



File Ref: SDE 32

**WORKFORCE (IMMIGRATION NEW ZEALAND)  
INTERNAL ADMINISTRATION CIRCULAR NO: 09/12**

To:	All Workforce (Immigration) Managers	Date: 9 December 2009
	All Workforce (Immigration) Staff	
	MFAT Posts	

### **Documenting Involvement in the Decision Making Process**

Please read this information and ensure all staff members who may be affected are aware of what is required of them.

#### **Purpose**

1. The purpose of this Internal Administration Circular (IAC) is to provide advice and instructions to staff and managers on entering notes into AMS that clearly identify the decision maker and staff involved in the decision-making process.
2. It also reminds warranted visa/immigration officers that, as statutory decision making officers, you are obliged to make decisions that reflect your assessment.

#### **Background**

3. This advice stems from a recommendation in the Office of the Auditor General (OAG) report that was published earlier this year.
4. The report recommended that the Department of Labour introduce clear and transparent processes to inform Immigration New Zealand staff about the extent and nature of managerial involvement in making visa and permit decisions. If there is a fundamental disagreement, then these processes should include requirements that:
  - Staff are protected from approving visa and permit decisions that they disagree with; and
  - Staff with delegated authority to overturn or change an immigration decision must, if they do so, record the decision in their own name and delegation.

## **Decision Making**

5. There may be some instances in which a visa/immigration officer seeks assistance or guidance before making a decision. This may be for a number of reasons; some examples include cases that present complex issues, where humanitarian factors are present or cases that include technical elements.
6. In these instances staff should feel free to approach their colleagues (technical advisors, managers, and other staff) for advice and to use that advice as part of their decision.

## **Direction**

7. No manager or senior officer can require another visa/immigration officer to make a decision the visa/immigration officer disagrees with.
8. A visa/immigration officer can, however, make a decision in line with a general direction from their manager or senior officer provided they have the appropriate delegation to make that decision.

## **Escalation**

9. In circumstances where a visa/immigration officer is asked to make a decision that they disagree with, they must refuse to make the decision and may do so without fear of retribution.
10. The visa/immigration officer should advise the person who has asked them to make such a decision that they refuse to do so. Should they feel uncomfortable doing this they may approach someone else to support them.
11. Where a visa/immigration officer has refused to make a decision, a manager or a senior officer must not attempt to change their mind. It may, however, be appropriate to discuss the matter with the visa/immigration officer concerned for coaching, training or development purposes.

## **The Process**

12. Where a visa/immigration officer has exercised their right to refuse to make a decision they disagree with, they must transfer the file to the manager or senior visa/immigration officer who has asked them to make that decision.
13. In such circumstances it is then necessary for a manager or senior visa/immigration officer to take ownership of the file and make a decision in accordance with their delegations and fully record the decision as described in paragraph 15.
14. The "change branch" functionality in AMS should be used rather than transferring files electronically across the Department if making a decision outside the branch where the file is held.

## Documenting Decisions

15. AMS notes must clearly record:
  - the new decision makers name; and
  - the position they hold; and
  - the level of delegation; and
  - why they have taken on the decision making role, and
  - the reasons for the decision.
  
16. The Operational Manual outlines factors that staff must take into account when communicating decisions to clients to ensure that the principles of fairness are observed. These factors include whether the applicant has been given a reasonable opportunity to respond to harmful information and whether appropriate reasons have been given for declining an application.
  
17. The requirement for documenting decisions is reflected in the Operational Manual at R5.20.10 for residence applications and E7.16 for temporary applications.
  
18. Where legislation does not require that reasons need to be given for the decision, (e.g. section 35A requests or special directions) these reasons do not need to be recorded in AMS. The other details as outlined above must be recorded in all cases.
  
19. Delegations should be recorded in terms of the 'Instruments of Delegation' set out at chapter A15.4 of the Operational Manual (e.g. 'Schedule 3 Officer').
  
20. If this IAC is inconsistent with any previous IAC, information or instruction, the instructions contained here prevail.

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