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| MBIE acted ‘unreasonably’ over managed isolation allocation system, Chief Ombudsman says |
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| **Date** 12 December 2022 |

The Chief Ombudsman says the Ministry of Business, Innovation and Employment’s advice to government ministers on the Managed Isolation Allocation System did not adequately take into account the very real impact it would have on people’s lives.

Peter Boshier [has released the findings of his investigation into the Managed Isolation Allocation System (MIAS)](https://www.ombudsman.parliament.nz/resources/chief-ombudsmans-opinion-under-ombudsmen-act-malachi-subecz) after receiving hundreds of complaints.

“When our first Ombudsman, Sir Guy Powles was appointed by Parliament in 1962, he said he was there to protect the individual and would look for reason, justice, sympathy and honour in the decisions made by the state. If he didn’t find these qualities, he vowed to call it out.

“Sixty years later, I am again making that call after receiving hundreds of complaints about the MIAS,” Mr Boshier says.

“We ended up with a lottery - a system that did not fully allow for the consideration and prioritisation of individual circumstances of people trying to come home during the COVID-19 pandemic.”

The Ministry of Business, innovation and Employment (MBIE) had overall responsibility for the planning and operation of the MIAS programme.

“While ministers made the final decisions on the shape of the system, I would have expected MBIE’s officials to provide free and frank, clear and sound advice and recommendations on the fairest options that considered the impact it would have on people.

“This would have allowed decisions to be made, not just with reason, but with sympathy and honour.”

Mr Boshier said he was sympathetic to the environment MBIE was working in. New Zealand was facing an unprecedented set of circumstances and needed to act quickly to keep COVID-19 away from the border for as long as possible.

“I acknowledge that another type of system, which provided for consideration of individual circumstances would have been more complex, time-consuming and costly to implement than the virtual lobby.

“But I do not consider these challenges provided sufficient rationale for MBIE not to advise and recommend to decision-makers options for such a system – the impact on people was too severe. A fundamental human right was being limited and people’s lives were being significantly impacted.

“It is obvious that managed isolation and quarantine (MIQ) and MIAS caused a huge amount of stress and frustration for New Zealanders trying to exercise their right to enter the country.”

Mr Boshier has found MBIE’s advice to government ministers on the design and operation of the MIAS failed to put enough emphasis on people’s individual circumstances in the following ways:

* MBIE recommended a virtual lobby over other options when a change in the online application process for spaces within MIAS was being considered;
* While some spaces were set aside for people with special circumstances under the voucher system available off-line, this did not cater for many New Zealanders who had a genuine or urgent need to travel nor those experiencing delays in returning to New Zealand;
* It failed to fully ensure there was a way for disabled people to independently apply for vouchers.

Mr Boshier says he found that, collectively, MBIE’s omissions in its advice were unreasonable.

“I also believe MBIE acted unreasonably by failing to undertake an analysis under Te Tiriti o Waitangi when developing its online allocation, and by not consulting with Māori sooner,” Mr Boshier says.

He has recommended MBIE address the issues he has raised in the design of any future national quarantine system.

Mr Boshier found MBIE did not act unreasonably in relation to:

* its efforts to increase capacity, given the limitations imposed by public health settings and workforce constraints; and
* the use of available capacity in MIQ, as rooms were empty at times for unavoidable reasons.

“Key decisions about the allocation system were made by government ministers and I do not have jurisdiction under the Ombudsmen Act to recommend they apologise.”

“However, I will be following up with the complainants in this investigation to see whether they have been affected by the individual decisions made by MBIE that may be flawed, and if a personal apology from MBIE is appropriate,” Mr Boshier says.

**Media contact: Lucy Bennett, 022 1038 687,** **communications@ombudsman.parliament.nz**

**Editors’ note**

The investigation framework, [announced by the Chief Ombudsman in October 2020](https://www.ombudsman.parliament.nz/news/ombudsman-launches-investigation-miq-booking-system), is [here](https://www.ombudsman.parliament.nz/resources/investigation-framework-administration-managed-isolation-allocation-system-ministry)