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OPEN LETTER

Rt Hon Jacinda Ardern
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CC: Hon Chris Hipkins, Megan Main, Hon Judith Collins, Chris Bishop, David Seymour, Hon James Shaw, Hon Marama Davidson, Debbie Ngarewa-Packer, Rawiri Waititi

DISCONNECTED FROM NEW ZEALAND: BORDER ANNOUNCEMENT FAILS TO ADDRESS CRITICAL MIQ ISSUES

Grounded Kiwis - a network of nearly 2000 Kiwis at home and abroad - welcomes the Government's review of its border policy announced at the 'Reconnecting New Zealanders to the World' forum on Thursday. Indeed, we believe that many of the proposals for reopening the border in 2022, including increased testing, traveller risk categorisation, and alternatives to MIQ, are a step in the right direction. At the same time, we are profoundly dismayed by some glaring omissions in the Government's path forward - including its failure to address broad dysfunctions in the MIQ system.

Kiwis separated from their families, unable to farewell loved ones, and in need of urgent medical care are not "friction at the border" as you have recently suggested. Quite the contrary, these are New Zealand citizens hurt by an inequitable MIQ system. In a forum dedicated to 'Reconnecting New Zealanders to the World', the Government's disregard for Kiwis unable to secure entry into New Zealand via the MIQ system conveyed the message that these Kiwis are second class citizens, and left them feeling more disconnected than ever.

The Government does not need to wait until 2022 to fix MIQ. As urged by the 12,000 (and counting) signatories to our [petition](#), there are steps that can and should be taken to redress the current flaws in the MIQ system so as to ensure that all individuals with a legal right to enter New Zealand can do so, while keeping the New Zealand public safe.

1. EMERGENCY ALLOCATION SYSTEM

The current emergency allocation system is not fit for purpose. Take *Rachel, who is seven months pregnant with her first child, a high risk pregnancy, and stuck in the USA on a transit visa which is about to expire. Rachel has no medical insurance in the USA, and has been told she will be liable for medical costs of up to \$100,000 if she gives birth there, before likely being deported. She is desperate to return home, and has been denied an emergency allocation by MBIE five times.

Rachel's traumatic situation is illustrative of significant flaws in the emergency allocation system:

- **The criteria are too narrow** - Individuals with genuine medical and personal emergencies such as David, who travelled to Singapore from New Zealand for life-extending cancer treatment, or Peter, who experienced the sudden death of both a parent and sibling within a few months, do not currently meet the criteria to obtain an emergency MIQ allocation to return home, despite the evident emergencies they have faced. Emergency criteria also require an applicant to enter New Zealand within 14 days of applying, which is not practical for individuals like *Sarah, who urgently needs to visit her terminally ill sister in Ireland, and yet, in leaving her four children behind in New Zealand, needs advance assurance that she will be granted an MIQ spot to return.

**names changed on request to protect privacy*

- **MBIE's unjust decision-making** - A growing number of emergency cases are rejected by MBIE on vague and contradictory grounds. Individuals meeting the emergency criteria are denied an emergency allocation on technicalities, insufficient evidence, or points of interpretation. Still more concerning are the Kiwis at risk of deportation due to visa expiration, whose requests for an emergency allocation are rejected on the basis of insufficient evidence (such as the lack of an official letter from a foreign government when such a letter is simply not provided by that government) or are said to have "other options" (such as to "go travelling") rather than return home. Since December 2020, 190 applications for MIQ spots have been declined despite these Kiwis having no other option but to return to New Zealand.
- **Lack of space** - Even those who do meet the relevant criteria and manage to tick all the boxes are routinely denied on the basis of insufficient space. In December 2020, 107 valid emergency applications were declined due to lack of space.

We urge the Government to reconsider the emergency criteria to better account for the genuine emergencies that people are facing, increase capacity for emergency allocations, and ensure MBIE staff do not decline valid applications on technicalities, so as to ensure that all Kiwis experiencing an urgent need to enter New Zealand can do so.

2. MIQ BOOKING SYSTEM

The MIQ booking system is unfair, opaque, and inaccessible. The Human Rights Commission is investigating over 30 complaints, many of which are from elderly or disabled individuals who do not have an equal opportunity of securing a voucher due to lack of accessibility. Others complain of the considerable and persistent stress of being tied to their computer screens every waking hour, refreshing every seven seconds, setting alarms in the middle of the night, and struggling to maintain or continue with their daily lives for fear of missing an elusive spot in the MIQ system.

In his [open letter](#) to the Government, Ben Morrison called for solutions to these issues, including clarity over the time and date when spots will be released, a waitlist system, transparency over wait times, and stopping or slowing down automated bots.

Yet we have seen no meaningful change, despite statements by the Government that its approach is "agile", "adaptable", and "kind". In fact, since Ben Morrison's letter was published, we have seen MBIE cancelling the spots of hundreds of New Zealanders who enlisted the help of family and friends in other time zones to assist them to search for and secure MIQ spots, often because they were unable to access the site themselves due to disability, age, or internet connection.

The disparity between the COVID-19 vaccination booking system, which offers a myriad of ways to make an appointment, and the MIQ booking system shows a lack of concern by the Government for its citizens located overseas or an attempt by the Government to use the MIQ system as an operational disincentive for citizens wanting to return home. The New Zealand Government is wholly capable of creating and managing a booking system that is more accessible to all, yet has not made these systems improvements.

3. SUPPLY AND DEMAND

MIQ supply is down more than 15% since December 2020, while demand is at an all-time high. In the last week of July, the MIQ booking website attracted an average of more than 19,000 users per day. With an average of 200 MIQ rooms released per day, according to the Government, this implies that each user had about a 1% daily chance of securing a room. Independent software monitoring of the site suggests that the number of rooms released by the Government on a daily basis is in fact less than 200.

Together with significant dysfunctions in the MIQ system, the Government has recently decided to allow direct entry for seasonal workers, and is setting aside more and more MIQ rooms for New Zealanders traveling on trade missions, for sports events and for scientific research, creating substantial and arbitrary inequity in the MIQ system. Of course, we welcome measures to further New Zealand's economic interests. Nonetheless, these cases should be in addition to, and not at the expense of, other New Zealanders trying to return home.

4. PILOT SCHEME AND RISK BASED CATEGORIES

Although we welcome the introduction of risk-based categorisation of returnees, and alternative options to MIQ, there is insufficient detail on how this system will be applied in practice.

- **Pilot scheme** - The pilot programme proposed by the Government is for individuals vaccinated in New Zealand who need to leave and return for short business trips. We trust that when we reach Step 3 of the Government's plan, there will be no distinction between fully vaccinated individuals in New Zealand who need to depart and return and those residing overseas who need to return, as there would be no rational basis for such a distinction. The Government should move promptly now to ascertain the forms of proof of vaccination in other countries.
- **Risk categorisation** - We need further clarity on how the Government will determine low, medium and high risk countries, and in particular, whether a regionalised or state approach will be adopted for countries like the USA where COVID-19 cases and vaccination coverage vary widely across the country. The trans-Tasman bubble between Australia and New Zealand set the precedent of a risk-based assessment intra-country, and Grounded Kiwis encourage the Government to consider similar distinctions for other countries.
- **Data transparency and protection** - Despite repeated claims that the Government is following the science, it has failed to provide details of the data upon which its policy decisions are based. Given the importance of border policy to so many New Zealanders, we call for full accountability and transparency and ask that the Government release the data and other information upon which it relies. We applaud the Government's decision to start collecting information on vaccination status from MIQ guests, although question why such data collection was not initiated several months ago, as vaccination programmes scaled up worldwide. Several months of data on the potential implications of vaccinated vs unvaccinated travellers on COVID transmission risks have been missed due to the lag in Government data collection and reporting.

5. A TE AO MĀORI PERSPECTIVE

Under the Treaty of Waitangi Act 1975, the Government seeks to apply the principles of Te Tiriti O Waitangi - partnership, participation, and protection - as a means to meet its treaty obligations. However, none of these principles have been applied through the MIQ process. There has been no dialogue with Kiwis abroad, nor have there been sufficient attempts to support or protect us. Tangata whenua and tangata tiriti abroad have been abandoned. Where is the manaakitanga here?

Article 2 of Te Tiriti focuses on the exercise of tino rangatiratanga - self determination. Flaws in the MIQ booking system impede Kiwis from realising their self-determination. The system also disregards the deeply held sense of whakawhanaungatanga (the act of building, maintaining and strengthening relationships/kinship ties), which is often the primary reason Kiwis need to return. In impeding the ability of Kiwis to return home, the Government is undermining our sense of turangawaewae, and disregarding the fundamental tenets of Te Tiriti o Waitangi.

We understand the desire and need to ensure all New Zealanders have an opportunity to be vaccinated before the border significantly reopens. This will take time, and yet the current dysfunctions in the MIQ system cannot be left to linger. We call on the Government to urgently consider the issues outlined in this letter, and to take action to ensure any limitations imposed on New Zealanders' right to return are reasonable, proportionate, and justified, in line with the New Zealand Bill of Rights Act 1990 and the Government's Te Tiriti O Waitangi commitments.

Finally, Grounded Kiwis invites yourself, the Hon Chris Hipkins, Megan Main, and any of the other recipients of this letter, to a virtual forum with our members to discuss the future of the MIQ system with the people who have actually experienced it. We are all in this together.

Kind regards

Grounded Kiwis
On behalf of our 1900 (and counting) network of Kiwis at home and abroad