MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

MEMO

DATE	5 May 2022
TO	Alison McDonald, Deputy Secretary Immigration
FROM	Stephen Vaughan, Chief Operating Officer
PREPARED BY	Jeannie Melville, Head of Accredited Employer Work Visa implementation
	Alan Quinn – Project Director, Enablement, Immigration
SUBJECT	**AUTOMATING APPROVALS OF ROUTINE EMPLOYER ACCREDITATION APPLICATIONS UNDER THE EMPLOYER ASSISTED WORK VISA POLICY**

PURPOSE

This memo seeks approval for the Advanced Digital Employer-led application Processing and Targeting (ADEPT) system to automate approval of standard and high volume Employer Accreditation applications where Immigration New Zealand (INZ) has no adverse holdings, no adverse declarations are made and where there is no documentation requiring assessment or verification.

RECOMMENDATIONS

It is recommended that you:

a) **Note** that applications for Employer Accreditation are scheduled to open on 23 May 2022.

Noted

b) **Note** that it is expected that up to 21,000 employers may apply under the Employer Assisted Work Visa Policy (AEWV) for Employer Accreditation in the first 12 months.

Noted

c) **Note** that INZ intends to manually assess all employer accreditation applications where the employer:

- o is an employer intending to place workers with a controlling third party,

- o a franchisee,

- o has been in business for less than 12 months,

- o is an employer for whom INZ has adverse holdings, or

- o has made adverse declarations in the application form

Noted

IN CONFIDENCE

d) **Note** that automating Employer Accreditation application approvals that are not caught in the description in recommendation c) would enable processing timeframe commitments to be met for these applications while freeing up processing resources to support processing of visa applications in support of Reconnectiing New Zealand.

Noted

e) **Agree** that standard and high volume accreditation applications where the employer has been in business for 12 months or more, where INZ has no adverse holdings and where there are no adverse declarations made, will meet the criteria for an automated approval.

Agreed / Discuss

f) **Note** that the Data Science Review Board has been approached for advice and feedback on the approach to automation which will be used to inform future development of the enhanced immigration online platform.

Noted

g) **Note** that the Risk Monitoring and Review (RMR) approach for AEWV will test declarations made by employers and migrants at all three gates through post decision verification. It will be undertaken through a mix of desk and site based reviews which will allow INZ to test an employer's compliance with all accreditation requirements based on evidence. RMR will commence from July 2022.

Noted

h) **Note** for the first 12 months of the AEWV, RMR will be conducted on 15.5 per cent of employers including 100 per cent of Franchise and Triangular businesses and a higher proportion of high volume employers over standand employers.

Noted

i) **Note** that there will be 100 per cent Quality Checks (QC) of staff new to the policy done outside of ADEPT and no random sampling of manual decisions pre decision.
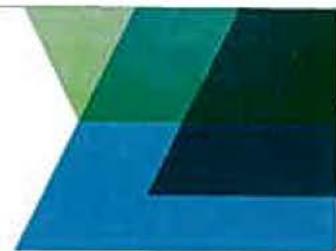
Noted

Privacy of natural persons

Privacy of natural persons

Stephen Vaughan
Chief Operating Officer
Immigration New Zealand
5 May 2022

Alison McDonald
Deputy Secretary Immigration
6.... May 2022

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BACKGROUND

1. Under the new Employer Assisted Work Visa Policy, six existing employer-assisted temporary work visa categories have been replaced with a new policy that introduces a new 'Gateway' system.

2. The three Gateways each have distinct steps where a range of validation checks are completed:

   a) Employer Accreditation Gateway – This is where employers are accredited to enable them to hire a migrant.

   b) Job Check Gateway – There are three different pathways whereby the job is checked to ensure that no New Zealander is able to fill the job being recruited.

   c) The Migrant Gateway – This is where checks will be made that the migrant is of good character and health, and is suitably qualified to do the work offered.

3. The new Accredited Employer Work Visa (AEWV) and the three Gateway process will become compulsory from 4 July 2022. To support transition, employers can submit accreditation and job check applications from 23 May 2022 and 20 June 2022 respectively.

PROCESSING APPROACH

4. There are different categories of Employer Accreditation depending on the number of temporary work visa holders the employer has or intends to recruit, and depending on the business model under operation.

5. Employers can be categorised as *Standard* (employing five or less migrants in a year), *High volume* (employing six or more migrants in a year), working in a *Triangular employment* situation (where the migrant is placed to work for a different employer, such as in a Labour Hire scenario) and *Franchisee*.

6. Analysis has been undertaken as part of developing the EAWV and also to determine the level of fees for each accreditation type. The average annual volume of employers expected to apply for accreditation[1], by category are as follows:

Accreditation type	Forecast volume (average per annum)
Standard accreditation *(5 or less migrants)*	17,722
High volume accreditation *(6 or more migrants)*	1,738
Triangular employment	600
Franchisees	400

[1] Forecast volumes were determined in 2021, and are not expected to be materially impacted by the ongoing impacts of COVID.

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7. Immigration risk was considered in the development of accreditation types as part of policy design. Separate accreditation types were established for franchises, and business models where an employee is placed with a controlling third party, which have historicaly been at higher risk of non-compliance (eg Labour Hire companies). In addition, those employers who have been in business for less than 12 months are also subject to higher scrutiny, particularly around financial viability.

8. The ADEPT system has been configured to provide the option of automation of decisions to approve applications where INZ determines that a manual assessment is not required.

9. INZ must set the criteria for which employer accreditation applications meet the threshold for automation of an approval. In principle, the lower the immigration risk, and the lower the level of manual assessment and judgement required in decision-making (if any), the greater the potential for automating approvals.

10. Under the policy settings, as the risk profile of the employer increases so does the requirement for employers to provide additional documentation to enable INZ to make a decision, reducing the ability to automate decisions and increasing obligation on INZ to ensure the employer will meet their employment and immigration obligations. For employers deemed at the lowest risk however, declarations and automated checks against INZ holdings are to be used to establish eligibility for accreditation.

11. In light of the above, the proposed approach, would require a manual assessment for all employer accreditation applications where the employer:

    - is an employer placing workers with controlling third parties

    - a franchisee,

    - has been in business for less than 12 months

    - is one for whom INZ has adverse holdings

    - has made adverse declarations in the application from.

12. For standard and high volume employers who have been operating for more than 12 months, evidence is provided by declaration only. It is proposed that the ADEPT system auto-approve these applications where:

    - INZ has no adverse holdings related to the business, and
    - where no adverse declarations are made.

13. If these applications were auto-approved it is estimated they could proceed through the automation flows within 45 minutes, with notification being issued to applicants within 24 hours.

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14. Automation would be based on the EAWV settings and work-flow, rather than business rules or algorithms. A paper has been prepared for the Data Science Review Board (DSRB) to seek advice and feedback on the automation which can be factored in to future iterations.

15. INZ already automates approvals for requests for Electronic Travel Authorities based on declarations made and where INZ has no adverse holdings in relation to the requestor. The approach proposed in this paper for standard and high-volume employer accreditation is similar.

16. Clearly, any adverse information held by INZ, any declaration made by the applicant containing adverse information or the triggering of a risk activity will result in the application being assigned for manual assessment and decision.

RESOURCE IMPACT

17. The potential bringing forward of Step 5 of Reconnecting New Zealand to the middle of 2022, at the same time as AEWV is being implemented could place significant pressure on the immigration system. While there will also be a significant increase in the number of Immigration Officers when the new Christchurch office opens, approximately 25 per cent of INZ's visa processing workforce will be new to their roles and relatively inexperienced; resulting in reduced efficiency.

18. Current workforce planning has assumed the processing time for a standard or high volume Employer Accreditation that requires manual assessment will be approximately two hours per application.

19. Based on the numbers in paragraph 6 above, there is the potential for up to 19,460 employer accreditation applications to be automated every year. With every ten per cent of these that can be automated (equivalent to 1946 applications per year and a corresponding average of two hours manual work per application), 3892 processing hours can be saved or approximately 2.5 FTE per ten per cent of applications that are able to be automated. It is difficult to predict the exact number of applications that will be automated as there is not yet any indicated of how many businesses applying may have a warning attached to their record in AMS or make an adverse declaration on the form.[2] .

20. This assumption will need to be validated as we go live, in order to baseline the resourcing benefits for INZ. This will enable that processing capacity to be redeployed to other products and allow the 10 working day processing commitment for routine accreditation applications to be exceeded.

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[2] Based on 1 FTE delivering 1600 productive hours work per annum – as per current workforce planning assumptions

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IMMIGATION RISK MANAGEMENT IN AEWV

21. INZ currently holds limited data on employers which can be used to inform employer risk identification and analysis. Information held in AMS is captured as free text and currently immigration risk controls are heavily reliant on alerts and warnings for individual employers, and historic verification and decision data to inform risk rules.

22. The move to ADEPT will allow INZ to capture more structured immigration risk data over time to inform immigration risk identification and treatments, improving the ability for INZ to ensure immigration risk is better managed and enable a focus on targeting risk management to the employers who present the greatest risk.

23. As AEWV will utilise the ADEPT platform, the immigration risk management approach will include a strong focus on collecting data and intelligence in the first year to build the data INZ holds on employers. This will include a heavy focus on post-decision risk monitoring and review which will gather employer specific data through verification of claims made at the Employer Accreditation, Job Check and Migrant Gates.

24. It is expected that as the understanding of immigration risk presented by employers increases, there will be a greater level of verification activity by INZ required for the higher risk employers at the Employer Accreditation Gate pre-decision.

25. The Risk and Monitoring and Review (RMR) model has been developed to ensure that monthly post decision reviews of employers are conducted by Risk and Verification, data is captured to inform ongoing immigration risk analysis and findings reported through INZ's Risk Governance Groups (RMRGG & RCG) to inform risk tolerance and controls. The benefit of this approach is to ensure a circular risk management model is embedded that feeds intelligence and insights into the development and maintenance of risk controls to ensure appropriate risk and automation settings within the ADEPT system and AEWV gates.

26. RMR will test declarations made by employers and migrants at all three gates through post decision verification. It will be undertaken through a mix of desk and site based reviews which will allow INZ to test an employer's compliance with all accreditation requirements based on evidence. To ensure the risk monitoring and review activities are informed by declaration made across all EAWV gates and evidence of compliance can be collected and verified, RMR will commence from July 2022.

27. RMR represents a key element of the implementation of the broader Immigration Risk Model approved to identify employer risk and inform automation over time, focusing INZ resources on gathering data, insights and intelligence on those employer groups that present risk.

28. In March 2021, INZ informed the Minister of Immigration that we would develop a risk-based prioritisation process that prioritises the highest risk employers for more robust assessment and more site visits and will provide further advice as implementation progresses on the ratio of employers holding high-risk business

model accreditation that will receive a site visit. The RMR Governance Group has agreed that for the first 12 months:

- RMR will be conducted on 15.5 per cent of employers (based on anticipated annual volumes described in paragraph 6) including 100 per cent of Franchise and Triangular businesses and a higher proportion of high volume employers over standard employers. 22 FTE Verification Officers have been committed to conduct RMR annually.

29. The RMR model anticipates that in most instances immigration risk identification and management will occur after information has been collated from all three gateways and immigration risk will be managed primarily at the re-accreditation stage as part of the full immigration risk management cycle. However, there are still some immigration risks that will managed pre-decision.

30. In addition to post-decision RMR, INZ will conduct pre-decision immigration risk management activities on Employer Accreditation applications which pose a greater risk or where INZ holds adverse information relating to that employer.

- All franchise and triangular businesses and all businesses which have been operating for less than 12 months will be manually assessed with emphasis placed on identifying and managing the risk of migrant exploitation, non compliance with employment and immigration law and sustainability.

- Where INZ holds adverse information on an employer (such as an employer alert or wanting or presence on a standdown list) or an employer mades an adverse declaration in the applications this will result in a manual assessment activity.

QUALITY OF DECISION MAKING & ASSURANCE

31. As this is a new Policy and new approach to processing, decisions about how we ensure the quality of decisions under the three gateways need to be made. The ADEPT system enables activity based and random sampling QC (RSQC) to be conducted pre-decision. However, how we use these functions should be considered in relation to each of the three AEWV gateways taking into account the new RMR function.

32. Assurance is a critical component of the automated visa processing system. It is necessary to ensure system settings are right, that immigration decisions are being made in accordance with immigration instructions and for feeding into the wider system learning ecosystem.

33. Currently, for visa decisions, INZ undertake Quality checks (QC) prior to the finalisation and communication of the visa decision. This is a preventative control, undertaken by BVO, designed to ensure the quality of the decision i.e that is in line with instructions and standard operating procedures. The proportion of decisions checked varies from

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two per Immigration Officer per month to 100 per cent.[3] Further, on a quarterly basis the Quality & Assurance team (within the Assurance Branch) review a sample of visa decisions made in the previous quarter to independently assure the quality of decisions (QA). While Employer Accreditation is not a visa decision, it is the precursor / first stage gate in the AEWV process. Therefore, a logical starting point would be to potentially replicate the QC and QA steps for these decisions where appropriate.

34. The Employer Accreditation stage gate will also include 'post decision verification' (PDV) activities, performed by the Risk & Verfication Team as noted in para. 25. This is a detective control designed to verify declarations made by the applicant i.e confirm that the information on which a decision was based is correct. As noted above, it is proposed that PDV be undertaken on a sample basis.

35. As noted above, if we proceed with automated approvals for certain applications, the employer accreditation process is reliant on rules within the system to determine which applications meet all the criteria for automation and which don't and thus require manual assessment. While these rules would have been tested prior to go-live of the system, good practice requires ongoing review to provide assurance that the system continues to operate as expected (System Assurance – SA).[4]

36. The proposed approach to automating some decisions, with others requiring manual assessment – enables INZ to adopt different approaches to controls testing and assurance depending on how the decision was made. For example:

|		Control testing / Assurance type[5]			
		QC	PDV	QA	SA
Decision type	Automated	✗	✓	✗	✓
	Manual	✓	✓	✓	✓

Decision finalised and communicated

37. Automated decision – as there is no human intervention / discretionary effort, then this would not require QC pre decision as there is nothing to check; similarly you would not expect QA of the decision. Rather, INZ would look to rely on PDV – to confirm the validity of the assertions made by the applicant, and SA - to confirm that the system responded to the assertions made by the applicant as we expected.

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[3] As presecribed by SOPs.

[4] Note – a system assurance framework needs still needs to be developed.

[5] It should be noted that the control testing and assurance types are orgnaised in the table according to "proximity" to the decision.
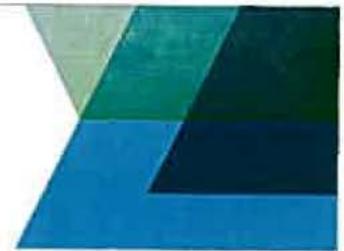
38. Manual decisions – as there is human intervention then this would, ordinarily, be subject to:

   - QC – to review the quality of the proposed decision, prior to finalisation

   - PDV – to confirm the validity of the information / assertions on which the decision was made

   - QA – to independently assure the quality of the manual decision.

   - Additionally, these decisions would also rely on periodic system assurance that the system rules are operating effectively i.e. that all those things that require manual assessment were included in the assessment.

39. In the future, consideration could be given to whether all of the above are required for all manual decisions, or whether there is the potential to take different approaches across the different application types based on RMR information. It should be noted however, that they each 'check' different elements of the decision at different stages of the process and as such, are not readily interchangeable.

40. From the 23 May, it is proposed that the QC is done on all applications where there is manual intervention and the staff member is new to the accreditation instructions and not yet been cleared as fully trained. This will be recorded outside of ADEPT and be conducted by Technical Advisors on site. This will ensure that this is immediate oversight of the decisions that are being made. There will be no further random sampling for QC purposes. Although the ADEPT systems allows for QC sampling of visa decisions, the configuration within the system does not efficiently support QC in the accreditation and job check space (ie non visa decisions)..

RISKS

41. There is a level of risk associated with any decision to automate decision making. The most significant reputational risk for INZ is that by automating as proposed there is a chance that employers whose practices do not align with the intent of the policy may gain accreditation based on the declarations they make.

42. This risk would be mitigated by:

   - Enabling only those employers whose applications meet all of the relevant "selection" criteria to proceed to automated decision making;

   - "Selection" criteria that are not solely based on information provided by the applicant as they also include a review of whether INZ has any adverse holdings with respect to the employer;

- System testing (pre go live) and ongoing system assurance to confirm that system rules are operating and operating effectively.

- Post decision verification activities – which may pick up the decision as part of the system health sample, or there is potential for the employer to be referrered or identified as part of the targeted approach.

- INZ ultimately retains the right to revoke an employer's accreditation, although it is recognised that in respect of the individual employer this would be more resource intensive than simply declining their application in the first place.

43. The proposed removal of the preventative control of random QC sampling (and only doing a manual QC sample on new staff), does not in and of itself create risk, rather it has the potential to exacerbate (an) existing risk(s). As above, the most significant reputational risk for INZ is that there is a chance that employers whose practices do not align with the intent of the policy may gain accreditation due to core processes not being effective, coordinated or fit for purpose and that our decision-making lacks transparency, fairness, natural justice and independence.

44. This risk would be mitigated by:

- All staff, irrespective of tenure / past experience subject to 100 per cent checking of all decisions and manual oversight of processing until deemed competent in this product.

- Post decision verification activities – which may pick up the decision as part of the system health sample, or there is potential for the employer to be referred or identified as part of the targeted approach.

- Periodic Quality Assurance of decision making undertaken on a sample basis.

- System testing (pre go live) and ongoing system assurance to confirm that system rules are operating and operating effectively.

45. Converserly, if we do not automate and cannot meet the processing timeframes we have committed to for AEWV, this has the potential to significantly impact on the trust and confidence of our stakeholders. The accreditation criteria for standard and high volume employers is based on declarations and assessment against alerts and warnings where they exist, taking a deliberately low touch approach for employers to ease the compliance burden. The post decision monitoring will ensure risk factors over time are established and built in to the ADEPT platform.

CONSULTATION

46. There are differing views across INZ about the proposed automation.

INZ Verification and Compliance (V&C) are supportive of the automation approach subject to the development and implementation of ongoing system assurance post go live, and are focusing their effort on ensuring effective pre and post-decision immigration risk management practices are in place. While the need for RSQC for manually assessed applications is negated at go-live due to 100 per cent QC outside of ADEPT, V&C recommend it be implemented as a 'fast follower' to ensure ongoing quality once staff reach competence.

47. INZ Assurance are supportive of the proposal to take a risk based approach to automation (focusing on those accreditation applications that meet the automation criteria as outlined in recommendation e), subject to confirmation from MBIE Legal that there is no lawful impediment to us doing so, and the development and implementation of ongoing system assurance post go live.
While the need for RSQC is negated at go-live due to 100 per cent QC outside of ADEPT, INZ Assurance recommend it be implemented as a 'fast follower' to ensure ongoing quality once staff reach competence.

48. Legal professional privilege

49. The following people have been consulted on the proposal to automate:
    - Stephen Dunstan, General Manager Enablement
    - Nicola Hogg, General Manager Border and Visa Operations
    - Zoe Goodall, General Manager, Assurance
    - Geoff Scott, Acting General Manager, Verification and Compliance
    - Privacy of natural persons
    - Jacqui Martin, ADEPT Change and Capability Director
    - Nick Aldous, Director, Policy Integration - Immigration
    - Privacy of natural persons Risk and Verification Manager
    - Jade Reid, National Manager, Risk and Verification
    - Sarah Clifford, National Manager Border and Visa Operations
    - Privacy of natural persons Christchurch
    - Jason Austin, Team Leader Operational Policy

NEXT STEPS

50. Subject to agreement to the recommendations in this paper the Head of AEWV will engage with the ADEPT Programme team to ensure the necessary technology adjustments can be made for AEWV.

51. Develop / extend the system assurance model to ensure it covers the three stage gates of AEWV.

52. The Assurance branch will be formally tasked with developing an appropriate Quality Assurance process for AEWV decisions. In addition the Assurance Branch will work

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with the Head of AEWV to determine what the QC regime will be for new staff within the accredited employer gateway.

53. Any advice or recommendations that are received from the DSRB will be considered to inform future developments of the enhanced immigration online platform.

54. An aide memoire will be prepared for the Minister to update him on AEWV implementation progress and automation decisions.

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for AEWV automation