



## Risk Monitoring & Review Governance Group Submission Paper

**DATE:** 13 June 2022

**TO:** Geoff Scott, Chair, Risk Monitoring and Review Governance Group

**PREPARED BY** [Privacy of natural persons] Risk and Verification Manager, V&C  
[Privacy of natural persons] Risk and Verification Manager, V&C

**CONSULTED WITH** [Privacy of natural persons] Team Leader Operational Policy, Op Pol  
[Privacy of natural persons], Team Leader BAT, V&C  
[Privacy of natural persons] Business Analytics and Targeting Manager, V&C  
[Privacy of natural persons] Head of Operations, BVO  
Sarah Clifford, National Manager, BVO  
[Privacy of natural persons] Risk and Verification Manager, V&C  
[Privacy of natural persons] Risk and Verification Manager, V&C

**ENDORSED BY** Risk and Verification Tasking Group

**APPROVED BY** [Privacy of natural persons] Manager Onshore Risk and Verification, V&C

**SUBJECT** **PRE-DECISION IMMIGRATION RISK MANAGEMENT APPROACH TO THE JOB CHECK GATEWAY FOR THE ACCREDITED EMPLOYER WORK VISA**

### PURPOSE

This paper seeks agreement from the Risk Monitoring and Review Governance Group (RMRGG) to the proposed approach to identify and manage risk at the Job Check Gateway of the Accredited Employer Work Visa (AEWV) policy.

The proposed approach takes the following into account:

- The Accredited Employer Risk Monitoring and Review (AERMR) programme agreed to by RMRGG on 21 April 2022;
- The pre-decision immigration risk management approach to the Accredited Employer Gateway for the AEWV agreed to by RMRGG on 11 May 2022;
- The automating approvals of employer job check applications under the AEWV policy memo agreed to by the Deputy Secretary of Immigration on 3 June 2022;
- The timing assumptions in the current workforce planning for Job Checks requiring manual assessment to ensure the approach does not compromise our ability to deliver on timeframes; and
- The Immigration Risk Model (IRM).



## RECOMMENDATIONS

It is recommended the RMRGG:

- a) **Note** that In August 2019, Cabinet agreed to implement a three-step gateway system that employers will need to pass through to hire a migrant worker on an employer-assisted temporary work visa [DEV-19-MIN-0228].

*Noted*

- b) **Note** that on 21 April 2022, RMRGG agreed to the Accredited Employer Risk Monitoring and Review (AERMR) model and that the risk management approach to AEWV would initially push the majority of immigration risk management activity post-decision as Immigration New Zealand (INZ) focusses on collecting data and intelligence on employers in the first 12 months.

*Noted*

- c) **Note** that on 10 May 2022, RMRGG agreed that immigration risk would be identified and managed across the three AEWV gateways in accordance with the Gateways Risk model.

*Noted*

- d) **Note** that the proposed pre-decision risk management approach for the Job Check Gateway is based on current risk management processes including applicant declarations, uploading evidence, verification and requests for additional information.

*Noted*

- e) **Agree** to the proposals in paragraph 16 for the treatment of immigration risk pre-decision for the Job Check Gateway.

*Agree/Disagree/Discuss*

- f) **Agree** to accept the residual risks outlined in the Operational Risk Assessment in paragraphs 56 - 60 and to escalate these to Immigration Leadership Team (ILT).

*Agree/Disagree/Discuss*

- g) **Note** that triage rules are a risk control governed by the Risk Control Group (RCG) and the final decision on risk rules for the Job Check Gateway will be made by that group subject to the risk tolerance agreed by RMRGG.

*Noted*

- h) **Note** that this paper and the final decisions made by RMRGG will be released to the RCG to inform any further decision on risk rules relevant to the Job Check Gateway.

*Noted*



## Privacy of natural persons

**Geoff Scott**



General Manager, Verification and Compliance  
Chair, Risk Monitoring & Review Governance Group  
Immigration New Zealand  
Date: 14 June 2022



## BACKGROUND

### *The new Accredited Employer work visa system*

1. In August 2019, Cabinet agreed to implement a three-step gateway system that employers will need to pass through to hire a migrant worker on an employer-assisted temporary work visa [DEV-19-MIN-0228].
2. The objectives of the Accredited Employer system include:
  - a) Incentivising employers to employ more New Zealanders to respond to skill and labour shortages over time; and
  - b) Ensuring that employers only recruit non-New Zealand citizens or residents for genuine shortages, while not displacing New Zealanders from employment opportunities or hindering improvements to wages or working conditions; and
  - c) Reducing risks around business models and practices that might enable migrant exploitation; and
  - d) Ensuring that employers are compliant with specific immigration requirements, employment, and business standards.
3. On 21 April 2022, RMRGG agreed to the Accredited Employer Risk Monitoring and Review (AERMR) model. The AERMR memo highlighted that pre-decision risk and verification activities (which INZ traditionally deploys during a visa assessment), will initially be limited in the Accredited Employer gateway, as INZ will not yet have visibility over what information will be submitted in the job check and visa application steps of the process that occur after accreditation has been granted.
4. As AEWV will utilise the ADEPT platform, the AERMR memo highlighted that the immigration risk management approach will initially include a strong focus on collecting data and intelligence in the first year to build the data INZ holds on employers, initially pushing the majority of immigration risk management activity post-decision. 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 Gateways.
5. The AERMR model has been developed to ensure that monthly post-decision reviews of employers are conducted by Risk and Verification (R&V), and data is captured to inform ongoing immigration risk analysis and findings reported through the 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 developed that feeds intelligence and insights into the development of risk controls to ensure appropriate risk and automation settings within the ADEPT system and AEWV gateways.



6. On 11 May 2022, RMRGG agreed to a model that supports identification and management of immigration risk pre-decision across the three gateways in the AEWV policy.
7. The three Gateways each have distinct steps where a range of validation checks are completed:
  - a) Accredited Employer 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.
8. A separate paper will be presented to RMRGG to determine the risk management approach for the Migrant Gateway.
9. R&V mapped the immigration risks against the three gateways in the AEWV policy in conjunction with Border and Visa Operations (BVO). The principle of early identification and management of risk was explored against the relevant immigration instructions. The output of this activity was presented as *The Gateways Risk Model*. RMRGG agreed that immigration risk would be managed across the three AEWV gateways in accordance with the Gateways Risk model.

#### Maintenance of the law

# Maintenance of the law

10. The intention of the immigration risk management approach to AEWV is to take a high-trust, facilitative approach to immigration risk management pre-decision initially, including accepting more information at face value rather than undertaking in-depth verification at the time of application. Over time, the focus on immigration risk management will revert towards pre-decision risk management as greater data and intelligence informs new risk settings at the front end.



## **PROCESSING APPROACH IN THE JOB CHECK GATEWAY**

11. Under the policy settings for the job check, the employer must include evidence including a detailed job description, a proposed employment agreement and advertising for the role (if this is required under the labour market test instructions).
12. The ADEPT configuration has allowed for three activities within the Job Check Gateway: general job check, employment is acceptable, and employer has advertised.
13. On 3 June 2022, the Deputy Secretary of Immigration agreed to the automation of various tasks within the three activities which would potentially allow a full automation only for employers who are requesting job checks for occupations which require occupational registration and are on the green list and for occupations which require occupational registration and offering above 200% of the median wage. All other jobs would require at least one, if not two manual activities, in addition to any assessment concerns that would drop out as a result of an adverse declaration or where INZ holds other adverse information about the employer.

See paragraphs 37-55 for additional information on Job Check Gateway processing.

## **IMMIGRATION RISK MANAGEMENT APPROACH IN THE JOB CHECK GATEWAY**

14. Immigration instructions for the Job Check Gateway have been confirmed.
15. In addition to post-decision AERMR, INZ will conduct pre-decision immigration risk management activities on Job Check applications which pose a greater risk including where INZ holds adverse information relating to that employer. Where INZ holds adverse information on an employer (such as an employer or key person alert or warning or being subject to a stand down list) or an employer makes an adverse declaration in the application, this will result in a manual assessment activity.
16. RMRGG is asked to consider the recommendations in this section for the identification and treatment of immigration risk pre-decision at the Job Check Gateway:
  - a. That determination of whether an employer or key person has provided false and misleading information or has employed someone in breach of visa conditions be supported by the establishment of a referral step to R&V to ensure all evidence is appropriately considered and deconfliction with open investigations occurs.
  - b. That where adverse information relating to an employer or key person is known including adverse declarations in the application, Immigration Officers must act on this and take appropriate steps to treat the identified risk as per IAC 16/01.
  - c. That all other declarations be accepted at face value except where an alert or warning is surfaced, a watch list match made, required by Standard Operating Procedures (SOPs) or a system or risk rule is triggered.



**Risk Rules**

17. There are currently limitations as to how risk rules will trigger in ADEPT due to the different data schemas in AMS and ADEPT. The data limitations prevent existing risk rules to be delivered like-for-like. A paper on data limitations has been presented to the Risk Control Group (RCG) in May 2022 and will be provided to RMRGG for noting on 16 June 2022. While this does not impact any of the rules currently proposed for this gateway, when combined with the short deadline for implementation and limited recent data, it limits the ability to consider new rules before go-live.

18. **Maintenance of the law**  
[Redacted]

19. Twenty-seven rules lifted from Essential Skills and Employer Accreditation policies were signed off for delivery by RCG for the Employer Accreditation gate on 22 September 2021. These rules were subject to confirmation of the pre-decision immigration risk management approach by RMRGG before determining the most appropriate gateways for them to be implemented in.

20. On 11 May 2022 RMRGG agreed that immigration risks should be targeted across the three AEWV gateways in alignment with the Gateways Risk Model as outlined in paragraph 9 and establishment of rules should be limited to only those that are likely to result in an action that can be undertaken pre-decision in accordance with immigration instructions.

21. This approach aligns with the Immigration Risk Model and ensures that processing efficiency is maximised by targeting rules at the most appropriate gateway for risk identification and treatment.

22. As the AERMR model collects data, insights, and intelligence, rules will be reviewed, created, modified, and deleted for the appropriate gateway to trigger at pre-decision stage.

23. R&V have conducted work to identify risk rules likely to be implemented at the Job Check Gateway based on existing rules, functionality of the ADEPT system and the Gateways Risk Model. Applying this approach reduces the original list of 27 rules to seven in this gateway.

**Maintenance of the law**  
[Redacted]

24. Risk rules in the Job Check Gateway would be initially limited to those existing work visa rules that relate to risk that is best managed in the Job Check Gateway.

25. Risk Rules are governed by the RCG and a memo detailing specific rules to be applied to the Accredited Employer Gateway will be presented to that group for final decision.



26. Subject to RMRGG agreement to the proposed approach by 13 June 2022, risk rules can be implemented in advance of the 'Go Live' date for the Job Check Gateway.
27. The current risk rules under consideration are all very low impact in AMS, excluding the risk rule related to alerts and warnings against employers and key persons.





### Watch lists

28. Watch lists within the ADEPT platform will be used to maintain a list of both banned directors and employers who are on a stand down list. The ADEPT system will automatically cross-check the employer against the stand down list, as well as cross-check all declared key persons against the list of banned directors. A match identified to a watch list will trigger a risk activity in ADEPT to ensure that the employer still meets the requirement for the accreditation they were granted.

### Alerts and Warnings

29. The ADEPT system is set to raise a risk activity for those applications under the Job Check Gateway where the employer is subject to an alert or warning. This will not only ensure that an appropriate risk treatment is considered, but the referral to R&V as a result will allow consideration of the deletion of any alerts or warnings that are no longer deemed to be relevant, reducing the operational impact of existing alerts and warnings over time for employers or key persons who continue to engage with INZ.
30. ADEPT continues to have the same limitations on data matching employers as outlined in the pre-decision immigration risk management approach to the Accredited Employer Gateway for the AEWV agreed to by RMRGG on 10 May 2022. The limitations mean that there is a risk that the reliance on the data matching will result in a number of alerts and warnings not triggering a system rule and not generating a risk activity unless a NZBN is recorded against the employer in AMS.
31. An alternative to relying on this rule would be for a manual check to be done of all applications that do not trigger a system rule. A requirement for a manual activity on all applications would reduce INZ's ability to automate processing.
32. To create a risk activity in ADEPT to surface alerts and warnings, a risk rule is required.

### **Maintenance of the law**

33. As the ability to raise alerts and warnings as a risk activity relies on triage rules, and triage rules will only trigger at the beginning of the process until July 2022, new alerts and warnings added to businesses entities when an application is live will not surface in ADEPT as a risk activity.
34. As the risk management approach for AEWV covers the full cycle from pre-decision to renewal, it is recommended that RMRGG accept this risk pre-decision and new alerts and warnings added are considered in post-decision AERMR until re-initiation functionality can be resolved in ADEPT.



### **Instructions**

35. Immigration risks can only be managed at the Job Check Gateway pre-decision when the threshold set in immigration instructions is met.
36. Immigration instructions allow Job Checks to be declined where:
- a) The employer no longer meets the requirements for the accreditation obtained; or
  - b) The employer does not meet the definition of a direct employer for the proposed employment; or
  - c) The remuneration for the proposed employment does not meet the median wage (unless the proposed employment is for an occupation that is exempt from the median wage threshold); or
  - d) The proposed employment is not full time; or
  - e) The terms and conditions offered are less than those of the New Zealand market; or
  - f) The proposed employment is not for a single accredited employer only (with the exception of Resident Medical Officers); or
  - g) The proposed employment is not compliant with New Zealand employment law; or
  - h) The proposed employment is not genuine; or
  - i) The labour market test is not met (with the exception of those paid double the median wage).

### **Processing / Assessment**

37. There are 3 ADEPT activities in within the job check application:
- a) General Job Check
  - b) Employment Acceptable
  - c) Employer has Advertised

#### ***General Job Check***

38. The general job check activity ensures that the employer continues to meet the requirements for the accreditation obtained (instructions paragraph 35(a)).
39. The general job check activity includes a number of automated systems checks which are run through integrations such as the stand down list, offences against the Immigration and Crimes Acts, the Insolvency Register and the banned directors list. There is also a system check to ensure that the employer is able to (under their accreditation) hire the number of migrants that are being requested.





50. Maintenance of the law

[REDACTED] In Job Check applications where the market rate is not met, the application can be declined.

51. Any residual risk of role inflation from the recommended approach would be most appropriately managed through a combination of the Labour Market Test ensuring no New Zealand citizens or residents are available for the proposed employment, as well as the Migrant Gateway ensuring that a work visa is only granted to someone who holds the appropriate experience for the role.

***Employer has Advertised***

52. The advertising activity ensures that the proposed employment meets the labour market test (instructions paragraph 35(i)).

53. The assessment involves an Immigration Officer ensuring that the advertising undertaken was a genuine attempt to attract and recruit suitable New Zealand workers. Considering the number of requirements in instructions for advertising, this is not a check that can be automated without accepting the risk of undermining two of the key objectives (WA1.1a and b) of the AEWV policy.

***WA1.1 Objective***

*The Accredited Employer instructions contribute to the overall work instructions objective ([W1](#)) by:*

- a. incentivising employers to employ more New Zealanders to respond to skill and labour shortages over time; and*
- b. ensuring that employers only recruit non-New Zealand citizen or residents for genuine shortages, while not displacing New Zealanders from employment opportunities or hindering improvements to wages or working conditions; and*
- c. reducing risks around business models and practices that might enable migrant exploitation; and*
- d. ensuring that employers are compliant with specific employment, immigration and business standards ([WA2.10.10](#)).*

54. Immigration instructions do not require a labour market test for occupations on the green list or where the salary offered is equivalent to double the median wage.

55. It is recommended that this activity is not automated except in the cases where the occupation is on the green list or the salary offered is equivalent to double the median wage, where it is recommended that this activity is automated.

**OPERATIONAL RISK ASSESSMENT**

56. A risk assessment has been conducted to determine the residual risk faced by INZ if the recommendations in this paper are agreed.



57. It is possible that some adverse information held by INZ will not be surfaced during the Job Check Gateway assessment as 're-initiation' functionality for risk rules is not currently in place. It is recommended that RMRGG accepts this risk and engages with the ADEPT project to determine when this functionality will be resolved.
58. With automated approvals for certain applications, the employer job check 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).<sup>1</sup>
59. Job Check Gateway approval is likely to be granted to some employers in the first 12 months which do not meet the intent of the policy while INZ focusses on establishing the post-decision AERM process to inform greater identification of risk over time. This may negatively impact public confidence in INZ and the Minister.
60. It is possible that some businesses will incorrectly provide information to INZ (either deliberately or accidentally) that results in an application being automated for approval or reduced scrutiny in a manual approval.
61. It is recommended that RMRGG accepts these risks at pre-decision, that the risks are escalated to ILT and captured on the ILT risk register and that the communications plan is updated to respond including communication of the risks to the Minister of Immigration prior to 'Go Live'.

---

<sup>1</sup> Note – a system assurance framework still needs to be developed.



## NEXT STEPS

62. Subject to agreement to the recommendations in this paper, the following actions will be undertaken
- a) A final list of proposed risk rules will be presented to RCG for agreement.
  - b) SOPs reflecting immigration risk management will be finalised for the Job Check Gateway.
  - c) R&V will continue development of the pre-decision risk management approach for the Migrant check gateway, to be brought to RMRGG for final consideration.