Report of the Petitions Committee

Petition of Malkiat Singh: Grant partners of New Zealanders on general visitor visa permission to enter NZ

April 2022

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Hon Jacqui Dean
Chairperson

Petition of Malkiat Singh

Recommendation

The Petitions Committee has considered the petition of Malkiat Singh—Grant partners of New Zealanders on general visitor visa permission to enter NZ—and recommends that the House take note of its report.

Request to allow partners of New Zealanders entry to New Zealand

The petition was presented to the House on 25 August 2020. It requests:

> That the House of Representatives urge the Government to grant the partners of New Zealanders granted a general visitor visa permission to enter the country without requiring the New Zealander to travel with them.

COVID-19 border restrictions have separated some New Zealanders from their partners

In early 2020, due to the pandemic, New Zealand's borders were closed to most people who were not either New Zealand citizens or residents, including people with visitor visas. Some New Zealand citizens and residents have partners overseas who are not eligible for partnership-based visas because they have not lived together long enough to satisfy Immigration New Zealand's requirements. These partners are sometimes able to obtain general visitor visas, allowing them to travel to New Zealand to live with their New Zealand partner and eventually apply for partnership visas. However, since the borders have been closed, these partners have been able to travel to New Zealand only if they are accompanied by their New Zealander partner.

Mr Singh, who is an immigration adviser, petitioned Parliament to ask that partners of New Zealanders who have general visitor visas be allowed to travel to New Zealand without their partner while the borders are closed. He said that, as an immigration adviser, he is familiar with many stories of New Zealanders who have felt forced to travel overseas to reunite with their partner, despite the cost and difficulty. His submission included correspondence with the Minister of Immigration, with whom he has raised the same concerns.

The petitioner believes requiring New Zealanders to travel during the pandemic is unnecessarily risky

Mr Singh believes that requiring New Zealanders to leave during a pandemic and travel to the country where their partner resides solely so they can accompany them on a return flight is unnecessarily expensive and dangerous. He submitted that some partners may live in COVID-19 "hot spots", which are especially risky to travel to. He also noted that, while borders are closed, New Zealanders are being advised not to travel overseas, due to the risks of contracting COVID-19.

Mr Singh submitted that requiring people to travel overseas to be reunited with their partner is expensive and risky, not only for those who travel but for New Zealand as a whole. It

increases the number of arrivals potentially infected with COVID-19. He noted that, while managed isolation and quarantine facilities were operating, additional travellers also caused additional expense for taxpayers and reduced the number of places available to New Zealanders wanting to return home.

Circumstances are changing rapidly

Mr Singh's submission accepted that the Government's border policies are changing quickly. He is also aware that general visitor visas granted before the border closures have now expired, so the people his petition is about have either chosen to have their New Zealand partner travel to them or have had their general visitor visa expire. However, he submitted that people whose visas have expired remain in a difficult situation. The Government has suspended applications for general visitor visas until the borders reopen. People who were not able to enter New Zealand before their visas expired now have no general pathway to enter New Zealand to begin to satisfy partnership visa requirements.

The petitioner notes the difficulty in obtaining partnership visas

Mr Singh said that circumstances are particularly difficult for overseas partners of New Zealanders. They can no longer apply for general visitor visas (because applications have been suspended), and they cannot obtain partnership visas through meeting the requirement that partners live together. He submitted that, even when New Zealanders choose to leave New Zealand to live overseas with their partner in order to be eligible for partnership visas, these visa applications are sometimes declined as the New Zealander is said to be visiting, rather than living with, their partner. He said this is particularly the case when travelling New Zealanders maintain payments on their New Zealand accommodation. He believes this is unfair, saying:

> There is no light at the end of the tunnel for those NZers who are in paid employment and have mortgages to pay. Such NZers cannot just pack up and leave NZ in order to meet the definition of living together to bring their partners into NZ.

Comments from the Ministry of Business, Innovation and Employment

Immigration New Zealand (INZ) is a department within the Ministry of Business, Innovation and Employment. INZ submitted that New Zealand's borders have been closed during the COVID-19 pandemic to protect people in New Zealand. It said that border exemptions have been limited because of the need to balance the safety of people in New Zealand against demand from those offshore. INZ also noted that general visitor visas issued before the border closure have all now lapsed, so Mr Singh's petition seeks a remedy that would no longer assist the affected people.

The "living together" criterion to be granted a partnership visa

INZ submitted that a key requirement to be granted a partnership visa is for applicants to satisfy an immigration officer that they are "living together in a genuine and stable relationship". To demonstrate this, applicants need to provide as much evidence of their relationship as possible. For temporary visas, there is no specific requirement for how long

partners must have lived together, but being flatmates or spending time together on holidays is not considered sufficient.

When partners are not currently living together, or have lived together only for a short time, the immigration officer can take other circumstances into account, such as the duration of the partnership, shared ownership of property, financial arrangements, children, the reasons for any periods of separation, and how the partners have maintained their relationship while apart. However, applicants who have lived together only briefly are unlikely to meet the "living together" requirement. INZ said that it believes living together is "an important indicator of the degree of commitment to a shared life".

Offshore applicants for partnership visas

INZ said that where partners have lived together previously but have been separated by COVID-19 border restrictions, it is taking a pragmatic approach to the "living together" requirement. However, applicants who have not yet lived with their New Zealand partner are unlikely to be granted a partnership-based visa. Before the border closure, INZ would sometimes grant general visitor visas where an immigration officer was convinced a relationship was genuine and stable but the applicants could not satisfy the "living together" requirement. However, while the border is closed, general visitor visa applications are not being processed.

INZ noted the existence of the Culturally Arranged Marriage visitor visa. This visa recognises that couples do not live together before marriage in some cultures. It applies to partners of New Zealand citizens and residents who have married or intend to marry according to an identified cultural tradition of arranged marriage. They can enter New Zealand even when they have not yet lived with their New Zealand partner.

Flow-on effects if the petitioner's request was granted

INZ said that if people on general visitor visas who are eligible to travel with their partners were permitted to enter without their partners, all those on general visitor visas would be able to apply to enter New Zealand. INZ said this would not support the overall strategy underlying the border closures.

Review of partnership policy

INZ submitted that it intends to review immigration partnership policies in the near future. It said the review will look at how well its current policies are working and potential alternatives. It will include looking at whether the definition of partnership is fit for purpose and reflects the current social and cultural context.

New Zealand's borders are reopening in 2022

In February 2022, the Government announced that New Zealand's borders will reopen gradually over the course of 2022. By October 2022, the border will be fully open, and the processing of visitor visa categories will resume.

Our response to the petition

We thank Mr Singh for bringing this matter to our attention. We empathise with the difficulties experienced by Mr Singh's clients and those who have shared their stories with him. Being separated from partners and family has been a painful experience for many New Zealanders while the borders have been closed.

We consider that Mr Singh's petition has been overtaken by events. General visitor visas issued before the border closure have now expired. This means that there is no longer a category of people overseas who hold valid visitor visas but must travel with their New Zealand partner to enter this country. New Zealanders therefore have no need to travel overseas just to re-enter the country with their partner. Further, we expect that New Zealand's borders will be open again by October, which will allow people to apply for, and travel to New Zealand on, general visitor visas once more. We have no further comments on this issue to draw to the attention of the House.

We note that INZ intends to review the settings for its partnership visas. We encourage the Government to ensure this takes place quickly. Many of us have heard from constituents struggling to obtain partnership visas. We believe that the partnership visa settings have been a challenging issue for many years. We hope that the review can find a balanced approach to partnership visa settings that is fit for purpose in the modern environment, where people travel more often across borders.

Appendix

Committee procedure

The petition was referred to the Education and Workforce Committee of the 52nd Parliament on 25 August 2020. On 26 November 2020, the petition was reinstated with the Education and Workforce Committee of the 53rd Parliament. On 8 July 2021, the petition was transferred to the Petitions Committee. We met between 28 October 2021 and 14 April 2022 to consider it. We received written submissions from the petitioner and the Ministry of Business, Innovation and Employment.

Committee members

Hon Jacqui Dean (Chairperson)
Rachel Boyack
Dr Liz Craig
Shanan Halbert
Nicole McKee
Todd Muller
Teanau Tuiono

Evidence received

The documents we received as evidence in relation to this petition are available on the Parliament website.