

Cabinet Paper material

Proactive release

Minister & portfolio	Hon Jan Tinetti, Minister of Education
Name of package	Policy clarification: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack
Date considered	23 June 2023
Date of release	11 August 2023

These documents have been proactively released:

Cabinet Paper: Policy clarification: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack

Date considered: 23 June 2023

Author: Office of the Minister of Education

Cabinet Minute: CAB-23-MIN-0259.01

Date considered: 23 June 2023

Author: Secretary of the Cabinet

Social Wellbeing Committee Minute: SWC-23-MIN-0066

Date considered: 23 June 2023

Author: Secretary of the Cabinet

Education Report: Policy clarification Cabinet paper – Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack

Date considered: 6 June 2023

Author: Ministry of Education

Education Report: Policy clarification Cabinet paper for lodging (Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack)

Date considered: 17 June 2023

Author: Ministry of Education

Information Update: Talking points to support discussion at the Social Wellbeing Committee

Date: 14 June 2023

Author: Ministry of Education

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

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In Confidence

Office of the Minister of Education

Chair, Cabinet Social Wellbeing Committee

Policy clarification: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack

Proposal

- 1 This paper seeks approval to clarify the policy parameters of the decision taken by Cabinet on 14 November 2022 for a targeted and time-bound waiver of the student loans and allowances (student support) three-year residency rules for family members of those directly affected by the Christchurch mosques attack, to apply to study starting on or after 1 January 2024 [SWC-22-MIN-019, CAB-22-MIN-0498]. This is to support the implementation of the policy in line with the original policy intent.

Relation to government priorities

- 2 The waiver of the student support three-year residency rules aligns with the recommendations of the 'Royal Commission of Inquiry into the terrorist attack on Christchurch mosques on 15 March 2019' (the Royal Commission of Inquiry).¹ The recommendations include the need to provide ongoing support for affected families, survivors, and witnesses (recommendations 25 and 26).

Executive summary

- 3 In November 2022, Cabinet agreed to waive the three-year residency rules for student loans and student allowances for family members who are granted residence visas between 15 March 2019 and 31 December 2024 through their relationship to holders of a Christchurch Response (2019) Visa (or those who would have been eligible but who were already holding another residence visa) for study starting on or after 1 January 2024.
- 4 The intent of this change was to enable the family members of those directly affected by the Christchurch mosques attack (the attack) to progress with their education and career goals without delay to better support their directly affected relatives. Work to implement the policy has highlighted the need to clarify certain policy parameters to ensure the original policy intent is met.
- 5 This paper refers to the group of people eligible for the waiver as *family members* (of those directly affected by the attack). The term '*directly affected*' (as defined in recommendations 4.2.1 to 4.2.4) is used in this Cabinet paper to refer to those relatives affected by the attack whom the family members have come to support.
- 6 I now seek agreement to clarify the following policy parameters of the waiver:
 - 6.1 the scope of those 'directly affected';

¹ <https://christchurchattack.royalcommission.nz/the-report/executive-summary-2/summary-of-recommendations/>

- 6.2 the types of residence-class visas family members may hold for them to be eligible for the waiver; and
- 6.3 a set list of who is a 'family member'.
- 7 Subject to Cabinet agreement, the Minister for Social Development and Employment will instruct Parliamentary Counsel Office to draft the amendments to the Student Allowances Regulations 1998 and submit a paper seeking Cabinet agreement to these amendments. No legislative amendments are needed to give effect to the waiver for student loan purposes.
- 8 The Ministry of Social Development (MSD) will make the necessary operational changes for the waiver to take effect for study starting on or after 1 January 2024.

Background

- 9 To be eligible for student support a person must generally have held a residence-class visa and lived in New Zealand, both for at least three years, and be ordinarily resident in New Zealand.²
- 10 In 2020, the Government waived the three-year residence stand-down period for eligibility to student support for holders of a Christchurch Response Visa³ and for people who would have been eligible for said visa but were already holding another residence visa at the time [SWC-20-MIN-0013, CAB-20-MIN-0094].
- 11 On 14 November 2022, Cabinet agreed to extend the waiver for family members who are granted residence visas between 15 March 2019 and 31 December 2024 through their relationship to holders of a Christchurch Response Visa (or those who would have been eligible but who were already holding another residence visa), for study starting on or after 1 January 2024 [SWC-22-MIN-019, CAB-22-MIN-0498]. This change was intended to enable the family members of those directly affected by the attack to progress with their education and career goals without delay to better support their directly affected relatives.
- 12 The change was made in response to concerns from the affected community that there is no immediate financial support for their family members to access tertiary education in New Zealand, with the three-year residence stand-down period specifically cited as a barrier. Being well educated is extremely important to the affected community who want to be contributing members of New Zealand.
- 13 The development of the amendments to the Student Allowances Regulations 1998, required to give effect to the residency stand-down waiver for student allowances purposes, has highlighted the need to clarify the parameters of the policy for both student loans and allowances to ensure policy intent is met.

² Unless they are a New Zealand citizen or meet one of the exemptions in regulation 12 of the Student Allowances Regulations 1998, which sets out eligibility for the purpose of student allowances.

³ The Christchurch Response (2019) permanent resident visa provides a special permanent residency visa to people who were living in New Zealand on 15 March 2019 and were present at the mosques during the attack, were injured during the attacks, or are the immediate family member of someone who was present during the attacks.

Policy parameters requiring clarification

I propose clarifying the scope of those 'directly affected' to also include holders of a resident visa and those who were or have since become New Zealand citizens

- 14 The eligibility of a family member (the student) for the waiver depends on their residency status, when they gain residency, as well as being a relative of someone who is considered 'directly affected' by the attack.
- 15 Work between the Ministry of Education, MSD and the Ministry for Business, Innovation and Employment (MBIE) to implement the policy has highlighted the need to clarify the scope of the 'directly affected'.
- 16 Based on the wording in Cabinet's agreement, the group of eligible family members is narrower, in practice, than was intended. This is because the directly affected group is limited to holders of a Christchurch Response Visa, or those who *would have* been eligible *but* were already holding another residence visa.⁴
- 17 In practice, the latter would only include permanent resident visa holders who were, by definition, ineligible for the Christchurch Response Visa. Persons holding a resident visa *were* in fact eligible for the Christchurch Response Visa,⁵ assuming they met the relevant criteria. Resident visa holders are therefore unintentionally excluded from the policy because of the use of the conditional wording ('*would*') in the original Cabinet agreement (whether or not they applied for the Christchurch Response Visa).
- 18 The original wording also excludes those directly affected who:
 - 18.1 *were New Zealand citizens at the time of the attacks*: This is because a citizen is not eligible for a permanent resident visa (such as the Christchurch Response Visa), but the wording only refers to certain visa holders; and
 - 18.2 *have since become citizens*: This is because the wording only refers to people who are *currently* holding a Christchurch Response Visa (or another type of permanent resident visa). However, they may have since become citizens.
- 19 To implement the policy as intended, I propose that the waiver covers family members of a living person who was directly affected by the attack, where that living person is:
 - 19.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or
 - 19.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 19.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15

⁴ MBIE has advised that residence-class visas (referred to as 'residence visas' in the original Cabinet agreement) include both resident visas and permanent resident visas.

⁵ This was usually granted as a standard permanent resident visa under RV2.16 (Permanent resident visas for residents affected by terrorist attacks on 15 March 2019) of the Immigration Instructions, rather than a Christchurch Response (2019) permanent resident visa under S4.30 (Christchurch Response (2019) Category) of the Immigration Instructions.

- March 2019 (the attack) and was eligible for a Christchurch Response Visa; or
- 19.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 19.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
 - 19.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
- 19.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
- 19.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - 19.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
- 19.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa.
- 20 It is possible that a directly affected person (as defined in paragraph 19) may choose to leave New Zealand for a period of time or permanently, which may call into question the level of support they can receive from their family members (who would be eligible for the waiver). I do not want to restrict the border movements of the directly affected people to determine the eligibility of their family members for the waiver. This is because the type and duration of the support needed is likely to be varied. This also balances policy intent with operational feasibility.
- 21 For clarity, family members of the following ‘directly affected’ cohorts will not be eligible for the waiver:
- 21.1 *people who passed away in the attack, as a direct result of the attack, or subsequent to the attack:* The overall rationale of the policy for these people is weakened as the opportunity for a family member to support the deceased person no longer exists. However, where there are directly affected immediate family members of the deceased who meet the criteria in paragraph 19 above, their family members could be eligible.⁶
 - 21.2 *temporary visa holders who were eligible for the Christchurch Response Visa but did not apply:* This helps minimise precedent risk and upholds the integrity

⁶ This is because immediate family members of a person present during the attacks (that is someone who died or was injured during the attacks, or present in one of the mosques) were eligible for the Christchurch Response Visa, if they were living in New Zealand on 15 March 2019 (see [Christchurch Response \(2019\) — permanent resident visa | Immigration New Zealand](#)).

of wider student support eligibility criteria, as temporary visa holders are not eligible for student loans and allowances. Including this group's family members would represent a significant shift in wider student support policy. This exclusion also ensures consistency with the original waiver agreed by Cabinet in 2020 and helps target the waiver for family members.

- 22 The residency standdown rules ensure that financial support is directed to people more likely to stay in New Zealand after studying and contribute to our society and economy. Exceptions are given only in very rare circumstances. This helps minimise precedent risk and lobbying from other migrant groups who may experience challenging life circumstances. Because of the need to balance policy intent with operational feasibility and broader student support settings, there may be members of the affected community (and their wider families) who are ineligible for the waiver. The community may raise concerns about these exclusions. They would still be entitled to student financial support after the three-year residency stand-down period, subject to meeting all other eligibility criteria. For some, this period may be over as early as 2024, given the time that has elapsed since the attack.

I propose removing the requirement for family members to have gained their New Zealand residence-class visa through their relationship to those directly affected

- 23 Cabinet agreement, on 14 November 2022, was for family members, who are granted residence visas between 15 March 2019 and 31 December 2024 *through their relationship* to holders of a Christchurch Response Visa (or those who would have been eligible but who were already holding another residence visa), to be eligible for this exemption [CAB-22-MIN-0498 refers].
- 24 The family members who can, in practice, gain a residence-class visa through their relationship to those directly affected is narrower than intended. MBIE officials advised that, in practice, generally only partners, parents and dependent children can obtain residence-class visas *through their relationship* to holders of another residence-class visa, such as the Christchurch Response Visa. Other family members may be able to obtain a residence-class visa through other visa pathways (e.g., a Skilled Migrant Category resident visa or a residence-class visa granted under Ministerial discretion). However, these visas are not covered by the wording of the original 14 November 2022 Cabinet agreement because they are not granted explicitly due to a familial relationship to those directly affected by the attack.
- 25 This approach:
- 25.1 does not align with the policy intent, which is to help a broad range of family members, who intend to reside in New Zealand long-term to support those directly affected, to achieve their tertiary education and career goals and ensure they can continue to support those directly affected by the attack; and
 - 25.2 would create inequity between support available to family members who have gained a residence-class visa through their relationship to those directly affected, and support available to family members who have gained a residence-class visa through a different pathway.

- 26 To implement the policy as intended, I propose to clarify the policy parameters to remove the requirement for family members to have gained their New Zealand residence-class visa *through their relationship* to those directly affected. Instead, family members will be eligible for the waiver regardless of their type of residence-class visa.
- 27 Family members of those directly affected will still need to meet the other eligibility criteria agreed to by Cabinet to be exempt from the three-year residence stand-down period for student support for study starting on or after 1 January 2024. That is, that they must:
- 27.1 be a family member of a directly affected person (as set out in paragraph 19 above), and
 - 27.2 have been granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024.

I propose a revised definition of 'family member' to ensure the policy applies to the intended cohort

- 28 MSD officials advised that, to be able to implement the policy, the definition of 'family member' (used to determine family members eligible for the waiver) needs to be clarified.
- 29 The definition of 'family member' contained in the November 2022 Cabinet paper included partners, children, parents, siblings, nieces or nephews, as well as in-laws, step-children or step-parents, or other people with a familial relationship granted a residence visa in New Zealand. However, with the exclusion of the requirement as set out in paragraph 26, there is a risk that this definition may apply to people beyond the intended cohort due to the lack of specificity and ambiguous nature of 'familial relationship'.
- 30 To ensure the exemption is granted to family members intended to be eligible, I propose that 'family member', in relation to a directly affected person, will be defined as a partner, child (both dependent and non-dependent), grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, first cousin (i.e., a child of an aunt or uncle), parent-in-law, child-in-law, sibling-in-law, as well as step-child, step-parent and step-sibling.⁷

Implementation

- 31 Cabinet agreement is needed to change the residence settings for student loans and allowances. The Student Allowances Regulations 1998 will also need to be amended.
- 32 MSD will make the necessary operational changes for the waiver to take effect for study starting on or after 1 January 2024, in line with Cabinet's decisions.

⁷ For example, a person, who is the first cousin of a dependent child of the partner of a person who was injured in the attack, is eligible to receive a student loan or allowance under the waiver, if they start their study from 1 January 2024 and, at the time of application, hold a valid residence-class visa (that was granted between 15 March 2019 and 31 December 2024). This is because a partner's dependent child of a person injured in the attack was eligible for the Christchurch Response Visa, if they were living in New Zealand on 15 March 2019 (see [Christchurch Response \(2019\) — permanent resident visa | Immigration New Zealand](#)).

Financial Implications

- 33 There are no new financial implications from clarifying the policy parameters.

Legislative Implications

- 34 If you agree to the clarifications, the Parliamentary Counsel Office will be instructed to draft the changes to the Student Allowances Regulations 1998.
- 35 The Minister for Social Development and Employment will submit a paper to Cabinet seeking agreement to the amendment regulations in July.
- 36 No legislative amendments are required for the clarifications outlined in this paper for student loan purposes. Cabinet agreement is sufficient for them to be implemented.

Regulatory Impact Statement

- 37 The Treasury's Regulatory Impact Analysis team has determined that the proposal to clarify operational settings around the three-year residency stand-down for student loans and allowances for family members of those directly affected by the Christchurch mosques attack is exempt from the requirement to provide a Regulatory Impact Statement. This exemption is on the ground that the proposal has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Population Implications

- 38 There are no specific gender, ethnicity, or disability-related considerations in the proposals in this paper. However, people affected by the Christchurch mosques attack and their family members are disproportionately a small number of ethnicities, and disproportionately reside in Christchurch.

9(2)(h)



9(2)(h)



- 42 I therefore do not consider that there is any unlawful discrimination in this context and consider the proposals to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 43 MSD was directly involved in the development of this paper. The Ministry of Education also consulted with MBIE and the Treasury on this paper. The Ministry for Ethnic Communities was informed of this Cabinet paper.

Communications

- 44 MSD officials will work with the Collective Impact Board⁹ and community groups to develop a communications strategy for appropriately and sensitively communicating the changes to those newly eligible for student loans and allowances.

Proactive Release

- 45 I intend to proactively release this Cabinet paper within standard timeframes, with any necessary redactions made in line with the provisions of the Official Information Act 1982.

Recommendations

The Minister of Education recommends that the Committee:

Background and previous Cabinet decision

- 1 **note** that in November 2022 Cabinet agreed to waive the three-year residency rules for student loans and student allowances for family members who are granted residence visas, between 15 March 2019 and 31 December 2024, through their relationship to holders of a Christchurch Response Visa (or those who would have been eligible but who were already holding another residence visa), for study starting on or after 1 January 2024 [SWC-22-MIN-0191, CAB-22-MIN-0498];
- 2 **note** the policy agreed to by Cabinet is narrower in practice than intended, as it limits the cohort of directly affected people whose family members are eligible for the

⁹ The Collective Impact Board was established in May 2021 in line with Recommendation 26 of the Royal Commission of Inquiry. The Collective Impact Board brings together community and Government representatives to guide ongoing support services for the families and individuals directly affected by the Christchurch mosques attack.

waiver, and excludes family members who have gained residence in New Zealand through pathways other than through their relationship to residence-class visa holders;

Decision required to clarify policy parameters to ensure policy intent is met

- 3 **agree** to rescind the original decision taken by Cabinet in November 2022, as outlined in recommendation 1 above;
- 4 **agree** to waive the three-year residency stand-down for student loans and allowances for people starting study on or after 1 January 2024, as long as they are:
 - 4.1 granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and
 - 4.2 a family member (as defined in recommendation 5) of a living person where that living person is:
 - 4.2.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or
 - 4.2.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 4.2.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15 March 2019 (the attack) and was eligible for a Christchurch Response Visa; or
 - 4.2.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 4.2.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
 - 4.2.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
 - 4.2.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
 - 4.2.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - 4.2.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or

4.2.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa;

5 **agree** that family members, for the purposes of recommendation 4, will be defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (i.e., a child of an aunt or uncle), parents-in-law, children-in-law, siblings-in-law, as well as step-children, step-parents and step-siblings;

6 **note** that there are no financial implications from recommendations 4 and 5;

Next steps

7 **agree** that the Minister for Social Development and Employment will instruct the Parliamentary Counsel Office to draft the necessary changes to the Student Allowances Regulations 1998, to give effect to recommendations 4 and 5.

Authorised for lodgement

Hon Jan Tinetti

Minister of Education



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Policy Clarification: Waiving the Student Support Residency Rules for Families of Those Directly Affected by the Christchurch Mosques Attack

Portfolio(s) Education

On 26 June 2023, following reference from the Cabinet Social Wellbeing Committee, Cabinet:

- 1 **noted** that in November 2022, SWC agreed to waive the three-year residency rules for student loans and student allowances for family members who are granted residence visas, between 15 March 2019 and 31 December 2024, through their relationship to holders of a Christchurch Response Visa (or those who would have been eligible but who were already holding another residence visa), for study starting on or after 1 January 2024 [SWC-22-MIN-0191];
- 2 **noted** that the above policy is narrower in practice than intended, as it limits the cohort of directly affected people whose family members are eligible for the waiver, and excludes family members who have gained residence in New Zealand through pathways other than through their relationship to residence-class visa holders;

Clarifying policy parameters to ensure policy intent is met

- 3 **agreed** to rescind the decision in paragraph 1 above; and instead
- 4 **agreed** to waive the three-year residency stand-down for student loans and allowances for people starting study on or after 1 January 2024, as long as they are:
 - 4.1 granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and
 - 4.2 a family member (as defined in paragraph 5) of a living person where that living person is:
 - 4.2.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or
 - 4.2.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 4.2.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15 March 2019 (the attack) and was eligible for a Christchurch Response Visa; or

- 4.2.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
- 4.2.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
- 4.2.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
- 4.2.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
- 4.2.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
- 4.2.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
- 4.2.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa;
- 5 **agreed** that family members, for the purposes of paragraph 4 above, will be defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (i.e., a child of an aunt or uncle), parents-in-law, children-in-law, siblings-in-law, as well as step-children, step-parents and step-siblings;
- 6 **noted** that there are no financial implications from the decisions in paragraphs 4 and 5 above;
- Next steps**
- 7 **invited** the Minister for Social Development and Employment to instruct the Parliamentary Counsel Office to draft the necessary changes to the Student Allowances Regulations 1998, to give effect to paragraphs 4 and 5 above.

Diana Hawker
for Secretary of the Cabinet

***Secretary's Note:** This minute replaces SWC-23-MIN_0066. Cabinet agreed to paragraph 3.*



Cabinet Social Wellbeing Committee

Minute of Decision

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Policy Clarification: Waiving the Student Support Residency Rules for Families of Those Directly Affected by the Christchurch Mosques Attack

Portfolio Education

On 21 June 2023, the Cabinet Social Wellbeing Committee:

Background

- 1 **noted** that in November 2022, SWC agreed to waive the three-year residency rules for student loans and student allowances for family members who are granted residence visas, between 15 March 2019 and 31 December 2024, through their relationship to holders of a Christchurch Response Visa (or those who would have been eligible but who were already holding another residence visa), for study starting on or after 1 January 2024 [SWC-22-MIN-0191];
- 2 **noted** that the above policy is narrower in practice than intended, as it limits the cohort of directly affected people whose family members are eligible for the waiver, and excludes family members who have gained residence in New Zealand through pathways other than through their relationship to residence-class visa holders;

Clarifying policy parameters to ensure policy intent is met

- 3 **agreed to recommend that Cabinet** rescind the decision in paragraph 1 above; and instead
- 4 **agreed** to waive the three-year residency stand-down for student loans and allowances for people starting study on or after 1 January 2024, as long as they are:
 - 4.1 granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and
 - 4.2 a family member (as defined in recommendation 5) of a living person where that living person is:
 - 4.2.1 the holder of a Christchurch Response Visa, whether or not they reside in New Zealand; or
 - 4.2.2 a New Zealand citizen, whether or not they reside in New Zealand, who:
 - 4.2.2.1 was a resident visa holder under the Immigration Act 2009 at the time of the Masjid Al Noor or Linwood Masjid terrorist attack on 15 March 2019 (the attack) and was eligible for a Christchurch Response Visa; or

- 4.2.2.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 4.2.2.3 would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or
 - 4.2.2.4 was granted New Zealand citizenship after holding a Christchurch Response Visa; or
 - 4.2.3 the holder of a permanent resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who:
 - 4.2.3.1 was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - 4.2.3.2 would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - 4.2.4 the holder of a resident visa under the Immigration Act 2009, whether or not they reside in New Zealand, who held the resident visa at the time of the attack and who was eligible for a Christchurch Response Visa;
- 5 **agreed** that family members, for the purposes of paragraph 4 above, will be defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (i.e., a child of an aunt or uncle), parents-in-law, children-in-law, siblings-in-law, as well as step-children, step-parents and step-siblings;
- 6 **noted** that there are no financial implications from the decisions in paragraphs 4 and 5 above;

Next steps

- 7 **invited** the Minister for Social Development and Employment to instruct the Parliamentary Counsel Office to draft the necessary changes to the Student Allowances Regulations 1998, to give effect to paragraphs 4 and 5 above.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Dr Ayesha Verrall
Hon Willie Jackson
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Willow-Jean Prime
Hon Rino Tirikatene
Hon Jo Luxton

Officials present from:

Office of the Prime Minister
Office of the Chair of SWC
Officials Committee for SWC



Education Report: Policy clarification Cabinet paper – Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack

To:	Hon Jan Tinetti, Minister of Education		
Cc:	Hon Carmel Sepuloni, Minister for Social Development and Employment		
Date:	6 June 2023	Priority:	High
Security Level:	In Confidence	METIS No:	1311784
Drafter:	Miriam Ulrich Mary Dooley	DDI:	9(2)(a)
Key Contact:	Kieran Forde	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose and summary

In response to the Christchurch mosques attack, in 2020 the Government waived the three-year residence stand-down rules for eligibility to student loans and student allowances for holders of a Christchurch Response Visa and for people who would have been eligible for the visa but were already holding another residence visa [SWC-20-MIN-0013, CAB-20-MIN-0094]. In November 2022, Cabinet agreed to extend the waiver for family members (who are holding a residence-class visa) of those directly affected by the attack, for study starting on or after 1 January 2024 [SWC-22-MIN-0191, CAB-22-MIN-0498].

To give effect to this Cabinet decision for student allowance purposes, the Ministry of Social Development needs to amend the Student Allowances Regulations 1998. Parliamentary Counsel Office asked for further clarification of the policy parameters to ensure the policy intent is met with respect to the scope of those 'directly affected'; the types of residence-class visas family members may hold; and a set list of who is a 'family member'.

This report seeks your agreement to clarify and confirm the policy intent with respect to:

1. student loans and allowances to support the implementation of the waiver; and
2. the residency rules for Fees Free payments for the same group of people to ensure consistency with student loans and allowances settings.

Recommended Actions

The Ministry of Education recommends you:

Clarify policy parameters at Cabinet for the student loans and allowances waiver

1. **agree** to seek Cabinet agreement to clarify that family members of those directly affected are eligible to access the waiver to the three-year student loan and allowance residency stand-down period for study starting on or after 1 January 2024, if they are:

- 1.1. granted a residence-class visa under the Immigration Act 2009 between 15 March 2019 and 31 December 2024, and

- 1.2. a family member of a living person who is either:

- 1.2.1. the holder of a Christchurch Response Visa; or

- 1.2.2. a New Zealand citizen who:

- 1.2.2.1. was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or

- 1.2.2.2. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or

- 1.2.2.3. would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or

- 1.2.2.4. was granted New Zealand citizenship after holding a Christchurch Response Visa; or

- 1.2.3. the holder of a permanent resident visa under the Immigration Act 2009 who:

- 1.2.3.1. was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or

- 1.2.3.2. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or

- 1.2.4. the holder of a resident visa under the Immigration Act 2009, which they held at the time of the attack, who was eligible for a Christchurch Response Visa;

 Agree / Disagree

2. **agree** to seek Cabinet agreement to a set list of family members, for the purposes of determining eligibility for the residency stand-down waiver (as set out in paragraph 12 of this paper)

Agree / Disagree

3. **note** that there are no new financial implications from clarifying the policy parameters;
4. **agree** to progress the attached Cabinet paper for Ministerial consultation to be completed by Tuesday, 13 June to enable lodging of the paper on Thursday, 15 June

Agree / Disagree

Clarify policy parameters for the Fees Free waiver

5. **agree** that the three-year residency rules for Fees Free payments will be waived for family members in line with the arrangements defined in recommendations 1 and 2 above

Agree / Disagree

6. **note** that, subject to your agreement to recommendation 5 above, Ministry of Education officials will prepare the necessary changes for the Fees Free funding delegation

Proactive release

7. **agree** that the Ministry of Education release this paper once the necessary Student Allowances Amendments have been made, with any redactions made in line with the provisions of the Official Information Act 1982.

Agree / Disagree


Kieran Forde
**Acting Senior Policy Manager
Tertiary Policy**

06/06/2023


Hon Jan Tinetti
Minister of Education

6/6/2023

Background

1. On 14 November 2022, Cabinet agreed to exempt family members of those directly affected by the Christchurch mosques terror attack, who have been granted a residence visa between 15 March 2019 and 31 December 2024 through their relationship to those directly affected, from the three-year residence stand-down period for eligibility to student loans and student allowances [SWC-22-MIN-019, CAB-22-MIN-0498 refers]. These changes apply for study starting on or after 1 January 2024.
2. Work between the Ministry of Education, the Ministry for Social Development (MSD) and the Ministry for Business, Innovation and Employment (MBIE) to implement the policy has highlighted the need to clarify the parameters of the policy. This is because the wording in the Cabinet minute does not adequately reflect what is intended by the policy.
3. The previous Minister of Education also waived the Fees Free three-year residency rules for family members of those directly affected in line with the arrangements for student loans and allowances [METIS 1291384]. This change took effect from 1 January 2023.

Clarification of who is eligible for the residency stand-down waiver

4. Eligibility for the waiver depends on the residency status of the family member, when they gain residency, as well as their relative being part of the group of people 'directly affected' by the attack, as defined for the purposes of this policy.
5. Clarification is needed for the following policy parameters:
 - a. the scope of those 'directly affected'; [see recommendation 4.2 in **Annex One**]
 - b. the types of residence-class visas family members may hold for them to be eligible for the waiver; [see recommendation 4.1 in **Annex One**] and
 - c. a set list of who is a 'family member'. [see recommendation 5 in **Annex One**].
6. We have worked closely with MSD on the policy clarifications (with support from MBIE). MSD has advised they are comfortable with the attached Cabinet paper. Subject to further feedback from Parliamentary Counsel Office (PCO), the structure of the recommendations in **Annex One** may change slightly to ensure PCO can draft the necessary amendments to the Student Allowances Regulations in line with policy intent.

The current scope of those 'directly affected' is narrower than what was intended

7. The wording of the original Cabinet agreement has led to a narrower scope of those 'directly affected' than was intended (see paragraphs 16-19 in **Annex One**). It should be clear that the person applying for the waiver must be a family member of a living person who was directly affected by the attack, who is either:
 - a. the holder of a Christchurch Response Visa; or
 - b. a New Zealand citizen who:
 - i. was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - ii. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - iii. would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen; or

- iv. was granted New Zealand citizenship after holding a Christchurch Response Visa; or
 - c. the holder of a permanent resident visa under the Immigration Act 2009 who:
 - i. was a resident visa holder under the Immigration Act 2009 at the time of the attack and was eligible for a Christchurch Response Visa; or
 - ii. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009; or
 - d. the holder of a resident visa under the Immigration Act 2009, which they held at the time of the attack, who was eligible for a Christchurch Response Visa.
8. In clarifying these eligibility parameters, we have been mindful of the need to balance the policy and operational details alongside the targeting intent of the policy, being fair and compassionate, and maintaining consistency within the student support system. For this reason, we are also being clear about who is excluded from being eligible for the waiver (see paragraphs 21 and 22 in **Annex One**).

Eligible family members under current wording does not include all intended cohorts

9. We want to be clear that to be eligible for the waiver, a family member can hold any type of residence class visa under the Immigration Act 2009, if it was granted between 15 March 2019 and 31 December 2024.
10. To implement the policy as intended, we propose you seek Cabinet agreement to remove the requirement for family members to have gained their New Zealand residence-class visa *through their relationship* to those directly affected. Instead, family members will be eligible for the waiver regardless of their type of residence-class visa. This ensures equitable access to the waiver across family members regardless of their immigration pathway (see paragraphs 23-27 in **Annex One**).

‘Family members’ must be clearly defined to implement the policy as intended

11. MSD has advised that, to be able to implement the policy, they need a set list of family members to determine who is eligible for the waiver. The original Cabinet paper included an open-ended list that risks applying to people beyond the intended cohort.
12. We propose that, to ensure the waiver is granted to family members intended to be eligible, ‘family member’, in relation to a directly affected person, is defined as a partner, child (both dependent and non-dependent), grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, first cousin (i.e., a child of an aunt or uncle), parent-in-law, child-in-law, sibling-in-law, as well as step-child, step-parent and step-sibling (see paragraphs 29-30 in **Annex One**).

There are no additional financial implications from clarifying the policy parameters

13. The clarifications mean that there will be a very minor (but unquantifiable) number of additional people who will be eligible for the waiver (specifically related to the inclusion of citizens in the ‘directly affected’ cohort). However, the original estimates were reasonably generous, and we therefore consider that there are no additional financial implications from making these clarifications. The Treasury was consulted and had no comments.

Reconfirming the residency stand-down waiver for Fees Free payments

14. In general, eligibility rules for Fees Free align with those for student loans and allowances to ensure equitable access to tertiary studies for students.
15. The same ambiguities in the original policy Cabinet paper for student loans and allowances were also reflected in the advice to the Minister of Education that sought agreement to the Fees Free waiver [METIS 1291384], and consequently the current Fees Free delegation. You have the ability to make decisions on the clarification for the Fees Free parameters.
16. We therefore recommend you agree to clarify the policy intent for the Fees Free residency waiver, in line with the clarification for student loans and allowances. That is:
 - a. to apply the same scope of those directly affected by the attack (see paragraph 7);
 - b. to remove the requirement for family members to have gained a New Zealand residence-class visa *through their relationship* to those directly affected by the attack (see paragraph 10); and
 - c. to adopt the same set list of family member (see paragraph 12).
17. For clarity, to be eligible for Fees Free payments, family members of those directly affected by the attack will still need be granted a New Zealand residence-class visa between 15 March 2019 and 31 December 2024 to be eligible for the waiver.

Next steps

18. MSD advised that final Cabinet confirmation of the policy clarification is needed by Monday, 3 July, at the very latest. However, MSD advise that any delay in confirmation would risk the policy not being able to be implemented when planned. Therefore, MSD's strong preference is to get Cabinet confirmation on 26 June.
19. If you agree with the policy clarifications, we recommend you urgently consult on the attached Cabinet paper with the Minister for Social Development and Employment and the Minister of Revenue, as they hold the delegations for student allowances and student loans respectively. You may also wish to consult with the Minister of Finance.
20. We worked with MBIE on the Cabinet paper because the eligibility criteria for the waiver are partially based on immigration processes. However, the paper does not propose any immigration changes. We also provided a copy of the Cabinet paper to the Ministry for Ethnic Communities. You may wish to send a copy of the paper to the Ministers of Immigration and the Minister for Diversity, Inclusion and Ethnic Communities for their information.
21. We will provide a final Cabinet paper to your office, following feedback and Ministerial consultation.
 - a. If Ministerial consultation is completed by Tuesday, 13 June, we will provide a Cabinet paper for lodging on Thursday 15 June, for consideration by the Social Wellbeing Committee (SWC) on Wednesday, 21 June and confirmation by Cabinet on Monday, 26 June (**preferred timeframe**).
 - b. If Ministerial consultation is completed by Tuesday, 20 June, we will provide a Cabinet paper for lodging on Thursday 22 June, for consideration by SWC on Wednesday,

28 and confirmation by Cabinet on Monday, 3 July. As noted above, any delay in confirmation would risk the policy not being able to be implemented as planned.

Annexes

Annex 1: Policy clarification: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack

Note: Annex withheld under section 9(2)(f)(iv), as final version supersedes the draft

Education Report: **Policy clarification Cabinet paper for lodging (Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack)**

To:	Hon Jan Tinetti, Minister of Education		
Cc:	Hon Carmel Sepuloni, Minister for Social Development and Employment		
Date:	14 June 2023	Priority:	High
Security Level:	In Confidence	METIS No:	1312562
Drafter:	Mary Dooley	DDI:	9(2)(a)
Key Contact:	Kieran Forde	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose and summary

1. Attached is the revised Cabinet paper entitled *Policy clarification: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack*. This paper seeks agreement to clarify and confirm the policy intent with respect to this student support residency rule waiver [METIS 1311784 refers].
2. Based on further feedback from Parliamentary Counsel Office (PCO), we have made some minor changes to the recommendations (and corresponding paragraphs in the body of the Cabinet paper) to ensure PCO can draft the necessary amendments to the Student Allowances Regulations 1998 in line with policy intent. We have provided your office with a tracked change version for reference.
3. There was no feedback from Ministerial consultation.

Recommended Actions

4. The Ministry of Education (the Ministry) recommends you:
 - a. **agree** to lodge the attached Cabinet paper no later than 10am tomorrow, Thursday 15 June, to enable consideration by the Social Wellbeing Committee on Wednesday, 21 June and confirmation by Cabinet on Monday, 26 June;

Agree Disagree

- b. **agree** that the Ministry release this report once final decisions have been made, with any redactions made in line with the provisions of the Official Information Act 1982.

Agree Disagree



Kieran Forde
Acting Senior Policy Manager
Tertiary Policy

14/06/23



Hon Jan Tinetti
Minister of Education

17/06/2023

Proactively Released



Information Update

Drafter: Mary Dooley
Metis Number: 1312563
Date: 14 June 2023

Request

This information update provides talking points to support a discussion at the Social Wellbeing Committee on Wednesday, 21 June, on your paper *Policy clarification Cabinet paper: Waiving the student support residency rules for families of those directly affected by the Christchurch mosques attack*.

Talking points

Background and summary

In 2020, the Government waived the three-year residence stand-down period for eligibility to student support for some people directly affected by the Christchurch mosques terror attack. In November 2022, **Cabinet agreed to extend the waiver for family members of those directly affected by the attack**, for study starting on or after 1 January 2024. [3-5; 10-12; rec 1]

Work to implement the policy has **highlighted the need to clarify some of its parameters to ensure policy intent is met**. The wording in Cabinet's original agreement has led to a **narrower policy, in practice, than was intended**. This is because it limits the cohort of directly affected people whose family members are eligible for the waiver and excludes family members who have gained residence in New Zealand through pathways other than through their relationship to residence-class visa holders. [4; 13; rec 2]

Today, I am seeking your **agreement to clarify the following policy parameters** of the waiver: [1; 6; recs 3-5]

- a. the **scope of those 'directly affected'**: I propose clarifying the scope to also include resident visa holders and those who were at the time of the attack, or have since become, New Zealand citizens. This is in addition to those who held or are holding a Christchurch Response Visa or another permanent resident visa, and ensures the policy is implemented as intended. [14-22; rec 4.2]
- b. the **types of residence-class visas family members may hold for them to be eligible for the waiver**: I propose removing the requirement for family members to have gained their New Zealand residence-class visa through their relationship to those directly affected to ensure equitable access to the policy, as intended. A family member can hold any type of residence-class visa under the Immigration Act 2009, if it was granted between 15 March 2019 and 31 December 2024. [23-27; rec 4.1]
- c. a **set list of who is a 'family member'**: I propose to specify a revised definition of 'family members' (used to determine family members eligible for the waiver) to ensure the policy applies to the intended cohort. [28-30; rec 5]

There are **no financial implications** from making these clarifications. [33; rec 6]



Next steps

Subject to Cabinet agreement, the Minister for Social Development and Employment will instruct Parliamentary Counsel Office to draft the **amendments to the Student Allowances Regulations 1998 and submit a paper seeking Cabinet agreement** to these amendments. **No legislative amendments are needed** to give effect to the waiver for student loan purposes. [7; 31; 34-36; rec 7]

MSD will make the necessary operational changes for the waiver to take effect and will **work with the Collective Impact Board and community groups to communicate the changes**. [8; 32; 44]