




**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

INCONFIDENCE



Risk Management in the Accredited Employer Work Visa Programme.

28 September 2023



AEWV Risk Management

Pre-decision checks

Pre-screening activity

Risk & Verification runs a visa application pre-screening programme known as Referral Targeted Risk Monitoring and Review (RMR). This consists of sampled, targeted pre-screening of application cohorts that appear to contain emerging risk, unknown risk, or where opportunities have been identified to improve risk management. RMR findings are then used to inform risk treatment improvements, such as triage rule updates and risk advice for Immigration Officers.

While the Referral Targeted RMR programme can include all visa types and risk levels, to date it has primarily focused on high-risk visitor visa applications in order to assist with visa processing efficiency and risk controls. The focus has recently shifted to Accredited Employer Work Visas (AEWV) in response to allegations of migrant exploitation, with verification officers assessing information provided in the work visa application as well as the Job Check application from the employer.

Verification officers complete pre-screening of some open AEWV applications, with quick risk treatments completed where required. Risk advice following this pre-decision check provides Immigration Officers with decision ready guidance that addresses any risk indicators. Verification Officers may complete a phone call to migrants where concerns have been identified.

Analysis of the data captured during this RMR activity will also inform development of additional risk controls to enhance risk management pre-decision.

Referrals from immigration Officers

During application assessment, at each of the three gateways, Immigration Officers conduct risk mitigation pre-decision. This includes verification of evidence and declarations made by employers in Accreditation and Job Check gateways. Risk controls such as warnings (including those placed through the NPP process), risk rules and watchlists inform the identification of risk and risk advice guides Immigration Officers on the appropriate treatment.

In addition, Immigration Officers can refer applications with concerns to Risk and Verification teams (R&V) for risk advice or more advanced risk treatment such as analysis of financial documentation.

As of 28 September 2023, approximately 26,000 risk-related referrals have been made by Immigration Officers to Verification Officers for applications across the three gateways since the policy opened.

Applications for renewal of accreditation are anticipated to significantly increase from mid-2024 as current accreditation nears expiry. Immigration instructions provide Immigration Officers with direction on assessing compliance with requirements during the previous accreditation period. A more

fulsome risk management approach will be developed in advance of the influx of these applications which will outline any enhancements required to risk controls to inform processing.

AERMR (Post-accreditation checks)

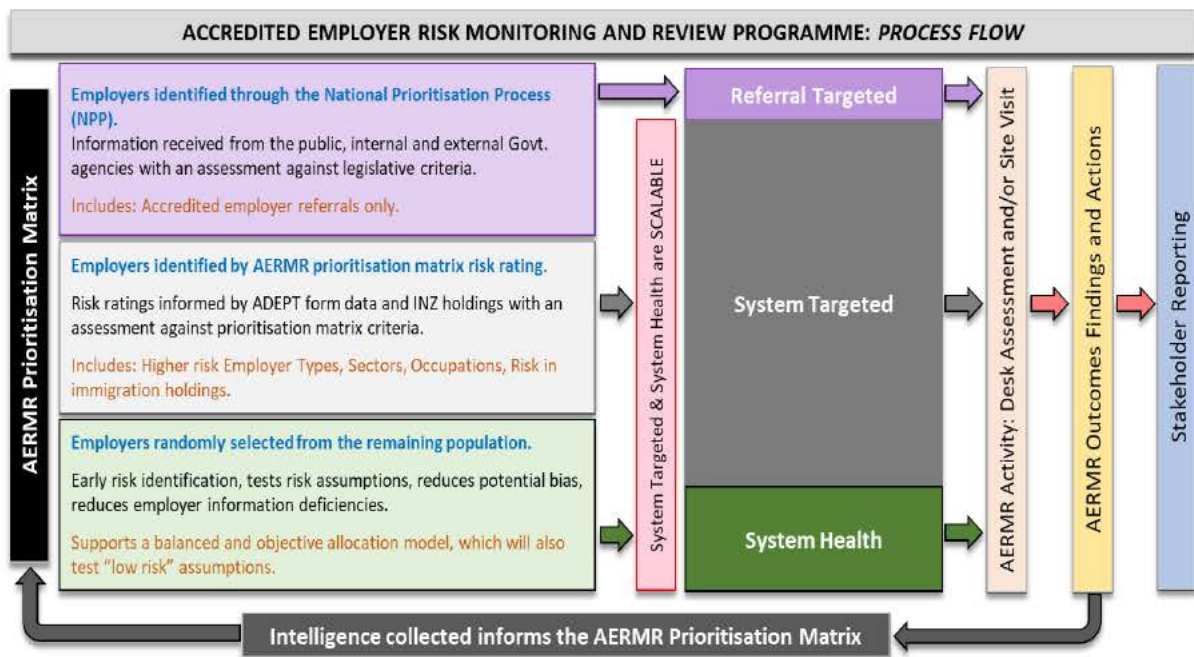
As part of the accreditation application process, employers are advised that there may be follow-up checks to ensure that the undertakings and declarations they make during the application are correct and that they are a good migrant employer.

INZ has developed a system, known as the Accredited Employer Risk Monitoring and Review (AERMR), for checking employers after they have successfully passed through the AEWV application process and obtained accreditation. These checks can occur at any time post-accreditation.

AERMR also referred to as post-accreditation checks or post-decision checks are completed by Risk & Verification on a selection of accredited employers.

AERMR checks are designed to be evidence-based and as such focus on employers accredited where they have already supported a worker to enter New Zealand, versus those who have yet to do so.

AERMR activities are a combination of a desk-based and site-based checks. Employers are selected through a risk prioritisation process which is informed by the accreditation type, any existing concerns (system warnings) and risk indicators agreed through Immigration New Zealand (INZ) risk governance groups. The selection process for employers for AERMR activities is informed by intelligence and includes consideration of those employers where INZ has received an allegation of exploitation. AERMR outcomes data and insights supports the development of rules to enhance pre-decision risk management over time.





Desk-based AERMR

Desk-based checks leverage INZ and MBIE information holdings and open-source information to assess the accuracy of employer declarations provided through the accreditation process and identify any additional indicators of immigration risk.

A risk-based approach is applied when determining what information will be requested and verified in AERMR checks. Where initial assessments identify risk indicators, the type and number of checks conducted will increase in response to the level of that identified risk.

Verification Officers undertake reviews of information collected relating to the following AEWV requirements:

- Viable and genuinely operating business or organisation:
 - Reviewing evidence provided to support declarations of financial viability and ongoing trading sustainability. This includes reviewing agency registers and requesting documents where insufficient information has been provided.
- Compliance with specific employment, immigration, and business standards:
 - Addressing any indicators of non-compliant behaviour against the three standards and can include reviewing:
 - Compliance with migrant remuneration and employment conditions (e.g. checking employment agreements and requesting PAYE records and other time and wage information).
 - Requesting workforce information to check requirements are met for migrant ratios (e.g. Triangular employers requiring 15% NZ citizens or residents working 30+ hours per week).
 - Checking recruitment advertising is genuine where risk indicators exist.
 - Including reviewing stand down lists and seeking information from other agencies.
- Settlement support activities:
 - Reviewing evidence the employer has enabled migrant workers to complete Employment New Zealand's online employee modules along with all staff who make recruitment decisions within the organisation.

In answering these question verification officers take into consideration immigration instruction requirements in addition to any risk indicators present.

There are a range a checks and verification activities which may be conducted in a desk-based check. The most common checks undertaken are:

- ☑ AMS / ADEPT system checks including:
 - Checking previous accreditation applications and information provided prior to AEWV.



- Reviewing any warnings or allegations provided.
- Checking for any patterns of unusual migrant movements and high turnover
- ☒ TIKA (the case management system for MBIE's regulatory investigations teams) – to obtain further information where an employer is under active investigation.
- ☒ Operational Manual – Referring to relevant immigration instructions.
- ☒ Open-source checks for example:
 - Identifying any media articles which indicate risk.
 - Checking open-source information to better understand the organisation including the likelihood they are a franchisee employer or placing workers into triangular employment arrangements.
 - Understanding the size and scale of the business and operation to identify any indicators of financial viability concerns.
- NZ Gazette – checking for notifications relating to de-registration from the NZ Companies Office or financial viability risk indicators.
- Companies Office – to determine entity registration history, changes in key people, identify any compliance activity against directors, de-registration, or liquidation proceedings.
- Insolvency Register – to identify company liquidations, key person bankruptcies or no asset procedures.
- Employment Relations Authority – any record of decisions involving the employer.
- MBIE Stand Down List – to identify employers with current sanctions.
- WorkSafe – identify any breaches of the Health and Safety Act 2015.
- Maintenance of the law [REDACTED]
- [REDACTED]
- Food safety registers & lists – to identify operators, businesses and individuals that are registered, recognised, approved, or listed under laws administered by MPI. This also assists in determining the true operation of a business.

Where risks indicators are identified, Verification Officers will complete more in-depth reviews of documents provided by the company, and workers throughout the accreditation process, request additional information from the accredited employer (including by phone or email), seek information from other agencies and undertake verification of that information where determined relevant. Through this process, the identified risks may be determined to be best managed through a site-based AERMR activity.



If deemed appropriate, INZ will undertake a site-based activity for the employer. Site-based AERMR is the most resource intensive check and is normally reserved for cases where significant concerns have been identified or where those risks are best managed through direct engagement to determine if accreditation requirements are met.

Site-based AERMR

Site-based checks are raised as a result of the following:

- Accreditation type (Triangular / Franchisee employers) – 50% of all employers accredited as such will be checked through site-based checks in Year One.
- Recommendation from completion of a desk-based checks with significant concerns or where information required has been unable to be obtained through other means.

In all instances, desk-based checks are conducted prior to any site visit. The kinds of concerns which may trigger a desk-based AERMR to escalate into a site-visit include where AERMR checks find an accredited employer:

- may not be a viable and genuinely operating business or organisation,
- may have employed someone who is not entitled, under the Immigration Act 2009, to work in the role,
- may have passed on recruitment, training or equipment costs to AEWV holders,
- may have “phoenixed” (i.e. be substantially the same business operating under a new entity identity) to avoid INZ detection, or
- may have incorrectly selected their accreditation type.

Site-based AERMR consists of:

- Reviewing findings of the completed desk-based check, with consideration of any change in circumstances since those check were undertaken.
- Engagement on-site with key people to physically observe and review systems, processes, roles and documentation.



Outcomes

Results of AERMR checks inform the following corresponding outcomes:

| If | Then | Results in |
|---|----------------------|---|
| No risks or issues of note were found during the AERMR activity. | No Concerns | Communicating the outcome to the employer if the employer was contacted during the course of the check. |
| <p>Minor issues and / or risks were detected.</p> <p>Or</p> <p>potentially significant issues and / or risks were detected, but with a low level of confidence due to the limited evidence able to be obtained.</p> <p>Or</p> <p>There are concerns and an education approach is warranted.</p> | Concerns | <p>Educating the employers on their obligations and encouraging them to comply with requirements.</p> <p>Or</p> <p>Further consideration of issues can be referred to and addressed when the employer applies for renewal of accreditation to determine if concerns have been addressed.</p> <p>Or</p> <p>Referral made for site-based AERMR (if concern is raised in desk-based AERMR).</p> <p>Or</p> <p>Referral made to internal and external stakeholders (such as Work safe) if concern is raised in site-based AERMR but does not meet the policy threshold for suspension / revocation</p> |
| <p>Issues and/or risks were detected indicating a realistic possibility of:</p> <ul style="list-style-type: none"> ○ Human trafficking ○ People smuggling ○ Worker Exploitation <p>Or</p> <p>Issues and/or risks were detected, which necessitate a response involving a referral to other stakeholders.</p> | Significant Concerns | <p>Referral made for suspension or revocation if the issues meet the policy threshold for suspension/revocation.</p> <p>And / Or</p> <p>Referral made to the Labour inspectorate, Immigration Compliance and /or Investigations or another agency, where the employer appears to be offending in a manner which would warrant prosecution.</p> |

