-refugees-and-asylum-seekers/asylum-seekers>.

Statistics

21. INZ publishes non-identifiable statistical information on refugees and claims here:
<https://www.immigration.govt.nz/about-us/research-and-statistics/statistics>

COMMUNICATIONS AND CORRESPONDENCE

22. All communications must be in English. Any information provided in a language other than English must be accompanied by a certified translation by an independent translator into English. Best practice is that this is provided by a qualified and certified translator.
23. It is expected that all parties are timely, respectful and professional in their communications and correspondence.

24. In general correspondence is by post, courier and/or email. If the claimant or their representative wishes to receive correspondence by other means, they should advise the RPO of this at the earliest opportunity.
25. Interview Reports are couriered to the claimant and/or their representative. An electronic version may also be sent by email.
26. Decisions are couriered to the representative. In the event that a claimant is not represented, the decision will be couriered to the claimant's last known home address.
27. Claimants must advise the RSU if their contact address changes while their claim is being determined.
28. Representatives are responsible for advising the RSU if their address for service changes. This must be notified to the RSU via email: RSU@mbie.govt.nz or by letter.

OVERVIEW OF A CLAIM

29. The Act, states that any person in New Zealand wishing to be recognised as a refugee or protected person must make a claim, which is to be determined by a RPO at first instance. Part 5 of the Act sets out the statutory basis for status determinations.
30. Under Part 5 of the Act, for every person who makes a claim, regardless of whether this is for refugee or protected person status or both, the RPO will determine whether the person meets the criteria for a refugee status under section 129 or protected person status under sections 130 or 131.
31. If, having gone through the determination process, the claimant meets the relevant criteria, the person must be recognised as a refugee or protected person as the case may be.⁸
32. A claimant or person whose status is being determined has the right to seek legal advice at any stage in the process. If a person wishes to speak to a lawyer, the RSU can provide a list of legal aid lawyers.

PROCESS FOR MAKING A CLAIM

33. The detailed steps in the claim determination process for a claim are set out below and a process map and timeline. Note that some types of claims may have a different process (see paragraph [34] onwards).
 - a. A person signifies an intention to claim (this is an optional step, and can be made, for example, at the border on arrival to an immigration officer or a police officer). Once the intention to claim reaches the RSU, the RSU will contact the person in writing and/or by email, and provide a letter setting out the process to be followed and providing the forms and other information as per below.
 - b. A person who signifies an intention to claim, in effect, makes a claim. They must either confirm it in writing, by completing a Confirmation of Claim form or withdraw it. The RSU expects to receive the form within 20 working days. A letter will be sent advising that if the person does not contact the RSU or complete the necessary steps, an RPO may

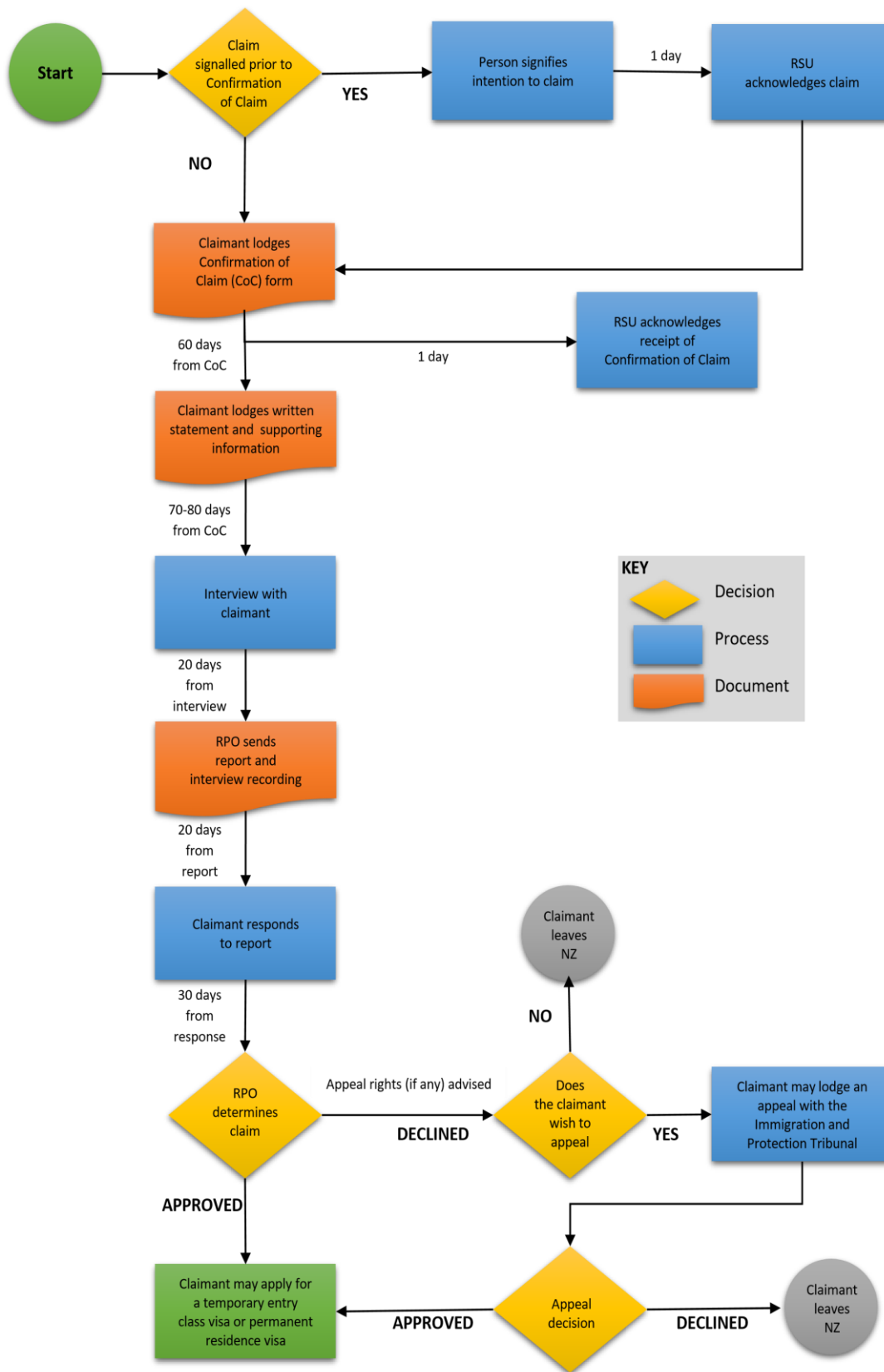
⁸ Sections 129 to 131 of the Act.

proceed to determine the claim on the information available. If declined, the person will not be eligible to apply for a further visa while in New Zealand.⁹

- c. If no intention to claim is signified, the claim process starts when a person completes and lodges a Confirmation of Claim form ([INZ 1071](#)).
- d. At lodgement of the Confirmation of Claim form, the claimant or representative should indicate four days (two x two consecutive days) on which they are available to attend an interview with an RPO, no more than 16 weeks after the date the claim is provided to the RSU.
- e. The RSU raises the claim, provides a letter confirming receipt to the claimant or representative and confirms the interview date(s). Note that raising a claim and acknowledging receipt of it do not constitute accepting it for consideration under section 134 or 140 of the Act.
- f. The claimant lodges a written statement no more than 12 weeks from lodgement of the Confirmation of Claim form.
- g. The claimant attends the scheduled interview with the RPO (see section below on the interview) 14 to 16 weeks from lodgement of the Confirmation of Claim form. The RSU will provide an independent interpreter (see section below). The claimant's representative may also attend the interview.
- h. The RPO sends the claimant a refugee and protection interview report, which summarises the RPO's understanding of the claim and provides the claimant an opportunity to comment on any matters of concern, such as credibility, or reasons the claim may be declined (see section below on the interview report). In some cases, the RPO may elect to send not a full report, but a letter.
- i. The claimant responds to the report or letter, and may submit additional information, evidence and submissions. (See section below on the response)
- j. If the process is delayed, the RPO will advise the claimant, and provide the date when the RPO expects the decision to be made. The claimant may provide further information they wish to have considered and should advise the RPO if they wish to do so, and when it will be provided.
- k. The RPO makes a final decision and informs the claimant or representative of the outcome in a decision letter, along with a copy of the reasons for the decision.
- l. If declined, the claimant is advised of their rights to appeal.

⁹ Section 150 of the Act.

REFUGEE AND PROTECTION CLAIM PROCESS MAP AND TIMELINE



Days = Working Days (e.g. 5 days = one week)

VARIATIONS IN PROCESS FOR SOME CLAIMS AND MATTERS

34. Some types of claims and matters may have a different process and timeframes to those described above. If a modified process is proposed, the claimant will have an opportunity to comment in writing.

Subsequent claims

35. If a person makes another claim after a previous claim has been finally declined, it is known as a 'subsequent claim'.
36. To be accepted for consideration, a subsequent claim must meet certain additional criteria, as set out in section 140 of the Act. The RPO must be satisfied that "there has been a significant change in circumstances material to the claim since the previous claim was determined." The claimant must act in good faith, and cannot have created the changed circumstances for the purposes of creating grounds for recognition as a refugee or protected person.
37. The claimant should provide the grounds on which they are basing their subsequent claim before the interview. These should be provided in their Confirmation of Claim form and their written statement, along with any new information, evidence and submissions they wish to have considered.
38. The offer of an interview for a subsequent claim by a claimant does not mean that the subsequent claim has been accepted for consideration. The RPO determines whether to accept a subsequent claim for consideration and whether to recognise the person as a refugee or protected person in the decision issued at the end of the process.
39. Some subsequent claims may undergo a modified process. For example, the interview timing may be modified, or the RPO may choose not to issue an interview report, or a letter with matters for response, if all matters have been put to the claimant at interview.

Manifestly unfounded, clearly abusive or repeat subsequent claims

40. The RPO may refuse to consider a subsequent claim if they find that the claim is manifestly unfounded or clearly abusive or repeats any claim previously made as per section 140(3) of the Act.
41. In such cases, the RPO may decide the claim without offering an interview. If this is a possible outcome, the RPO will first write to the claimant setting out why the claim may be refused and provide an opportunity to respond.
42. If the RPO decides that the subsequent claim is manifestly unfounded or clearly abusive or repeats any claim previously made, this decision cannot be appealed to the Tribunal.¹⁰

Claimants in detention

43. Claimants in detention are considered those who are subject to any restriction of liberty under the Immigration Act 2009. This includes a claimant who has been arrested and detained under section 313 of the Act or is detained under a warrant of commitment under section 316 or is subject to release conditions under section 320 or to residence and reporting requirements under section 315. A detained person may be in a Corrections' facility (prison), at Te Āhuru Mōwai o Aotearoa (Mangere Refugee Resettlement Centre), or living in the community.

¹⁰ Sections 140(3) and 195.

44. Claimants who are detained under the Immigration Act have an expedited process, in particular the timeframes are half those of the normal process. A process map and timeline for detainees is available on the RSU website.
45. However, at any time during the process detained claimants may request that their claim not be expedited. This should be requested in writing, using the form on the RSU website. If a detained claimant opts out of an expedited process it is possible they may spend a longer period of time in detention while their claim is processed. Opting out of the expedited process should be in the best interests of the claimant.
46. Note that the option to opt out of the expedited process does not affect statutory timeframes for lodging an appeal should the claim be declined.
47. In addition, claimants in penal detention may have a longer interview scheduled (extended hours) owing to restrictions on accessing people in Corrections' facilities. This will be discussed with the claimant's representative in advance and will be in the best interests of the claimant.

Travel

48. Claims where anyone required to attend the interview must travel a significant distance or time to the interview location may have extended interview hours. This would be by agreement of all the parties in writing and should be in the best interests of the claimant.

Cohorts

49. The RSU or RPO may modify the procedure for:
 - a. Claims which are part of a cohort of claims based on their common circumstances or common characteristics of the claims such that they appear prima facie unmeritorious; and/or
 - b. Claims which are part of a cohort of claims based on common circumstances or common characteristics of the claimants making the claim such that they appear prima facie unmeritorious.
50. Procedural modifications may include an expedited process, a request for additional information in advance of the interview, that the claimant present for biometrics in advance of the interview, and that certain stages of the process, such as the written statement or interview report may be truncated or omitted.
51. The claimant will have the opportunity to comment on their inclusion in a cohort based on the criteria listed above in order to establish that their claim is not prima facie unmeritorious.

Vulnerable claimants

52. Claimants who are vulnerable or in vulnerable circumstances, and who, in their best interests, may require modified process or timeframes may request or be offered this. Such requests will be considered on a case by case basis. [See below sections on Extensions and Adjournments].

Complex claims

53. Claims and matters which are unusually complex may have adjusted timeframes and processes. For example, interviews may be longer, or more than two half day interviews may

be required. Any modifications will be discussed with the claimant's representative by the RPO beforehand and would preferably be by agreement.

54. Complex claims may include:
- a. Long complex facts, such as complex narratives covering an extended period of time, multiple bases of claim, complex identity or nationality issues, and/or claims based on discrimination and numerous incidents of socio/economic harms.
 - b. Claims with a large volume of documents or other supporting evidence, especially material that is not typical country information, for example technical, financial or scientific evidence or where greater than usual verification or information gathering is required (for example multiple claims in other jurisdictions).
 - c. Cases requiring lengthy, unusual and/or complex legal issues and assessment.

Timeframe for decisions between December and January (Christmas/ New Year Period)

55. The RSU will not issue decisions or other procedural documents from the third Friday of December to the third Friday of January unless otherwise agreed by the RPO and the claimant or representative.
56. Representatives should advise the RPO if they are taking leave outside this period and make arrangements with the RPO for receipt of documents or otherwise request an extension for their clients.

CLAIMANTS' RIGHTS AND RESPONSIBILITIES

Claimants' rights

57. In accordance with section 133(1) of the Act, a claim is made as soon as a person signifies an intention to seek recognition as a refugee or protected person in New Zealand to a representative of MBIE or a police officer.
58. Under section 164 of the Act, a person claiming recognition as a refugee or protected person may not be deported until the claim has been determined.
59. In addition, regulation 5 of the Regulations requires the RPO to inform the claimant of the following rights:
- a. the right to contact a representative of the UNHCR¹¹ (*including how to exercise that right*);
 - b. the right to contact a lawyer or licensed immigration adviser (see "Representation" section below); and
 - c. the right to have an independent interpreter, engaged by MBIE, attend at any interview of the claimant by an RPO.

¹¹ UNHCR is not able to provide individualised assistance to claimants. However, the UNHCR's Multi-Country Representation based in Canberra, Australia and is responsible for the promotion and protection of refugee rights in the region, including New Zealand. UNHCR closely monitors asylum processes, including detention arrangements in New Zealand and works with the Government to promote respect for the international human rights of asylum-seekers and refugees. UNHCR can also provide general information to claimants on how to access essential support services in New Zealand during the asylum process and in certain circumstances, may also be able to assist in verifying an individual's registration with UNHCR outside of New Zealand where needed, provided that consent is provided.

60. More generally, a claimant is afforded rights available to all people in New Zealand such as:
- a. to be treated fairly and lawfully regardless of the claimant's race, gender, age, religion, sexual orientation or any disability;
 - b. to access publicly funded healthcare;
 - c. to attend primary and secondary school (for those under 18);
 - d. to practise their own religion;
 - e. to be issued with an identity document if they do not have a valid travel document;
 - f. to apply for a temporary visa to work, which may also allow them to apply for a benefit from the Ministry of Social Development, or to study or to remain lawfully in New Zealand during the determination of their claim.

Claimants' responsibilities

61. A person making a claim has certain responsibilities.¹² These include:
- a. to establish their claim, including by providing to the RPO all information, evidence and submissions that the claimant wishes to have considered;
 - b. to advise of all potential grounds of the claim;
 - c. to inform an RPO if, to the best of their knowledge, they have any immediate family member in New Zealand who are seeking recognition as a refugee or protected person, and, if possible, to state whether the family member's grounds for claiming are different to their own;
 - d. to complete a Confirmation of Claim form and provide a written statement as soon as possible and within 12 weeks after lodgement of the Confirmation of Claim form;
 - e. to provide information and evidence to corroborate or support their claim, which should be done as soon as possible after the claim has been lodged, but may also be provided to the RPO with the written statement, at interview, in response to the report and at any other time during the determination of the claim;
 - f. to attend a scheduled interview with an RPO;
 - g. to provide all information relevant to their refugee or protected person status, including matters which might lead to their exclusion from refugee status under Articles 1C to 1F of the Refugee Convention;
 - h. to advise of their current contact address and notify the RSU if this address changes;
 - i. to inform the RPO immediately of any new information or change of circumstances that may be relevant to their refugee or protected person status; and
 - j. to respond in a timely manner to all communications from the RSU or RPO, who will also be timely in their communications.

¹² See in particular sections 133 and 135 of the Act.

CONFIDENTIALITY

62. The identity of a person and the details of their claim are confidential to the New Zealand Government and the UNHCR.
63. Claimant information can be entrusted to the RSU and will not be provided to the person or agency they fear.
64. Information about a claimant/claim may be disclosed to others when necessary for lawful purposes under section 151(2) of the Act.
65. The safety of the claimant and any other person is a paramount consideration when considering whether to disclose information.
66. For further information, see [Confidentiality Guidelines](#).

REPRESENTATION

67. A claimant or person whose status is being considered may represent themselves or be represented by a lawyer or licensed immigration adviser or person exempt from licensing under the Immigration Advisers Licensing Act 2007.
68. Lawyers have obligations towards their clients, which are set out in the Rules of conduct and client care for lawyers.¹³ For this and other information, see the New Zealand Law Society's website: <https://www.lawsociety.org.nz/>. These include the obligation to give claimants clear information and advice. Lawyers should also be able to provide a claimant with advice about the reasonable likelihood of success of the claim.
69. Licensed immigration advisers are supervised by the Immigration Advisers Authority - see <https://www.iaa.govt.nz/>.
70. A minor claimant must have a responsible adult, who is usually a parent. They may also have a representative. For information about the rights of minor claimants and the role of the responsible adult, see the RSU's guidelines on [children and minors](#).
71. Claimants who have applied for legal aid and are awaiting for a decision on the outcome of their legal aid application will be treated the same way as all other persons who have lodged a claim at the RSU. The RSU will normally not delay the determination process on the ground that a legal aid application has not been decided. Information about the legal aid process can be found at the Ministry of Justice website: <https://www.justice.govt.nz/courts/going-to-court/legal-aid/>
72. Legal representatives should be diligent in lodging their application for legal aid early, and should commit to meeting the timeframes and other obligations of the determination process.

SPECIAL NEEDS OF CLAIMANTS

73. The RSU endeavours to provide an environment where claimants feel comfortable and are provided the best opportunity to establish their claim.

¹³ The Rules are set out in the Schedule to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

74. Note in particular the RSU's draft guidelines on procedures for psychologically vulnerable claimants [Note these are in development. Please contact the RSU if you would like a copy of the latest draft].
75. A claimant or their representative should advise the RPO as soon as possible of any special needs of the claimant, such as mobility access, young children or other dependants.
76. The claimant or their representative should alert the RSU of any specific gender-related factors (such as claims based on sexual- or gender-related violence) as soon as possible and mention this at the time the Confirmation of Claim form is lodged, so that appropriate arrangements can be made.
77. In such cases, the RSU will endeavour to allocate a claim to an RPO of the same gender as the claimant and to engage a suitable interpreter.
78. Requests cannot be made for a particular RPO, or a change of RPO, on the basis of the actual or perceived race, ethnicity or religion of the RPO.

FAMILY CLAIMS AND CHILDREN

79. Claims for refugee or protected person status are determined on an individual basis. New Zealand law does not provide for family members of a refugee or protected person being given the same status automatically (also known as derivative status).
80. A claimant must inform an RPO if an immediate family member who is in New Zealand is seeking recognition as a refugee or protected person and, if possible, to advise whether that family member has different grounds for claiming.¹⁴ The Confirmation of Claim form requires the claimant to advise if any family members have previously claimed refugee or protection status in any country including New Zealand or registered with UNHCR or the United Nations Relief and Works Agency.
81. The Act sets out specific requirements for minors who are making a claim, whether as part of a family group or not. The RSU has developed guidelines for children and minors, which are available on the INZ website [here](#).
82. Where two or more members of the same family lodge claims, the RSU will generally allocate all the claims to a single RPO. The RPO may consider all of the claims together, unless it is not practicable to do so or there is some other compelling reason not to do so.
83. The RPO should be advised as early as possible if there are any reasons the family's claims should not be heard together and information shared among all members. Reasons may be, for example, a conflict or potential conflict of interest among some family members or aspects of one family member's account that they wish to keep confidential.
84. The RPO may ask all family members to sign privacy waivers in favour of one other to enable sharing of information provided by each family member with other family members. A copy of the standard privacy waiver for family claims is available [here](#).
85. A claimant should advise the RPO in advance of the interview if there are any concerns with sharing their information with other family members. Refusal to sign a privacy waiver without an acceptable reason may lead to an adverse assessment of the claimant's credibility.

¹⁴ Section 133(4) of the Act.

86. Members of a family who are making a claim on the same or similar grounds will normally be interviewed individually and consecutively. As such, it may not be necessary for all family members to attend the RSU at the same time. Please discuss these matters with your RPO.
87. To ensure that the claimant is able to focus on the interview, the claimant must arrange care for their young children for the day or times of the scheduled interview.
88. Without a compelling reason to the contrary, the RPO will usually produce one refugee and protection interview report and reasoned decision for the family, with specific sections for each individual member's circumstances as required.
89. Each family member will receive their own individualised decision letter.

INFORMATION, EVIDENCE AND SUBMISSIONS

Shared inquiry

90. Although quasi-judicial in nature, a refugee and protection status determination is an administrative legal process that differs in some respects to those of the courts. For example, there is not usually a party taking an opposing stance, which occurs in an adversarial process, such as the criminal justice system.
91. The process is a shared inquiry, with both the claimant and the RPO having responsibilities to provide and obtain relevant information.
92. The RPO may consider information from any source but may make a decision based solely on the information and evidence provided by the claimant.
93. All relevant information available to the RPO will be taken into account. The rules around admissibility of evidence do not apply to status determinations.
94. The RPO may determine the weight given to any information and evidence.
95. The RPO is not obliged to accept unverified testimony and other information at face value. Independent evidence the claimant can provide will assist the RPO in determining the facts and credibility of the claim.
96. Given the limits on verifying the details of a claim, the claimant should endeavour to corroborate their account with any information or evidence they have or can obtain, and submit this to the RPO as soon as possible. Examples of this include letters or emails from witnesses and screenshots of social media messages.

Information Sources

97. As well as the written statement(s) and oral testimony provided by the claimant, common sources of information that an RPO may consider are:
 - a. Documents provided by the claimant or others;
 - b. Witnesses statements and interviews, including experts;
 - c. Medical and psychological reports;
 - d. Country of origin information;
 - e. Information from other parts of INZ, such as visa applications;

- f. Information from other government agencies in New Zealand; and
 - g. Information from partner countries, such as that provided under the biometric-sharing programme.¹⁵
98. The source of the information and how it was provided may be important. The claimant should provide envelopes, courier packages, receipts, emails and other electronic messages that are relevant to their claim, in particular those that had attachments or contained information relevant to their claim.
 99. Supporting statements from a witness should contain the witness's full name, date of birth, residence, occupation and a signed copy of an identity document. The witness should explain their relationship to the claimant or how they know the claimant. The witness should sign and date the statement.
 100. The claimant may be asked to show the RPO text messages, emails and online postings to support their claim, and the RPO may require copies of this material and translations be submitted.
 101. The claimant should record and capture information that is available on a website, the Internet or a mobile phone Application that they wish to submit, for example, by taking a screen shot and saving a copy of it to their photos or a personal device or drive. The name of the site or Application, the URL and date it was accessed should also be recorded and provided to the RPO with the relevant material.

Country information

102. Claimants may submit country information (also known as "country of origin information" or "COI") to support their claim. Such information should be relevant, focused and specific to the claim or claimant.
103. Full references identifying the source of the information must be provided, including hyperlinks if relevant.
104. Large bundles of country information, submitted without reference to relevant details or key sections, or whose relevance to the claim or claimant is not apparent, risk being given less weight.
105. The INZ website contains a guide to publicly available country information sources relevant to the determination of refugee and protection status:
<https://www.immigration.govt.nz/documents/statistics/guidetocoisourcesonline.pdf>.
106. The European Country of Origin Information Network (www.ecoi.net), is also a useful resource of up-to-date country of origin information managed by the Austrian Centre for Country of Origin and Asylum Research and Documentation supported by the European Council on Refugees and Exiles and the UNHCR. The site provides for key word and topic searches and will generate references for insertion into documents.

¹⁵ For more information about this programme, see the INZ website at: <https://www.immigration.govt.nz/about-us/policy-and-law/identity-information-management/how-biometric-information-is-used>.

Format of information

107. All information provided to the RSU must be in English or accompanied by a certified translation by an independent translator into English. Best practice is that this is provided by a qualified and certified translator.
108. The RSU maintains individual paper files of each claim. Hard copies of information are required. Single-sided printing is preferred.
109. All documents should be clearly dated. Long documents should have paragraph or page numbers.
110. Electronic copies of information may also be provided, for example, as an attachment to an email.
111. The RSU has obligations to receive, protect, store, retrieve and disclose any personal information it collects, and this may not be straightforward for some types or formats of electronic information.
112. Claimants should talk to the RPO about what information they intend to provide and in what format (if not hard copy).
113. Submissions do not need a specific title page.

Evidence from psychologists and mental health professionals

114. The claimant may provide a psychological report as evidence. The RSU is developing guidelines to assist psychologically vulnerable claimants to participate effectively in the determination process.
115. Evidence from mental health professionals, such as psychologists, should adhere to professional standards, as set out in the RSU guidelines [Note these are currently in draft. Please contact the RSU if you would like a copy of the latest draft].

Potentially prejudicial information

116. Information that may be prejudicial to a person's claim and which may lead to it being declined is called potentially prejudicial information or "PPI".
117. PPI may be a matter of credibility, that is, whether the claimant's account can be accepted as true. It may also be whether the claimant's fear of being persecuted is well-founded or their claim otherwise meets the requirements of the various international instruments. PPI is not information that was obtained from the claimant, or publicly available material or information.¹⁶
118. The RPO must give the claimant a reasonable opportunity to respond to the PPI, whether a specified time period or at interview.
119. PPI (other than classified information¹⁷) that the RPO intends to take into account in determining the claim will be put to the claimant for comment before being used in a determination. This will usually be at interview or in the interview report.

¹⁶ See section C4.45 of the INZ Operational Manual at <https://www.immigration.govt.nz/documents/ops-manual/refugees-and-protection.pdf>

¹⁷ See sections 7 and 33 to 42 of the Act for proceedings involving classified information.

120. Given the inability of many claimants to “prove” their claim, matters of credibility are inevitable in most cases.
121. Representatives should prepare their clients to be tested on their evidence and to answer questions that may be put to assess their truthfulness.
122. Detailed and probing questions are an important part of the inquisitorial process and enable the RPO to be satisfied as to the facts and credibility of the claim and claimant.

Translations

123. Any information provided by the claimant in a language other than English must be accompanied by a certified translation into English by an independent translator. Best practice is that this is provided by a qualified and certified translator.
124. Untranslated documents may not be considered or given any weight.
125. If a document or information the claimant is seeking to provide is lengthy, the claimant or representative should discuss with the RPO in advance how best it can be considered. It may be that selective translations of the relevant sections will suffice.

Additional information – powers of RPOs

126. Section 149 of the Act sets out certain powers of the RPO, who may:¹⁸
 - a. require the person to supply such information, and within such times, as the RPO reasonably requires;¹⁹
 - b. require the person to produce such documents in their possession or within their ability to obtain;
 - c. require the person to allow biometric information to be collected from them;
 - d. require another person to produce or disclose, as the case may be, any relevant documents or information relating to the person;
 - e. require the person to attend an interview;
 - f. seek information from any source; and
 - g. determine the claim or matter on the basis of the information, evidence, and submissions provided by the person.
127. Failure to provide information or documents, where such information or documents are reasonably available to the claimant, may lead to a negative inference as to credibility.
128. The RPO may also consider gathering additional information in order to determine the claim. If this would involve the disclosure of the claimant’s identity as a claimant or details of the claim, the RPO will follow the process set out in the RSU’s [Confidentiality Guidelines](#).

¹⁸ Not an exhaustive list.

¹⁹ Here “person” means the claimant or person whose refugee or protection status is under review.

OFFICIAL INFORMATION ACT AND PRIVACY ACT REQUESTS

Privacy Act requests

129. A claimant or their representative may submit a request for a copy of the information INZ holds about them, known as a “privacy request”, under the Privacy Act 2020.
130. A privacy request is usually made in an accompanying letter when the claim is lodged, but can be made at any time, and need not be in writing.
131. A claimant can write or email an information request to the RSU at the contact addresses above.
132. A support officer receives the privacy request and raises it in the INZ system as an “application”. Relevant INZ files are collated, scanned (into an electronic file) and allocated to a privacy officer, who checks the information and may withhold or redact parts, with reasons.
133. Copies of the information are sent to the claimant or representative via email or in hard copy.
134. The statutory timeframe for privacy disclosure is as soon as possible within 20 working days, but it may be completed earlier. If it takes longer than the 20 days, the claimant or representative will be advised of this and the expected time they will receive the documents.

Official Information Act requests

135. Official Information Act requests should be made to MBIE via its online portal:

<https://www.mbie.govt.nz/about/open-government-and-official-information/make-a-request-for-official-information/>

Personal information that identifies claimants and details of their claim will not normally be disclosed in an OIA response.

PROCEDURAL STEPS

Making a Claim

136. A person must be in New Zealand to make a claim.
137. A claim can be made initially by signifying an “intention” to seek recognition as a refugee or protected person to a representative of MBIE or a police officer.²⁰
138. The Act requires the claim be later confirmed in writing by completing and lodging a Confirmation of Claim form (INZ 1071), which is available electronically on the RSU page of the INZ website.
139. The Confirmation of Claim form must be completed in full and all questions answered as accurately as possible. The claimant must provide accurate and specific information about the reason they are claiming in the relevant section. Claimants may be advised if the Confirmation of Claim form has not been properly completed. If information is missing from the form that materially impacts on the processing of the claim, the RSU may alert the claimant so they have an opportunity to rectify it.

²⁰ Section 133(1) of the Act.

140. The claimant should provide any evidence or corroborating material they have available to the RSU with the Confirmation of Claim form.
141. The claimant should also provide their identity document (passport, if available) and a recent photograph.
142. Original documents provided with the Confirmation of Claim form will be copied and returned to the claimant. Certified copies of identity documents are accepted – and must be in full, not the bio-page only.
143. Confirmation of Claim forms can be provided in person or by courier to the RSU at its physical address, listed above. Do not send a Confirmation of Claim form to an individual RPO.

Acknowledgement of claim

144. Once received, and provided it meets statutory requirements, the claim will be recorded on the INZ system. The next day the RSU will issue a letter to the claimant acknowledging their claim.

WRITTEN STATEMENT

145. Section 133(3) of the Act states that a written statement should be provided to the RPO “as soon as possible”.
146. The written statement can be provided up to 12 weeks after lodgement of the Confirmation of Claim form.
147. The written statement guideline (INZ 1362) will be available [here](#).
148. The interview may be more efficient and effective if the claimant is able to provide supporting information and evidence along with the Confirmation of Claim form and/or written statement.
149. The written statement serves two purposes:
 - a. To ensure that the key facts and information upon which a person’s claim is based are clearly set out; and
 - b. To assist the RPO to prepare for and conduct the interview efficiently.
150. The written statement provides the claimant with an opportunity to explain the reasons why they fear returning to their country. It should identify events and circumstances that have a bearing on the basis of the claim.
151. All important events that led the claimant to seek refugee and protection status in New Zealand should be included. However, it is not necessary to go into minute detail of the claimant’s life in the written statement.
152. The written statement should be in English, be in the claimant’s own words and be presented in a logical, chronological order so that the sequence of events is clear.
153. The English translation (if applicable) of the written statement must be read back to the claimant in a language they understand before they sign and date the copy of the written statement to be submitted to the RPO.

154. The claimant should be aware of the content of their written statement but should not rely on it for recollection of events. That is, a claimant should not read from or recite their written statement at the interview.

Conditional statements

155. Conditional statements refer to specific statements or conditions included in a claimant's written statement that purports to limit the RPO's ability to make inquiries as part of the determination process. Such conditions may mean that the written statement would be returned to the claimant. RPOs will not be bound by any conditional statements and representatives and claimants may raise these matters with the RPO. See earlier section about Confidentiality.
156. The claimant's right to confidentiality is protected under section 151 of the Act, as interpreted by the Court of Appeal in *K v Attorney-General*.²¹ In particular, the Act places restrictions on sharing information that might identify the claimant or be likely to endanger any person's safety. The RSU takes confidentiality and the safety of claimants and other persons seriously.
157. Outside of section 151, there are no limits to the RPO's ability to make inquiries they consider reasonable and safe in order to determine the claim.
158. If a claimant has any particular concerns about confidentiality, these should be communicated as soon as possible to the RSU or RPO as the case may be before providing the written statement and attending the scheduled interview. It is necessary for establishing the claim that the claimant advises which people or groups or institutions they fear and why.

THE INTERVIEW

Preparing for the interview

159. A claimant should understand the purpose of the interview and know what to expect, as set out below.
160. The claimant should be ready to discuss the reasons they may be at risk of harm if they return to their country. They should be prepared to provide additional detail and to answer any questions.
161. Reliable, accurate and clear information is required.
162. The interview is part of a formal inquiry whereby the RPO may make findings of credibility or fact. To this end the RPO may:
- a. seek additional detail about the claim;
 - b. seek additional detail about any other matter relevant to the claim or claimant;
 - c. put issues of credibility or fact to the claimant; and
 - d. advise the claimant if the RPO considers the claimant is not providing satisfactory responses.
163. A claimant should also understand how to work with an interpreter, in particular, to break up their responses to allow time for interpretation, and not to ask questions of or comment to

²¹ *K v Attorney-General* [2016] NZCA 416, CA 626/2015.

the interpreter. The claimant should use accurate references, for example, “The agent showed the border officer my friend’s passport” rather than “He showed him his passport”.

164. Representatives should be proactive in advising the RPO in advance of what length of interview they consider their client may need.

The interview day

165. Interviews are normally set down for two consecutive half-days. The second half-day may be shorter or dispensed with, if the interview is completed on the first day.
166. An interpreter will be provided by the RSU if required (see separate section on interpreters).
167. Interviews conducted in Auckland are held in a private room at the RSU offices at 162 Victoria street West.

For claimants outside Auckland, in the lower North Island and South Island, interviews are held in private rooms at INZ or MBIE offices in Wellington and Christchurch or in private rooms at a government or other suitable office in other locations.

168. Interviews may be held via Audio Visual Link (“AVL”) at the discretion of the RPO. In special circumstances (such as travel requirements or other factors) a claimant may request an AVL rather than in person interview. This request will be considered at the discretion of the RPO. If an AVL interview is scheduled, instructions will be provided.
169. Interviews are normally held from 9.30am to 1.00pm and 1.15pm to 4.45pm, with breaks in the middle. An interview may be extended by only half an hour with consent of all the parties and if an interview room is available.
170. Claimants in custody will be interviewed at the place where they are detained. Detained claimants who are living in the community will be interviewed at the RSU or an MBIE office, if not in Auckland.
171. The RPO will consider requests to vary the interview start or finish time and number of interview days. Any such request must be made in writing as soon as possible and outline the reason for the requested change. Any changes are at the RPO’s discretion.
172. Start times are to be strictly adhered to. Claimants and their representatives should plan to arrive at least 15 minutes early, to be ready to start at the prescribed time. If participants are late, the interview times may be adjusted accordingly. On request, representatives may be able to set up in the interview room before the interview starts.
173. As well as the claimant and RPO, the claimant’s representative and an interpreter will usually be present.
174. All interviews are recorded electronically on a voice recorder. The recording is made for the purpose of providing a reference point in case any details need to be checked. An electronic copy of the recording is provided to the claimant or their representative with the report. Alternatively, claimants and representatives may request that this recording be provided on a CD.
175. If an interview is unable to be completed in the allotted time, the RPO will arrange a further interview for the earliest possible time at the conclusion of the interview. Representatives should bring their diaries to the interview to allow for efficient re-scheduling.

Biometric enrolment

176. Biometric enrolment is a term which covers the scanning of a passport, a facial photograph and the scanning of fingerprints. The claimant is usually required to provide their biometrics.
177. Biometric enrolment may be done before or after the interview. However, claimants are encouraged to visit the RSU office, by arrangement, at any time before the interview date to provide their biometrics. Please contact the RSU in advance. While it is the RPO's discretion to require the biometric enrolment, the actual enrolment is usually done by a support officer.
178. Information about the biometric programme is available in a range of languages and is provided with the interview-scheduling letter.
179. For general information about INZ's biometric programme, see:
<https://www.immigration.govt.nz/about-us/policy-and-law/identity-information-management/how-biometric-information-is-used>
180. Biometric results are usually provided with the refugee and protection interview report. These results may be provided early if received earlier.

What to bring to the interview

181. Claimants should bring their original passport and/or any travel or identity documents. Copies of such documents are not acceptable.
182. Claimants should also bring any other documents or evidence they wish to have considered, preferably the original and a copy, along with a certified translation if not in English.
183. Claimants may bring cell phones or other mobile devices, but these must be on "flight mode" during the interview. Claimants should not use their mobile device to contact witnesses or obtain information relevant to their claim during the interview without first checking with the RPO.
184. Claimants may bring snacks and other food, which can be consumed during breaks. Tea, coffee and water are provided. Public toilets are available at reception.
185. There is a room available for representative and-claimant consultations and for prayer. Please ask at reception or ask the RPO if a room is needed.

Role of representative at interview

186. The purpose of the interview is to provide an opportunity for the claimant to establish their claim and for the RPO to gather details in order to make a determination. It is a "shared enquiry". The representative's role is to proactively assist the claimant to take part effectively in the shared enquiry.
187. At the interview, the representative should allow the RPO to determine the questions to be asked and when. The claimant should be free to respond and provide additional details.
188. The representative will have an opportunity to ask questions as well, and make submissions should they wish to do so.
189. If a representative wishes to take instructions from their client, this can be accommodated, and is often done during the breaks.

Observers and support people

190. The interview is confidential and members of the public cannot attend.
191. If the representative is a law firm, it should advise the RPO in advance who will be attending as the claimant's representative on the day of interview. Junior counsel may attend for induction or training purposes, if all parties consent.
192. Requests to have a support person present should be made in writing at least 10 working days before the interview and outline the reasons why the claimant requires a support person and who that person is.
193. Whether to allow a support person to attend the interview is at the RPO's discretion. Reasons for a decline will be provided.
194. Support persons are usually able to remain in the reception area and speak to the claimant during breaks. Support persons do not participate in the interview itself. If they are present in the interview room, at the RPO's discretion, they must not prompt the claimant or interfere with the interview or interpretation in any way.
195. Claimants may speak to their support person during the breaks. However, if concerns arise about the role of the support person and the information and advice they are providing, the RPO can rescind permission for the support person being present.
196. From time to time, other persons (for example, RSU staff undergoing training, legal associates of the Tribunal or staff of stakeholder organisations) may observe an interview. The claimant's consent will normally be sought in advance.
197. In all cases, support persons and observers are bound by the obligation of confidentiality as per section 151 of the Act and, other than RSU staff, will be required to give a written undertaking to that effect.

INTERPRETER

198. Where needed, an independent interpreter will be provided for the interview.
199. An independent interpreter is defined in Regulation 15 as:
[...] a person who a refugee and protection officer considers—
 - a. is competent to translate English into a foreign language that a claimant or a person whose recognition as a refugee or a protected person is being investigated can understand and speak, and translate that foreign language into English; and
 - b. is impartial.²²
200. Claimants and/or their representative must advise the language, and dialect if relevant, that the claimant wishes to be interviewed in (A14 and A15 in the Confirmation of Claim form). The RSU will endeavour to meet this preference. However, it will not always be possible to provide an interpreter in the claimant's preferred language or dialect. In such instances, the RSU will provide an interpreter in a language or dialect that the claimant can understand and speak, as per the above Regulation.

²² Section 3: Interpretation

201. Regulation 15 states that an interpreter must be provided if:
 - a. an RPO is to interview a claimant or a person whose recognition as a refugee or a protected person is being investigated;
 - b. the first language of the claimant or the person is not English; and
 - c. the RPO considers that an independent interpreter is reasonably required for the purpose of conducting an interview of the claimant or the person.
202. Furthermore, the RPO must arrange for an independent interpreter to attend the interview unless the claimant, or the person whose recognition as a refugee or a protected person is being investigated, requests that an independent interpreter does not attend the interview, and the RPO agrees to that request.
203. On the day of the interview, the claimant and witnesses must not make direct or indirect contact with the interpreter about their claim at any time outside the interview except with the consent of the RPO.
204. The Act requires that all persons, including interpreters, must maintain the confidentiality of the claimant and the claim.
205. In accordance with their code of conduct, interpreters are obliged to inform the RSU if an actual or perceived conflict of interest might arise if they interpreted for a claimant. Such a conflict of interest may include being friends with the claimant, attending the same church or mosque or temple, or knowing something about the claimant that may be material to the interpreter's ability to act independently.
206. The claimant or representative may ask the RSU to provide the name of the interpreter. This should be done well in advance of the interview.
207. On the day of the interview, the representative must not make direct or indirect contact with the interpreter about the claim at any time outside the interview except with the consent of the RPO. A representative may request to use the interpreter for taking instructions with the consent of the RPO. The interpreter will not disclose to the RPO anything said between the lawyer and the claimant for the purposes of the lawyer taking instructions.

REFUGEE AND PROTECTION INTERVIEW REPORTS

208. Within four weeks (for those subject to standard timeframes) following of the interview, the RPO will provide to the claimant a refugee and protection interview report (hereafter "the report"). If the RPO requires further time for the report to be completed, they will advise the claimant of this, and provide the report within a further two weeks.
209. Reports are normally provided by courier. The claimant or representative should advise the RPO if they want an electronic version as well.
210. The report summarises the RPO's understanding of the claim, including a chronology of the key or relevant factual details. It may request additional information, or put matters of credibility or fact (including the potential likelihood or risk or nature of the serious harm feared) to the claimant for a response.
211. As a working rule, RPOs will prepare reports that focus on the key issues. If significant new issues arise after the interview, the RPO should consider whether another interview is required or extend the time available to claimants to respond to the interview report. The

claimant or their representative can also request a further interview if extensive new issues were raised in the report.

212. In cases where there are significant information gaps, or new issues arise after the interview that have not been discussed, it may be that a further interview will need to be scheduled. In such cases, the RPO should indicate to the claimant that a further interview is required or extend the time available to claimants to respond to the interview report. A claimant or their representative can also request clarification of the meaning of the report or what is being asked of the claimant is unclear.
213. In some cases, a full report may not be issued, and the RPO may choose to issue a letter inviting submissions on any factual or legal matters and/or putting PPI to the claimant for their comment.

RESPONSE

214. The response to the report and final evidence and submissions are due 20 working days after the report has been provided. The response should be in hard copy and may also be electronic, as per the section above on “Information, evidence and submissions”. If the claimant requires additional time to respond, an additional two weeks is available, on request.
215. It is very important that the claimant:
- a. Checks the summary of the claim for accuracy and clarifies or corrects any mistakes;
 - b. Confirms the information provided about the reasons they are claiming refugee and protection status;
 - c. Answers any additional questions;
 - d. Responds to any concerns about facts and credibility;
 - e. Responds to any concerns about whether the claimant meets the criteria under the various international instruments;²³ and
 - f. Provides any additional information available to support or corroborate their claim.
216. The claimant should make a genuine and timely effort to respond to the report and, as the case may be, provide reasons as to why information requested by the RPO is not available.
217. If the claimant considers that substantial changes to the summary should be made, or that significant additional information be added to it, reasons for this should be provided.
218. A representative may make submissions on both the facts and the law in response to the report.
219. Pinpoint references to key and relevant country information should be provided – as per the “Country Information” section above.
220. If significant new issues or substantial requests for new information that have not already been put to the claimant arise after the interview, the RPO may contact the claimant to discuss whether a follow up interview is required. Similarly, a claimant or representative may

²³ The Refugee Convention, CAT and ICCPR.

request a further interview or additional time to respond to the interview report, if needed. See later section on Extensions and Adjudgments.

DECISIONS

221. The claimant will be notified of the decision in writing within six weeks of the response and submissions.
222. If the decision is delayed, the RPO will write to the claimant or representative and advise of this and provide a new due date for the decision.
223. Claimants have the right to provide additional information up to the time the decision is made. If they wish to provide additional information, they should advise the RPO as soon as possible.
224. Decline decisions will be accompanied by reasons.
225. Note that if a person is recognised as a refugee, they cannot be deported from New Zealand. As such, they cannot meet the definition for a protected person and this part of their claim will be declined. A person who has been recognised as a refugee but declined protected person status is eligible to apply for permanent residence. Similarly, a protected person who is not subject to section 137 of the Act is eligible to apply for a permanent residence or other type of visa.
226. Decline letters will include any rights of appeal.
227. Approval letters will advise of next steps.

APPEAL PROCESS IF UNSUCCESSFUL

228. In general, those whose claim is declined can appeal to the Tribunal.
229. A person's appeal rights are set out in the decision letter. The standard appeal period is 10 working days from receipt of the decision, but five for those in custody.
230. If the appeal is accepted, a copy of the RSU file of the claimant is provided to the Tribunal.

EXTENSIONS AND ADJOURNMENTS

231. The determination of a claim is an administrative legal process. All parties are expected to comply with the timeframes set.
232. The RSU expects requests for extensions or adjournments to be rare and will not normally be granted unless it is in the interests of fairness and natural justice.
233. Adjournments and extensions will not normally be granted on the basis that the outcome of a legal aid application is pending. Representatives should be diligent in lodging their application for legal aid, and should commit to meeting the timeframes and other obligations of the refugee and protection status determination process. Information about the legal aid process can be found at the Ministry of Justice website: <https://www.justice.govt.nz/courts/going-to-court/legal-aid/> (see earlier section on representation).

The decision to grant an adjournment or extension will be made by the RPO in consultation with a technical adviser or Manager- Refugee and Protection. Refusals to grant such requests will be communicated to the claimant with reasons.

Requests for extensions of time for written work

- 234. This section applies to written statements, responses and submissions to interview reports and any other written work or evidence.
- 235. If the standard deadline is unable to be met, a request for an extension should be made in writing giving reasons as soon as possible before the date the written piece of work or evidence is due.
- 236. Evidence and/or any supporting documentation, where appropriate, to support extension will normally be required, and the RPO may request additional information.
- 237. The written statement and the interview are not the only opportunity claimants have to establish their claim. Additional information can be provided by arrangement with the RPO at any time (irrespective of timeframes relating to the written statement and the interview), up to the day on which the decision is made.

Requests to adjourn interview in advance of the interview date

- 238. The interview is a key step in the determination process and involves the attendance of the claimant, RPO, interpreter and representative.
- 239. This section relates to requests to adjourn interviews in advance, being more than 24 hours before the interview is scheduled to commence. A request to adjourn the interview less than 24 hours prior to the time of interview is due to commence is a separate process, detailed from paragraph 242 below.
- 240. Any requests for an adjournment in advance should be made in writing, as early as possible, along with the earliest possible alternative interview date. Any supporting evidence, such as a letter from a social worker, should also be provided.
- 241. Adjourning an interview is at the RPO's discretion in consultation with a technical adviser or Manager- Refugee and Protection. If the request to adjourn is refused, and if the claimant subsequently fails to attend the scheduled interview, the RPO may proceed to determine the claim on the information available.

Failure to attend on the day of interview or request for adjournment shortly prior to interview

- 242. This section applies to claimants who wish to request an adjournment less than 24 hours before the time the interview is due to commence, or who fail to attend interview at the specified date and time.
- 243. If a claimant is unwell on the day of interview, they have until 4.00 pm on that day to produce a medical certificate, clinician's report or a letter from a registered medical practitioner or health professional (such as a doctor, psychologist, mental health clinician or other qualified medical professional) to the RPO with an explanation:
 - a. for failing to attend; and
 - b. as a basis for a request for an adjournment.
- 244. If the claimant is unable to provide the medical certificate, letter or clinician's report by 4.00 pm on the day of interview, they must advise the RPO the same day of when the document

will be produced and details of any medical appointments made in relation to the production of the document.

245. If the claimant fails to attend the scheduled interview and to provide an acceptable medical certificate, letter or a clinician's report by 4.00pm on the day of interview (or advise that one is being arranged), the RPO may proceed to determine the claim on the information available.
246. The medical certificate, letter or clinician's report must specify the following:
- a. the date the claimant was examined;
 - b. the claimant's illness or disability;
 - c. the expected duration of the illness or disability;
 - d. the reason, in the opinion of the medical practitioner or health professional why the claimant is unable to attend the interview; and
 - e. the medical practitioner or health professional's opinion as to when the claimant will be fit and able to attend an interview.
247. If the request for adjournment is on the basis of the representative being unwell, the representative should advise the RPO as early as possible and include the earliest possible alternative interview date available for rescheduling. Best practice would be that the rescheduled interview still takes place within the 14 to 16 weeks post-lodgement window for interviewing, where possible.
248. A request for an adjournment for other reasons should be made in writing, as early as possible, along with the earliest possible alternative interview date. Any supporting evidence should also be provided.
249. Adjourning an interview is at the RPO's discretion in consultation with a technical adviser or Manager- Refugee and Protection. If the request to adjourn is refused, and if the claimant subsequently fails to attend the scheduled interview, the RPO may proceed to determine the claim on the information available.

WITHDRAWALS

250. A claimant is free to leave New Zealand voluntarily at any stage. If a claimant leaves New Zealand, their claim is deemed to have been withdrawn.
251. A claimant may also withdraw their claim at any stage by advising the RSU that they wish to do so in writing. Withdrawals can be notified in writing using the withdrawal of refugee and protection claim form on the RSU website. The withdrawal form must be signed by the claimant.
252. The claimant will then be issued with a confirmation of withdrawal letter by the RPO.

CONSEQUENCES OF NON-COMPLIANCE

253. A claimant has responsibility of establishing their claim.

254. The claimant or representative must ensure that all information, evidence and submissions that the claimant wishes to have considered in support of the claim or any other potential claim are provided to the RPO before the RPO determines the claim.
255. When accepting instructions from a claimant, representatives will endeavour to meet the timeframes and procedural steps as per above.
256. Where the RPO has made a request for information or a document, failure to produce the information or to comply with specified timeframes without reasonable explanation:
 - a. may lead to a negative inference about the claimant discharging their responsibilities to establish their claim; and
 - b. may lead to a negative inference as to credibility.

Failure to attend interview

257. As per section 149(4) of the Act, if a claimant fails to attend the scheduled interview, the RPO may proceed to make a determination of the claim on the information available.

FEEDBACK AND COMPLAINTS

258. The RSU welcomes feedback.
259. Feedback can be provided by sending an email to the RSU email: rsu@mbie.govt.nz.
260. Any concerns a claimant or representative has with the process should first be raised with the responsible RPO or staff member. This includes asking for progress updates on their claim. If a concern cannot be resolved with the responsible RPO or staff member, it can be referred to the person's manager directly or by sending an email to the RSU email: rsu@mbie.govt.nz.
261. A 'complaint' is a formal "expression of dissatisfaction or grievance made to or about INZ, related to our administrative processes, products and tools, staff or the handling of a complaint, that is formally raised and where a response or resolution is expected."
262. Formal complaints should be sent to the INZ complaints portal. Once received, it will be acknowledged and referred to an appropriate person for investigation and response.
263. For more information about making a complaint see the INZ website: <https://www.immigration.govt.nz/contact/complaints>