

VISA PAK ISSUE 555 — 1 SEPTEMBER 2023

REMINDER ON CONFIDENTIALITY OBLIGATIONS IN RESPECT OF CLAIMANTS, REFUGEES, AND PROTECTED PERSONS

A general reminder to staff regarding the confidentiality obligations we have in respect of claimants, refugees, and protected persons as required by section 151 of the Immigration Act 2009 (the Act).

Reasons for the confidentiality obligation

Section 151 is concerned with the safety of claimants, refugees, and protected persons. Breaching the confidentiality obligation may put people at risk of serious harm, and/or form an additional basis for a refugee and protection claim (claim) or grounds for a subsequent claim.

What information is subject to the section 151 confidentiality obligation?

The identity of the claimant, refugee, or protected person and the particulars of their claim must be kept confidential. This obligation applies both while the claim is being considered, and after a decision on the claim has been made. It applies regardless of the outcome (i.e., whether a claim has failed, succeeded or is being appealed) and may include the very fact or existence of the claim or case. This obligation also applies to cancellation and cessation decisions relating to claimants, refugees, or protected persons.

For example, when granting an individual a visa, any information about a relevant claim, including the fact it exists, must not be placed on any visa label. Disclosing that an individual is awaiting the outcome of an appeal to the Immigration and Protection Tribunal in relation to a refugee and protection claim is also likely to be inappropriate.

Any visa conditions or information about a visa granted to an individual which might in any way indicate the visa holder is a claimant, refugee, or protected person should only be conveyed by letter to the claimant, refugee, protected person or their declared representative. Such information may be recorded but may only be disclosed in accordance with the requirements of section 151 which are summarised in the Operational Manual at C2.25.

When information may be disclosed without breaching the confidentiality obligation

Section 151(2) provides a number of limited instances when (and in some instances to whom) information related to a claim may be disclosed despite the general obligation of confidentiality. Where these circumstances are met, disclosure will not breach section 151.

For example, information may be disclosed for the purpose of administering the Act. This might include where there is an investigation under the Act relating to an individual claimant, directly or indirectly. When considering disclosure under this exception, the reasons why the disclosure is proposed and considered necessary under the relevant ground must be considered and recorded. It is important to be aware that it may not be necessary to disclose the fact of a claim or any particulars in relation to a claim to administer the Act.

If information relating to a refugee or protection matter is disclosed under one of the exceptions to confidentiality, then the recipient should be advised that the information is confidential under section 151 and further disclosure is not permitted without authorisation from Immigration New Zealand.



The above are high level examples of the application of the section 151 confidentiality obligation and limited permitted disclosure provisions. If staff have any questions regarding their confidentiality obligations in relation to claimants, refugees, or protected persons (including individuals who are unsuccessful in their claims) or whether any of the section 151 disclosure grounds apply in a particular case, they should contact the Refugee Status Unit or Refugee Quota Branch as appropriate. Immigration officers should seek approval from their Practice Lead prior to releasing any information under section 151(2).