

# PIER LAW

NEW BRIGHTON | KAIAPOI | NORTHWOOD



# POTENTIALLY PREJUDICIAL INFORMATION

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## DISCLAIMER

This article is general in nature and is not intended as a substitute for specific professional advice on any matter and should not be relied upon for that purpose.

# Understanding Potentially Prejudicial Information (PPI)

Potentially Prejudicial Information (PPI) refers to factual information or material raised by Immigration New Zealand in an application that will or may adversely affect the outcome of an application.



# Onshore vs Offshore: The PPI Distinction

The below table provides the difference in PPI for an 'onshore' and an 'offshore' applicant:

## ONSHORE

Factual information or material that will or may adversely affect the outcome of the application.

## OFFSHORE

Factual information or material that:

1. Was not obtained from applicant or agent;
2. Is not publicly available or the applicant is not necessarily aware of;
3. Will or may adversely affect the outcome of an application;
4. The applicant has not previously had an opportunity to comment.

# Identifying PPI in your application



When Immigration New Zealand sends you a letter addressing their concerns and how it may impact your application.

See attached a sample letter from Immigration New Zealand raising their concerns of PPI in an application.

**Sample Letter  
from  
Immigration  
New Zealand**



Application number: 10023677  
Client number: 70443666

10 February 2024

Fred Alistair  
156 Stevens Road  
Johannesburg  
South Africa

Dear Fred Alistair

Thank you for your application for a: Partner of a Worker Work Visa which was received on 12 December 2023.

<b>Applicant:</b>	<b>Date of birth:</b>
Fred Alistair	01 March 1993

I have completed a first assessment of your application and am not yet satisfied you have demonstrated you meet mandatory requirements for a visa. I am not satisfied you meet the requirements due to these reason(s):

- Genuine and stable partnership
- Living together
- Bona fide applicant

#### Genuine and stable partnership

Immigration instructions E4.5.35 states the factors and evidence an applicant can supply to show they are living together in a genuine and stable relationship with your partner. You are making your visa application based on your partnership with your partner, Belinda Van De Beuken. After conducting an initial assessment of the supporting documentation provided we found that the evidence was limited. We requested further information on 22 January 2024. The information provided was not sufficient to meet Immigration Instructions. You have not provided sufficient relationship evidence and your application may be declined.

#### Living together

In your application you provided a rental agreement as well as utility bills for your address 156 Stevens Road. Your bank statements provided show that rental payments with the bank reference '156Steve' indicates your payment to the said property. However, your partner's driver's licence, her bank statements and letters from family and friends states you are currently living with your partner at 99 Kwazulu Central in Kwazulu.



Furthermore, during an interview conducted with you and your partner on the 29<sup>th</sup> January 2024, your partner stated that you shared property with a flatmate while you stated in your interview that you did not share the property with any flatmates. The information provided is contradictory and we are not satisfied that on a balance of probabilities that you are living together with your partner in a place of co-habitation.

**Bona fide applicant**

Immigration instruction E7.10 states that officers must be satisfied that applicants for temporary entry to New Zealand are bona fide applicants, as per immigration instructions E5.1 and E5.10. As defined by immigration instructions at E5.1, a bona fide applicant for temporary entry is a person who genuinely intends a temporary stay in New Zealand for a lawful purpose and in the opinion of an immigration officer is not likely to remain in New Zealand unlawfully, breach the conditions of any visa granted or be unable to leave or be deported from New Zealand.

The factors that should be considered in determining whether an applicant is a bona fide applicant are set out at instruction E5.10. Information that you have provided in three previous student visa applications suggests that you have intentions to study in New Zealand and not to be with your partner.

There has been contradicting information provided on the reason for your visit to New Zealand. In a student visa application submitted on the 29<sup>th</sup> August 2023 which was declined you stated you were single and wishes to pursue a Level 3 Diploma in Healthcare and Wellbeing with New Zealand Tertiary College (NZTC).. Thereafter, in the next student visa application dated the 03<sup>rd</sup> November 2023 which was declined you stated that you were single and wished to pursue an English course. However, in this application you stated that you wish to move to New Zealand to join your partner whom you are in a relationship with for the past 08 months. Based on the information provided, we are not satisfied that you are a bona fide applicant, and your application may be declined.

These issues may affect the outcome of your application and I am bringing them to your attention out of fairness to you.

I have not made a decision on your application at this stage. This letter gives you the opportunity to make any comments and submit any additional evidence or information in relation to these issues. Provide further information by 17 February 2024.

Please provide any comments or further information by 17 February 2024. You can upload these to your online account.

To upload documents:

1. Log into your account through [www.immigration.govt.nz](http://www.immigration.govt.nz).
2. Click on 'Submitted' and select your submitted application.
3. Click 'Upload additional document'.
4. Click on 'Browse' to select the document for upload and 'Submit'.

Any documents you send must be original or certified copies of original documents. If they are not in English, please have them translated into English by a recognised and independent translation service.

If I do not receive further information or comments from you by the due date, I will need to make a decision about your application based on the information you have already given us. I am unlikely to approve your application based on the information I have.

**Correct information**

Please make sure that any information you give us is accurate. Providing false or misleading information or withholding information may make you ineligible for this visa and affect any future visa applications.

**What happens if your circumstances change?**

You need to tell us about any changes to your circumstances that may affect your application for a visa, including - but not limited to - changes to the following:

- the personal or family circumstances of any person included in the application
- your address or contact details (including postal address, email address, and telephone number)
- your business or employment
- your course of study if you are applying for a student visa

If you do not tell us about changes to your circumstances, we may decline to grant you a visa or you may become liable for deportation. You must make sure you hold a valid visa at all times while you are in New Zealand.

**Contact us**

If you have any questions, you can check our website for further information:

- [www.immigration.govt.nz/knowledgebase/kb-question](http://www.immigration.govt.nz/knowledgebase/kb-question)

Or, if you have any specific questions about your visa status, please feel free to:

- call our Immigration Contact Centre (ICC) on 0508 558 855 (toll-free from NZ landlines only), 09 914 4100 (Auckland), 04 910 9915 (Wellington), or for those outside New Zealand +64 9 914 4100

Please be ready to quote your application or client number at the top of this letter when you phone.  
Ngā mihi,

Anton Podolski  
Immigration Officer  
Immigration New Zealand

# **Distinguishing Potential Prejudicial Information (PPI) and Request Further Information(RFI)**

It is important to differentiate between PPI and RFI.

A RFI is a letter from Immigration NZ requesting you provide further supporting documents for an application. This can be because the immigration officer believes you may have missed out providing required documents for a determination.

A PPI on the other hand, as the name states, can adversely affect your application as the immigration officer has identified concerning information that suggests you do not meet immigration instructions.

Contact us if you are unsure what your letter refers to. Sometimes, a RFI can provide some indication that your application may take a challenging turn based on the documents requested. Reach out to us early so we can advise how to respond and what you can expect.



## Read between the lines

It is not all doom and gloom when you receive a letter from INZ raising PPI in your application. At times, the immigration officer can highlight certain concerns, and within those concerns there could be a viable solution out of your predicament. Contact us for a consultation so we can identify solutions in your matter.

# Method of Response

You will need to provide written responses to Immigration New Zealand presenting your arguments with relevant supporting evidence to refute their allegations.

*A note on timelines: In the letter provided by Immigration New Zealand, you have a deadline to respond to their concerns. Speak to us if you would like us to negotiate an extension of your timeline. Do not be in a rush to submit a response by preparing your own letter to address the concerns. Identify each issue brought up and come up with a plan for a response.*



# Engage resources/third parties that can support your response

Plan your response early. If there are third parties whom you wish to engage for instance a specialist who can provide supporting evidence, reach out to them early to sort this out. If you require family members or friends to provide supporting letters let them know early and provide some idea of what they can share. Reach out to us if you are unsure of who you can engage to back up your response.

In some cases, if Immigration NZ relies on information put forward for example in an interview or from a past application, it will be a good idea to get copies of these documents so you can verify yourself. You can do this by submitting a Privacy Act Request. We can help with this. It is important you know what to request when extracting these files.



# Structuring your response

If the letter you receive contains several issues that are potentially prejudicial information, structure your response appropriately to ensure there is a coherent flow and the reader can understand completely.

For instance, if the letter raised against you contain the following issues:

- Bona fide applicant
- Credibility
- Genuine and stable partnership
- Living together evidence
- Criminal Conviction

Perhaps, you can break down your response in three sections one to deal with each matter separately. For example, deal with the bona fide issue in one document. Address credibility, genuine and stable partnership and living together evidence in another, as it all relates to partnership requirements. Sort the response on a criminal conviction separately as that constitutes requesting a character waiver. This way you are addressing each issue separately and there will be a coherent flow for each matter raised as opposed to combining everything in one written response.

# Crafting your response to PPI

We provide a suggested approach of responding to PPI below. Note, there is no set structure of how to respond to PPIs. Each author would have their own style or approach. Our recommendations are based on responses that had successful outcomes in the past. Notwithstanding, you should seek our advice in attempting a response to ensure the best chance of success.

## **1. Identify the issues**

Isolate the issues raised and state them out to ensure you are dealing with the allegations head on.

## **2. Lay down the law**

Check the immigration instructions mentioned in the letter apply to you. Use immigration instructions from other parts of the INZ Operational manual that can assist you in your response. Ensure the immigration officer is applying the principles of natural justice.

Refer to applicable case law and decisions from the Immigration and Protection Tribunal or the Courts to state at the outset. This will allow you to set the premise and base your arguments on.



### **3. Background information**

If it is clear the case officer has come up with their own theory of how there is PPI in your application, it could be worth setting some background information to clear any misunderstandings.

For instance, a more detailed information of your relationship and how it has developed if the issue pertains to your relationship. A more detailed information about your work experience and qualifications if the dispute is around your suitability to work.

### **4. Respond to allegations with evidence**

Proceed to counter the allegations with your arguments armed with any applicable immigration instructions or evidence that you can supply.

Do not shy away from the details and provide sufficient evidence to ensure that you can back up arguments. If you are unsure of how to do this, engage us so we can help craft a response for you.

This section should take up the bulk of your response as it provides substance to your response.

## 5. *Closing comments*

Once you have responded adequately to the allegations, provide closing comments to summarise and re-state the important points in a persuasive matter. Do this well so that you have the case officer nodding away in agreement with each of the points you've raised and a positive outcome is not far away.



# What to Do if Your Application is Declined

Did Immigration NZ decline your application? There could be other options for you.

If you are onshore and submitted a temporary visa, you could consider putting in a reconsideration request. Engage us to have a review of the reasons for your decline. We will then advise if there is a chance to have the application reconsidered. There are specific timelines to meet for such requests. This option should be exhausted first before pursuing further appeals.

If you are an onshore resident visa applicant, you could appeal the decision at the Immigration and Protection Tribunal. Appeals must be lodged within a fixed time frame. This could be an option to you if INZ incorrectly decided your application or if you have special circumstances.

If you are offshore, depending on the type of visa application made, you may or may not have appeal rights. If there is no avenue for you to appeal, there could be an opportunity to have your matter heard by the Minister or the Ombudsmen instead. Speak to us to discuss how we can resolve your matter.



# ABOUT US

Pier Law has been supporting the local community with all of their legal needs for over 25 years. With three convenient locations in Christchurch - Northwood, Kaiapoi, and New Brighton, we specialise in many different areas of law including residential property, elder law, family law, estates, trusts, commercial law and immigration law.

## **About our Immigration Law Team**

Muhammad Bin Kamarudin is an accomplished immigration lawyer who specialises in advising both corporate clients and individuals on immigration matters. His experience spans complex applications from corporate accreditation, to assisting individuals with diverse cases, including humanitarian concerns and compliance issues. His proficiency in navigating the intricacies of immigration law is evident through his tenure at esteemed international law firms and local New Zealand law firms.

Fluent in English, Malay, and Bahasa Indonesia, Muhammad brings a diverse skill set and a commitment to excellence, making him an invaluable addition to the Pier Law team.



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