



## AIDE MEMOIRE

### Operational changes to AEWV

<b>Date:</b>	8 September 2023	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-0722

#### Information for Minister

Hon Andrew Little  
**Minister of Immigration**

#### Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Simon Sanders	Acting Chief Operating Officer	Privacy of natural persons	✓
Catriona Robinson	Acting Deputy Secretary Immigration	Privacy of natural persons	

#### The following departments/agencies have been consulted

N/A

#### Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

## Comments



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### Purpose

This aide memoire provides a summary of Immigration New Zealand's (INZ) risk mitigation activities in relation to the Accredited Employer Work Visa. It also sets out INZ's intended next steps to strengthen its approach to identifying and mitigating risks to minimise immigration harm.

Further advice will follow on the outcomes from these changes and options to mitigate processing changes.

### Privacy of natural persons

Simon Sanders  
**Acting Chief Operating Officer**  
Immigration New Zealand, MBIE

08 / 09 / 2023

### Overview of ongoing assessment and compliance calibration

1. Since launch, the level of assessment given to Accredited Employer Work Visa (AEWV) has been calibrated to balance timely processing to support Reconnecting New Zealand with managing risks such as non-genuine or exploitative employment, or migrant fraud.
2. The main calibrations to date have focused on improving processing speed for job checks and work visas to enable the flow of workers through to mid-2023 based on the assumption that most applications were from genuine employers looking to address labour and skill shortages.
3. Scrutiny is now being increased as processing is in-flow, high volumes of workers have arrived, and cases of exploitation have been detected. These changes include:
  - Employer accreditation was implemented as a high trust stage for most employers as intended. Changes are now being implemented to undertake pre-verification of higher risk employers and make more use of financial evidence as an indicator of genuine business operations.
  - Job checks scrutiny was shifted to largely face value checks in August 2022 for a large number of roles (such as health and education, or those which did not meet adjusted risk thresholds) to meet processing expectations. Some requests for large numbers of migrants were still challenged, but declines were very few. Current changes focus on increasing scrutiny on most high-volume applications to ensure jobs are genuine and the business has the necessary financial means. Calibration of

risk rules and triggers for scrutiny is ongoing drawing from intel and insights from current operations.

- The introduction of the post decision risk monitoring and review process (AERMR) was delayed as resources were focused on improving processing across all visa products. It is now underway and will improve the ability to detect and action non-genuine employers. Some initial proof of concept tests have picked up a range of employers, but the most recent refresh of risk data will enable more targeting of risk factors for post verification checks (which can include factors such as lack of known affiliation to key business groups, evidence of shorter operation periods, and high migrant number requests).
  - Use of the suspension and revocation powers is increasing, and work is ongoing to calibrate the threshold for action with the range of evidence of risk indicators. You will shortly receive advice on clarifying the suspension powers to help ensure they are used as intended to remove bad actors from the system.
4. The tightened scrutiny at the job check stage is having an effect on processing times with approximately half of employers being asked for more evidence of genuine roles at the job check stage. 73% of job checks are now older than the expected 10 days (compared to 1% in July) and employer complaints about extra scrutiny and delays are increasing. This may continue with tightened scrutiny, though some relief may come from falling volumes if non-genuine employers withdraw from the system. Other contingency options are being considered to respond to increased processing times, and further advice will be provided on these options.
  5. It is too early to provide an informed view of the level of non-desired roles that may have been approved, or how effective the increased scrutiny is. Early indications from AERMR are being used to inform risk setting changes, and 182 employers are under active investigation by the Ministry of Business, Innovation and Employment (MBIE).
  6. Volumes of accredited employers are approaching the assumed steady state level, and anecdotally new accreditation applications are more likely to be associated with newer and less well-known employers justifying increased scrutiny.
  7. The job check stage remains a key point for checking genuineness of jobs (but not exploitation) considering the nature of the request against company size and history, and recent migrant recruitment and retention behaviours.
  8. MBIE will continue monitoring data and insights such as changes in the composition of employers (known and new) engaging in the system, sector and occupation trends, the effect of scrutiny on withdrawal and decline rates, migrant skill levels, and the prevalence of employers exhibiting risk factors. Further operational or policy changes will be considered to improve the ability to detect issues and strengthen the powers to decline applications or remove employers as needed (for example allowing immigration officers to impose a minimum skill requirement in some cases), though the system is already dealing with a large amount of change, and sequencing and trade-offs will need to be considered.
  9. The rest of this aide memoire sets out the existing and underway changes in more detail and notes some further options which are being considered.

## **Changing environment from launch of AEWV to steady state and ongoing recalibration to address emerging risks**

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10. AEWV introduced an employer-centred system with more levers to take action against bad employers and more certainty for migrants that roles had been approved when they applied.

It was also intended to be more streamlined with built in levers that could be activated when needed, while being lighter touch for most users.

11. It was not expected to eliminate all bad actors up front, rather introducing post decision levers that would work over-time. The level of scrutiny and policy settings were expected to be informed by behaviours and adjusted over time to strike an appropriate balance between facilitation and risk mitigation; and between the effort borne by front-end assessment versus post decision checks and compliance (also informed by resource and system capacity, and ability to effectively detect some risks). Calibration adjustments require a whole of system view, rather than looking at individual gateways alone.
12. Since launch the AEWV system has gone through three broad phases of calibration:
  - *Launch and response to not meeting service expectations* – the launch coincided with the border reopening and a focus on providing genuine employers with access to skilled workers to address shortages. A new system for employers and INZ and higher than anticipated volumes (across most visas) meant processing times for job checks and work visas fell below expected levels. Calibration moved to an education rather than enforcement focus to facilitate worker approvals, and employer accreditation was extended for a further 12 months.
  - *Stabilisation* – since early 2023 processing has been relatively stable within the performance expectations and elements of the system have been bedding in as the new normal. The final component of the system, the post accreditation check system, was launched in late 2022.
  - *Recalibration and response to exploitation concerns* – with processing in-flow, reviews of the previous calibrations have taken place to ensure settings remain appropriate. Emerging cases of exploitation and fraud are also informing system recalibration and trade-offs against change capacity and service effects.
13. INZ has multiple ways of identifying immigration risk, both through business-as-usual activities and dedicated pieces of work looking into specific concerns. While AERMR is the primary method by which INZ identifies risks under AEWV, immigration officers assessing applications under AEWV are also identifying risks and INZ is using those findings to adapt their approach for future applications. MBIE Intelligence also contributes to risk identification.
14. INZ currently holds significant concerns about 132 employers as a result of the insights gathered through recent migrant exploitation cases as well as the post-accreditation (AERMR) checks which are underway.
15. Of these 132 employers of concern, 86% relate to high-volume employer accreditation, 7% triangular accreditation and 5% franchisee accreditation. Of the 132, 119 (90%) went through the manual assessment process while 13 (10%) went through the automated process. Of the 28,509 accredited employers accredited to date, 182 (0.64%) have an active investigation underway, including the employers above.

## **Assessment changes made to date focused on the job check and work visa**

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### ***Initial general instructions to improve processing performance at job check and work visa...***

16. Employer accreditation was set up as a highly automated (approximately 30%) high trust gate in line with the policy intent. Assessment is largely declaration based, though immigration officers can request further evidence where risks are raised (e.g., financial

sustainability for a new company). These settings facilitated the high volume of accreditations within service expectations and with a very low decline rate. Recalibration of this approach has now begun (see section below).

17. Most calibration has focused on the job check and work visa stages to meet processing expectations via general instructions:

- From 28 July 2022, immigration officers were directed to take most job check information at face value to streamline processing and ease labour market pressures. Checks were restricted to those where risk was understood to most likely be present based on what we understood about possible employers prior to the policy being implemented.
- The work visa general instruction, introduced on 23 August 2022, provided an interim process for assessing work visa applications focused on health and character, and checking the job check approval letter against the information provided at the work visa gateway to ensure an applicant's offer of employment matched the conditions. Less scrutiny is applied to skills verification which is a challenge for the officer to verify (and will not be relevant in cases the employer had not specified a requirement in advertising).

18. The introduction of general instructions, an increase in the experience of staff, ongoing system enhancements and improvements in the quality of applications from customers, all supported the more efficient processing of AEWV applications.

### ***... with subsequent tightening up from June 2023***

19. Throughout 2023, changes have been progressively made to tighten up the settings to respond to risks that are being observed.

20. Changes were introduced in mid-2023 to ensure more scrutiny on some risk factors as well as job checks for high volume accredited employers and roles in the construction sector, as these had been identified by INZ's risk and verification team as having a higher chance of being associated with immigration harm. This ensured that additional checks were undertaken, and greater scrutiny was placed on firstly, whether the job checks were for genuine positions, particularly if a high number of positions was requested, and secondly, undertaking more robust assessments of a business's profile.

21. Early insights from the adjusted approach are that approximately half of employers are asked to provide additional information to evidence the genuine nature of the roles being applied for. Evidence being requested includes further information relating to financial viability to support the vacancies including contracts of work. Employers are also being asked about pastoral care arrangements and how they intend to support the migrant workers being requested. Processing officers have reported pushback from some employers querying why the information is required.

22. The trade off from these adjustments is that the job check volumes in progress are increasing, and processing times are slowing. Escalation requests and complaints have increased as processing times increase. To minimise the effect on operational resources in managing these interactions, stakeholder communications are being developed to help manage customer expectations of processing times, noting that an application that requires further information in order to make a decision is not classified as straightforward. These communications will also reinforce information required up front in the job check application including evidence to support the genuineness of the role/s being requested.

23. Further advice is also being developed which will consider the effects of these changes, and what contingency levers may need to be enacted to maintain efficient processing as much

as possible. An example of this is the possible move straight to seeking comment on prejudicial information, rather than the two-step process currently in place where information is requested and then subsequent comment is sought on prejudicial information, creating a lengthier assessment process.

## **Further changes underway or planned are picking up Employer Accreditation, suspensions and post decision checks**

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24. Work is underway to make operational changes to respond to the risks we are seeing as well as ensure the pre- and post-verification accreditation activities are focused on those employers where risk is more likely to present.

### **Additional targeted scrutiny at employer accreditation**

25. At the employer accreditation stage, the system currently automates the assessment of whether a business is genuine in cases where a business declares they have been operating or trading for more than 12 months, and where other business rules are met based on a combination of declarations made in the application form and back-end information (e.g., automated checks with the insolvency register or NZBN). In these cases, employers upload some information.
26. INZ is scoping up system changes that will mandate key documents for employers and possibly generate additional manual assessments at this point for employers who meet certain risk characteristics. Until this can be deployed, an interim approach will be put into place for new applications which will depend on the risk profile of the employer. This will include immigration officers requesting financial documents to support an employer's financial position declaration where:
- The employer is applying for triangular or franchisee accreditation;
  - The employer has applied for standard or high-volume accreditation but appears to be triangular or franchisee based on a number of indicators (based on internal intelligence reports); or
  - Where internal guidance indicates risk may be present (including industry such as construction).
27. This will support earlier identification of whether businesses are genuinely operating and financially viable. The employer accreditation processing team of currently eight immigration officers, will be supported by a senior business financial advisor who will assist in real-time support and guidance about what they need to assess and look out for.
28. With this targeting there will be a limited effect on the majority of employers applying under standard accreditation.
29. There will be timeliness changes resulting from the additional checks. It is anticipated that the processing timeframe would increase from 30 minutes to three hours per application depending on the level of review that is required. In regard to the in-progress applications, it is anticipated that 40% of employer accreditation will require further assessment, as 10% are made up of triangular or franchisee accreditation and 30% will be the additional indicators identified by INZ's risk and verification teams. In comparison it is anticipated that the applications that are submitted after the application form change (once implemented) will have a shorter processing time as the information will be provided upfront. The benefits should mean less remedial action, and more information to support AERMR activities.

30. These changes will affect customers as the additional information request and assessments will result in increased processing times. Stakeholder communications are being prepared to help manage customer expectations of processing time, noting that an application that requires further information in order to make a decision is not classified as straight forward. This communication will also include further information on what documents to provide up front to help evidence a genuine and viable businesses. We remain committed to processing straightforward employer accreditation within the communicated ten-day service time frame.

### **Your proposal to focus pre- and post- accreditation checks**

31. On 5 September, you wrote to the Acting Deputy Secretary – Immigration and outlined some examples around where pre- and post-decision checks should be re-focused. These included not targeting extra scrutiny on recognised major companies and other employers with known affiliations to business groups, or employers not seeking proportionally large migrant levels. These are generally markers of genuine businesses, though some affiliations may not align with some forms of exploitation or poor employer behaviour. There is likely to be an overlap with current factors MBIE is using to identify low risk employers.

32. INZ undertakes a risk prioritisation process to inform the selection of the system targeted stream as part of AERMR. This aims to focus the selection of employers for post-decision checks on those more likely to pose risk (such as state-owned entities). The risk prioritisation process is informed by data and insights and supported by MBIE Intelligence. ?

33. The most recent refresh of this intelligence was delayed ensuring the findings of recent activity could be incorporated and is expected to be updated this month. This work will include consideration of the examples outlined in the letter, where the source data is available to INZ.

34. We will update on the outcomes of this refresh and where scrutiny will be targeted.

### **Updating risk rules across the system**

35. Business risk rules are currently deployed across each of the three AEWV gateways targeting industries and occupations with indicators of immigration risk, individuals and entities with adverse engagements with the immigration system and market specific risk indicators. With the data and insights obtained from the first twelve months of operating the AEWV programme, additional business rules are being developed for deployment which will leverage that information to improve risk management oversight across the three AEWV gateways.

36. AEWV pre-decision risk monitoring and review (RMR) has commenced and targets a sample of work visa applications to test the effectiveness of the system to identify risk, performing verification where risk is identified and feeding back insights to support any adjustment to risk controls. While it is too early to determine the outcomes of this work, it is expected to better identify risk in applications before they proceed to an immigration officer for assessment.

### **Utilising the suspension and revocation of accreditation**

37. The AEWV system intentionally builds in stronger tools to suspend or revoke accreditation to remove bad employers from the system. This is designed to operate at a lower severity and evidence threshold than full prosecutions and will also be supplemented by immigration infringement notices and a stand down list early in 2024 with the passing of the Workers Protection Bill.

38. As scrutiny, investigations and post accreditation checks continue we expect to see the number of suspensions increase. Examples are being detailed to better calibrate the



appropriate thresholds for using these powers and provide guidance to officers on when to decline or challenge applications. Early insights are that where suspension has been activated or job check or work visa applications are being held and/or comments are sought from applicants on information prejudicial to their application, withdrawal requests increase.

39. You will also shortly receive advice on an alteration to instructions to clarify the situations in which accreditation can be suspended when MBIE holds concerns to more clearly align with the policy intention.

## OUT OF SCOPE

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[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

[Redacted]

[Redacted]

## Next steps and further system calibration

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44. MBIE is continuing to monitor the performance of the AEWV and gather intel about the risks of exploitative or non-genuine employment from various operations and other sources. We are also scanning for other AEWV risks and other visa product and system risks. This will inform ongoing calibration of the system to ensure that the parts are working together to best enable detection of risk factors, and power to take-action where issues are detected. Risk settings will always need to be weighed against the effect on service delivery, and the capacity for staff, systems and customers to absorb further change. At the moment, the effect

of previous settings and the current changes on both service experiences and risk mitigation are unknown.

45. You have received advice on the possibility of restrictions for triangular employers, and further policy options could be explored (such as the option to require minimum skill standards for some occupations; or to further calibrate powers to decline applications or revoke accreditation) as the effects and limitations of the current changes become apparent.
46. We will provide you with further updates on the review of employer risk factors that inform prioritisation of AEMR and accreditation checks, including further consideration of the alignment with the employer characteristics you outlined in your letter, and options to mitigate any effects to the timeliness of processing.