



COVERSHEET

Minister	Hon Andrew Little	Portfolio	Immigration
Title of Cabinet paper	Future of the 2022 Special Ukraine Policy	Date to be published	By 2 October 2023

List of documents that have been proactively released			
Date	Title	Author	
August 2023	Future of the 2022 Special Ukraine Policy	Office of the Minister of Immigration	
16 August 2023	Future of the 2022 Special Ukraine Policy DEV-23-MIN-0170 Minute	Cabinet Office	

Information redacted YES

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Some information has been withheld for the reasons of free and frank opinions, confidential advice to government, and international relations.

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Restricted

Office of the Minister of Immigration

Cabinet Economic Development Committee

Future of the 2022 Special Ukraine Policy

Proposal

- 1 This paper seeks Cabinet's agreement to:
 - 1.1 create a new residence pathway for 2022 Special Ukraine Visa holders who arrive in New Zealand before 15 March 2024;
 - 1.2 the key design features of the residence offering and authorise the Minister of Immigration to make further decisions on the design.

Relation to government priorities

As part of our ongoing response to Russia's illegal war of aggression, the proposals in this paper support our priorities to improve the wellbeing of New Zealanders and their families. Our ongoing support for Ukraine also demonstrates New Zealand's position as a principled international actor with a strategic interest in the defence of the rules-based international system.

Executive Summary

- Following Russia's illegal invasion of Ukraine, the Government acted swiftly with unprecedented diplomatic, economic and military support for Ukraine's self-defence as well as implementing sanctions and travel bans.
- As part of our immigration response, Cabinet agreed to establish the 2022 Special Ukraine Visa (SUV) to enable Ukrainian New Zealanders to sponsor their family members to come to New Zealand and shelter here for two years. While initially only open for a year, Cabinet agreed to extend the policy by 12 months to 15 March 2024. Cabinet also invited the Minister of Immigration to report back if a residence pathway was deemed necessary for the people who remain in New Zealand. [DEV-23-MIN-0010].
- When Cabinet took decisions on the policy, it was unclear how the conflict in Ukraine would unfold or how long it may continue. It is now clear that the conflict is unlikely to abate anytime soon. Given this, I am proposing a residence pathway is created for SUV holders. Providing residence allows those on temporary visas who may have become settled in New Zealand to stay here permanently. Free and frank opinions

- While residence could be offered to any or all Ukrainian temporary visa holders, I propose it is limited to SUV visa holders who have arrived in New Zealand by 15 March 2024. Confidential advice to Government
- I am also proposing that the existing temporary pathway for new Expressions of Interest closes from 15 March 2024, as previously agreed by Cabinet [DEV-23-MIN-0010]. This aligns with our like-minded jurisdictions such as Australia who have already closed their temporary pathways. I note, however, that the policy should remain open for subsequent applications for those onshore in New Zealand. This provides people with time to obtain all information and evidence needed for their residence application and have it processed before their visas expire. It would also allow people who do not want to apply for residence but wanted to remain in New Zealand for a period beyond March 2024.
- 8 To reduce potential risks to New Zealand, while still being facilitative, I propose that applicants:
 - 8.1 be screened for certain high cost/high-risk health conditions; and
 - 8.2 that standard character requirements International relations
 apply, noting that immigration officers can waive the requirement to provide a police certificate if it is unduly difficult to obtain.
- I note, any expansion to the policy is likely to raise continued concerns of equity for groups which have not been offered a similar pathway to support their family members and has precedent and cost implications. The proposed targeted residence policy will help to reduce these risks but will likely raise calls for further support or additional pathways for those not eligible. Therefore, I consider that careful communications will be important to manage these challenges.
- Subject to Cabinet's agreement, I will certify new immigration instructions to give effect to the decisions made in this paper. I will look to make announcements as quickly as possible to provide those affected certainty.

Background

Government response to Ukraine

Since 24 February 2022, New Zealand has taken significant and unprecedented decisions to provide diplomatic, economic and military support to Ukraine as it defends itself against Russia's aggression. New Zealand has contributed assistance worth over \$83 million in addition to sanctions targeting over 1500 Russian and Belarussian individuals and entities and imposing comprehensive trade measures.

The 2022 Special Ukraine Policy

On 14 March 2022, Cabinet agreed to establish the 2022 Special Ukraine Policy to enable Ukrainian New Zealanders to sponsor their parent, grandparent, adult sibling, or adult child, and their immediate family (partner and any dependent children) to

- come to New Zealand and shelter here for two years [CAB-22-MIN-0069]. The policy was intended to be open for 12 months to 15 March 2023.
- Under the policy, visa holders do not have to pay immigration fees and have access to publicly funded healthcare and children are able to attend school as domestic students. No specific welfare package was created for this cohort.
- In February 2023, Cabinet agreed to extend the policy for 12 months to 15 March 2024 given the war was ongoing and also agreed to a number of moderate expansions to the policy which:
 - 14.1 Expanded who could be sponsored under the policy to other adult family members who have lived with the family for a substantial period of time (i.e. those people who have effectively become part of the immediate family). This could be aunts, uncles, grandchildren, nieces and nephews, first cousins and step siblings.
 - 14.2 Expanded the sponsorship model so that rather than relying on one family sponsor, each application can have a 'nominating family member' who meets the New Zealand and Ukrainian residency requirements and an 'acceptable sponsor' who would take on financial responsibility for the applicant the sponsor could be the same person as the nominating family member or could be a separate person or entity willing to take on the financial obligations.
 - 14.3 Expanded who could nominate a family member to include those with Ukrainian heritage to expand the pool of eligible New Zealand residents or citizens who may want to support their family members in Ukraine to come to New Zealand.
 - Extended the window to travel to New Zealand under the policy from nine to 12 months for visas granted after 15 March 2023 [DEV-23-MIN-0010].
- As of 10 July, INZ had received 1,623 applications under the policy, of which 1,508 had been approved and 699 had arrived in New Zealand.

Closure of the temporary pathway to new applications

- As previously agreed by Cabinet, the 2022 Special Ukraine Policy is due to close on 15 March 2024. While the policy remains open, those onshore who already hold a Special Visa can apply for a subsequent two-year visa (which could provide for a legal pathway for some to stay in New Zealand until 15 March 2026) and those who have not already, can apply for an initial visa.
- I am proposing that the temporary pathway close to new applicants from 15 March 2024, as previously agreed. This temporary pathway was always intended to be time-limited, not an ongoing or permanent new refugee/humanitarian immigration pathway to New Zealand. Leaving this pathway open as a bespoke pathway outside normal immigration system pathways which manage humanitarian crises is likely to continue ongoing equity considerations for those groups who do not have access to the SUV.
- 18 Closing the temporary pathway from 15 March 2024 is consistent with the approach of our like-minded nations, including Canada (who are closing their policy in March

2024), and Australia whose offer of Temporary Humanitarian stay, ended on 31 July 2022.

- By 15 March 2024, people would have had two years to express interest. Those who still intend to come to New Zealand will be able to express interest before 15 March 2024 and will have 12 months to travel to New Zealand from when the visa is approved. Confidential advice to Government

 I, therefore, consider closing the temporary policy to be low risk.
- I do, however, recommend that those who are onshore in New Zealand remain able to apply for a subsequent Special Ukraine Visa under the policy beyond 15 March 2024. This allows those who are currently in New Zealand and wish to stay and/or apply for residence (discussed below) to do so. I am recommending Cabinet delegate the decision on when to close the temporary policy to subsequent applications to the Minister of Immigration based on the take-up of and need for subsequent visas.

The creation of a residence pathway for Special Ukraine Visa holders will provide certainty for those unable to return home...

- When Cabinet agreed to establish the 2022 Special Ukraine Policy, it was not clear how the conflict would unfold or how long it may continue. Providing a temporary visa (rather than residence or a formal refugee pathway) was the quickest way to support Ukrainian family members of New Zealand citizens and residents who wanted or needed to escape the conflict and shelter in New Zealand.
- While Special Visa holders are able to apply for another temporary two-year visa while the policy remains open, the war in Ukraine shows no sign of early conclusion and even in best-case scenarios, reconstruction and recovery will take decades. With uncertainty about what future immigration pathways will be available, Ukrainians in New Zealand will continue to be unable to plan their futures.
- The Ukrainian community have advised me that many of the Special Visa holders are elderly and have become well-settled here with their families, but the lack of certainty is creating stress for them as well as additional costs. A lack of residence pathway may also be a barrier to visa holders settling and integrating in New Zealand, including a lack of confidence to invest in English language training and find permanent jobs.

24	I expect, this lack of certainty could also lead to a large number of refugee and protection (asylum) claims from Special Visa holders. International relations

I am therefore recommending that Cabinet agree to establish a new residence visa for Special Ukraine Visa holders who have arrived in New Zealand.

... however, comes with risks and costs that need to be carefully considered

Establishing a residence category for this cohort is likely to be seen to exacerbate equity issues with other groups in New Zealand who face long wait times for family reunification pathways (e.g. through the Refugee Family Support Category) or have limited to no access to such pathways.

Free and frank opinions

I note that this may increase demand under the existing policy also but eligibility under the existing policy is limited somewhat by the requirement to have an eligible family member to support the application (of which there are about 1,200 individuals).

- I consider it continues to be justified to provide support for Special Ukraine Visa holders given the unprecedented nature of the conflict in Ukraine and their connection to New Zealand citizens and residents. The Government's commitment to supporting Ukraine not only supports the Ukrainian community in New Zealand but also demonstrates our ongoing commitment to the international law which Russia continues to disregard.
- While 2022 Special Ukraine Visa holders are already eligible for publicly funded healthcare and children can attend school, providing residence will provide further eligibility to welfare and other education services. This will lead to additional costs for the Government over time, however, I consider the scale of this likely to be small, as many of those in New Zealand will have already found employment or are otherwise being supported by family members.

There are a number of design choices to consider, which can address some of these concerns

Eligibility for a residence pathway

To reduce precedent and equity concerns, I am recommending the offer of residence only be available to those who hold a 2022 Special Ukraine Visa and arrive in New Zealand prior to 15 March 2024 rather than any Ukrainian on a temporary visa in New Zealand. As at 20 July 2023, there are 422 Ukrainian nationals onshore on temporary visas, this includes 362 SUV holders (noting some of the 699 who had arrived have subsequently left or may have transitioned to other visas).

31	International relations		

On balance, I consider that allowing those who arrive in New Zealand on a 2022 Special Ukraine Visa by 15 March 2024 best balances our humanitarian objectives to support Ukrainians International relations

33	International relations
	I note that some of this wider group is likely to have alternative pathways to residence and some may not be intending to stay in New Zealand long term.
34	I note that there may be some people, including males of military service age who may be unable to travel to New Zealand by 15 March 2024. However, a date ensures the policy is not too broad. While families will have to make judgements about what is in their best interests, I recommend to mitigate the risk of splitting families that the requirement to have arrived in New Zealand apply to the principal applicant for the residence application to allow time for partners and dependent children to travel later if required.
35	International relations
Healt	h requirements
36	Given the rapid pace at which the initial policy was created and the difficulties in obtaining relevant documentation due to the situation in Ukraine, the temporary policy was high trust and all health screening requirements for entering New Zealand were waived, with applicants instead needing to declare that they meet health requirements.
37	International relations
38	Partners and dependent children of New Zealanders and refugees are only required to undergo limited health screening which screens for the most expensive conditions, and the conditions that place the greatest demand on New Zealand's health or special education services. This limited screening is undertaken by way of Immigration New Zealand's Limited Medical Certificate. The recent 2021 Residence Visa category also required that only a Limited Medical Certificate be provided.
39	I am recommending we same limited health screening as outlined above. This will ensure that applicants with conditions likely to impose a risk to public health or who have a condition which is likely to impose the highest costs or demands on New Zealand's health services are identified. If an applicant was found to have tuberculosis, their application for residence can be deferred while treatment is being provided. The applicant can be granted further temporary visas to enable to them to remain lawfully in New Zealand.

¹ International relations

40 These settings would align with medical standards for the refugee quota and the Parent Category. I consider having health requirements justified on the basis that serious health issues would foreseeably result in excessive costs and unreasonable demand being placed on New Zealand's health system.

Character requirements

- 41 I propose that normal character requirements for residence apply. Applicants for residence are usually required to obtain police certificates from their country of citizenship and from each country they have lived in for 12 months or more in the last 10 years.
- 42 I am recommending that Ukrainians who apply for the residence visa be required to undergo a character assessment. However, it is important to acknowledge the challenging circumstances which may make it difficult to provide a police certification from Ukraine.
- 43 Currently Immigration Officers have the ability to waive the requirement for police certificates if it is impossible or unduly difficult to obtain. In such cases, a statutory declaration could be made in lieu of a police certificate which would declare the individual has not been convicted or any offences in Ukraine, including any other country they have previously lived in.

44	International relations
45	In addition to the above, I propose applicants will be required to provide documents support identity and custody assessments. International relations

46 I do not consider that requesting this documentation would be overly burdensome for applicants as documents required to support these assessments are readily available online.

Immigration fees and levies

- 47 Given the humanitarian objectives, immigration fees (which are charged on a costrecovery basis to account for the costs of administering the immigration system) were waived and instead funded by the Crown for the temporary visa under the 2022 Special Ukraine Policy.
- Creating and processing a new residence visa creates additional costs for Immigration 48 New Zealand. In conversation with the Ukrainian community, I do not consider that a visa application fee would be a significant barrier for residence for those who

- genuinely intended to stay in New Zealand. It was also noted that community fundraising could be undertaken if this was challenging for some individuals.
- To reduce costs to the Crown, I am proposing that a visa application fee of \$1,200 apply to residence applications would be charged as the "residence class visa application—any other residence category fee" as outlined in the Immigration (Visa, Entry Permission and Related Matters) Regulation 2010.
- In addition to an immigration fee, which covers the cost of the services provided by Immigration New Zealand, an immigration levy is applied for some temporary and resident visas. The levy helps pools funding from migrants to go towards the costs of settling in new migrants and is generally charged per application. I do not consider that the levy should apply for these visa holders, as many of these migrants will already been well settled here and the levy may prove to be financially burdensome on applicants. This aligns the fact the levy is waived for refugees.

Eligibility for services and support

Education

- Currently, children on a Special Ukraine Visas are able to attend school. However, adults on work Special Ukraine Visas only qualify as domestic students for English Speakers of Other Languages (ESOL) tuition and Adult Community Education classes (consistent with existing supports for some other temporary visa holders). This change was made December 2022 to allow visa holders to access classes this year.
- I note that Special Ukraine Visa holders transitioning to a residence class visa will be able to access Tertiary Education as domestic students and therefore be eligible for tuition and training subsidies. I also note that after at least three years living in New Zealand on a residence class visa, this cohort would be eligible for student support (i.e. Student loans and allowances) and Fees Free study, which will have fiscal costs for the Government in the future which will be managed within existing baselines.

Welfare

- The current temporary visa pathway requires family members or a third party to provide a financial undertaking that they will support the Special Ukraine Visa holders in New Zealand. Cabinet agreed not to make a specific welfare package available for this cohort.
- Residence-class visa holders are not generally eligible for a main benefit and supplementary assistance until they have held a resident visa and lived continuously in New Zealand for two years (and met other eligibility requirements). There is also a 10 year standdown before someone can access New Zealand superannuation. Subject to eligibility criteria, resident visa holders, and temporary visa holders applying for residency, may have access to Emergency Benefit and some supplementary assistance without meeting the usual residency requirements if they are in hardship. However, it would generally be expected that Special Ukraine Visa holders would be supported by their families.

- I am not recommending that a bespoke welfare package is created for this cohort. While I have not proposed a formal sponsorship requirement, I expect families will continue to support visa holders, some may also have already gained employment in New Zealand.
- I note that refugees and other similar cohorts have previously been provided with advanced access to welfare support on arrival Free and frank opinions

 However, I consider this is justified given many will have already settled in New Zealand and have family support. International relations

Health

- 57 Special Ukraine Visa holders are already eligible for publicly funded healthcare under the existing policy settings. In addition, to mitigate the potential public health risks of waiving the initial medical screening, the Ministry of Health and Te Whatu Ora Health New Zealand, working with the advocacy group Mahi for Ukraine, established a special public health initiative to encourage the uptake of, and cover the costs of, a one-off health assessment.
- Given residents are eligible for publicly funded healthcare and Special Ukraine Visa holders will remain eligible under their existing visas until their residence application is approved, I do not consider any changes to existing health eligibility are required.

Implementation

- Proposals in this paper will be implemented as soon as possible, however will depend on the decisions taken and other work being implemented by Immigration New Zealand including the new Skilled Migrant Category settings.
- In order to allow sufficient time to establish a new residence pathway and subsequently receive and process residence applications, I have recommended the existing temporary policy remain open to subsequent expressions of interest/applications for those who have already been granted a 2022 Special Ukraine Visa to apply for a subsequent visa. This will enable them to remain legally onshore for another two years while residence applications are processed.

Cost-of-living Implications

- As I am not recommending immigration fees be waived for the residence application, this proposal has a subsequent cost to applicants of \$1,200 per application.
- I do not expect this proposal to have cost of living implications for other New Zealanders.

Financial Implications

There are no direct or immediate financial implications resulting from the proposals in this paper.

- Those who apply for residence, are experiencing hardship and are otherwise eligible will be able to apply for an Emergency Benefit (and associated welfare entitlements such as Working for Families for those eligible), however, given likely ongoing support from family members, officials do not anticipate this will be a sizeable cohort and therefore consider that funding can be met within existing appropriations.
- Special Ukraine Visa holders granted a residence class visa will be able to access Tertiary Education as domestic students and therefore be eligible for tuition and training subsidies. At this stage it is not known how many people will undertake tertiary study, however, this will likely lead to additional costs for the Government over time.
- Additionally, after at least three years living in New Zealand on a residence class visa, this cohort would be eligible for student support (e.g. Student Loans and Allowances) and Fees Free study, which will have fiscal costs for the Government in the future.
- 67 Education costs for Special Ukraine Visa holders transitioning to a residence class visa can be managed within existing Vote Tertiary baselines (given the relatively small number of people involved).
- These costs can all be met from existing baselines.

Legislative Implications

- There are no legislative implications resulting from the proposals in this paper. However, amendments to immigration instructions will be required to give effect to the decisions taken.
- Immigration instructions are the rules and criteria for the grant of visas and entry permission to New Zealand and are set out in the INZ Operational Manual. Section 22 of the Immigration Act 2009 authorises the Minister of Immigration to certify immigration instructions.
- Subject to Cabinet's agreement, I will certify new immigration instructions in line with the decisions taken.

Impact Analysis

Regulatory Impact Statement

As no changes to legislation are required for this policy change, the regulatory impact requirements do not apply to these proposals.

Climate Implications of Policy Assessment

73 The Climate Implications of Policy Assessment requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 74 These proposals will benefit Ukrainian New Zealanders and their family members who have settled in New Zealand and do not wish or unable to return to Ukraine at this stage.
- The decision to offer residence to Special Ukraine Visa holders may raise equity concerns with other migrants and former refugees in New Zealand who have made similar requests for the Government to provide immigration pathways for their family (i.e. following the earthquake in Syria/Turkey and recent events in Sudan). I recommend that communications material be clear that this pathway is targeted to those who have arrived in New Zealand who may be unable to return home in the near future due to the protracted nature of the conflict. Communications material can also highlight the other refugee and humanitarian pathways to New Zealand.

Human Rights

While the Immigration Act 2009 recognises that immigration matters inherently involved different treatment on the basis of personal characteristics, immigration policy development seeks to ensure that any changes are necessary and proportionate. The Ministry of Business, Innovation and Employment considers that the proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of external Resources

- 77 The development of these policy proposals has not used any external resources.
- The implementation of these proposals may use some external resources where expertise such as IT needs to be outsourced. The scale of this will be confirmed as this work is planned.

Consultation

- This paper was prepared by the Ministry of Business, Innovation and Employment. The Ministries of Health, Education, Social Development, Foreign Affairs and Trade, Ethnic Communities, Oranga Tamariki Ministry for Children, the Treasury and the Department of the Prime Minister and Cabinet (Policy Advisory Group) were consulted on this paper.
- Officials from the Ministry of Business, Innovation and Employment meet regularly with the advocacy group Mahi for Ukraine who have made requests to provide certainty and a residence pathway for Special Ukraine Visa holders.

Communications

- Should Cabinet agree to the proposals in this paper, communications material will be developed. INZ's website will be updated and updated immigration instructions will be published.
- To allow those affected time and certainty, I intend to announce these changes as soon as practicable. Officials work with Mahi for Ukraine to ensure that the community is

aware of the changes and that any questions or concerns from the community can be addressed directly.

Proactive Release

This paper will be proactively released in line with the Cabinet Office circular Proactive Release of Cabinet Material: Updated Requirements [CO (18) 4].

Recommendations

The Minister of Immigration recommends that the Committee:

- note that as part of the immigration response to Russia's invasion of Ukraine, Cabinet agreed to establish the 2022 Special Ukraine Visa (SUV) to enable Ukrainian New Zealanders to sponsor their parent, grandparent, adult sibling, or adult child, and their immediate family (partner and any dependent children) to come to New Zealand and shelter here for two years [CAB-22-MIN-0069];
- 2 **note** that in February 2023, Cabinet agreed to extend the policy by 12 months to 15 March 2024 and moderately expand who could sponsor and be sponsored under the policy [DEV-23-MIN-0010];
- note that Cabinet invited the Minister of Immigration to report back to the Cabinet Economic Development Committee (DEV) if it is judged necessary to develop a facilitated residence category for people who remain in New Zealand [DEV-23-MIN-0010];

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- 4 **note** that the SUV was intended to be a temporary policy not an enduring humanitarian pathway to New Zealand;
- 5 **note** that, as agreed by Cabinet, the SUV will close to those who have not previously submitted an expression of interest from 15 March 2024;
- **note** that the ability for onshore SUV holders to apply for a subsequent SUV will allow time for residence applications to be processed before visas begin expiring;
- agree that existing SUV holders in New Zealand can continue to access the Special Ukraine Policy for a subsequent SUV;
- **authorise** the Minister of Immigration to make decisions on when to close the SUV to subsequent onshore applications;

Residence pathway for 2022 Special Ukraine Visa holders

- 9 **note** that many SUV holders have now settled with their families in New Zealand;
- agree to establish a new residence category for 2022 SUV holders;
- agree that in order to be eligible for this residence category principal applicants must have arrived in New Zealand by 15 March 2024;

- agree Limited Medical Certificates would be required and that an applicant would only be declined if they had one of the non-waiver medical conditions listed in immigration instructions;
- agree that normal immigration character and identity requirements apply, including police certificates, but certificates can be waived where there is an inability for the applicant to provide the required information;
- agree that a fee of \$1,200 be charged for the visa application through the "residence class visa application—any other residence category fee", outlined in the Immigration (Visa, Entry Permission and Related Matters) Regulation 2010;
- agree no immigration levy will be charged to applicants;
- **note** that based on current numbers, around 1,500 people could be eligible for residence;
- 17 **note** that establishing a residence pathway will have fiscal costs for the government over time for the provision of services across education and welfare which will be absorbed within existing baselines;
- authorise the Minister of Immigration to make further decisions on the design of the residence pathway;
- 19 **note** that the Minister of Immigration will certify amendments to Immigration Instructions in line with the decisions taken in this paper;
- agree that the Minister of Immigration will make announcements on the decisions taken in this paper as soon as possible to give visa holders certainty.

Authorised for lodgement

Hon Andrew Little

Minister of Immigration