



MEMO

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SUBJECT RISK MANAGEMENT OVER TIME IN VISA PRODUCTS

PURPOSE

To provide you with information about how risk is intended to be managed over time in the Accredited Employer Work Visa (AEWV), and further examples of risk management over time in other visa products.

Employer risk management over time in the AEWV

Employer accreditation under the AEWV was designed to have relatively streamlined upfront checks at accreditation and reaccreditation in most cases. Decisions are largely based on employer-declarations, which are accepted at face value, with further evidence and verification only required if the employer is in a higher-risk group (e.g. franchisee or triangular employment, new businesses, employers where INZ holds adverse information, or employers that meet other risk profiles). The light-touch upfront checks are bolstered by a new system of post-decision verification checks (AERMR), with 15% of accredited employers being subject to post-decision checks in the first year. If it is detected at any point during the accreditation period that the employer does not continue to meet the accreditation requirements, it is intended that the employer's accreditation should be immediately suspended or revoked.

A light-touch approach at accreditation and reaccreditation was necessary to ensure that the large number of employers expected to use the system could be processed efficiently (original estimates were 22,000 – to date almost 30,000 applications have been approved). It was accepted that looser checks upfront would result in some bad actors being granted accreditation and going on to cause harm. However it was intended that, **over time, a strong enforcement approach for issues found in post-decision checks would have a deterrent effect**, resulting in fewer bad actors applying, and higher compliance rates from employers who do apply. It is still too early to fully observe these deterrent effects. We expect them to become more apparent as the AERMR programme progresses and results in more accreditations being revoked.

Furthermore, INZ can never screen out 100% of bad actors, no matter how stringent the upfront checks are (i.e. whenever INZ approves an application, there is always a risk that the employer will go on to break the rules, even if they have been compliant previously). In these cases, **post-decision checks help to minimise harm, by ensuring that non-compliance is detected and acted on as quickly as possible**, i.e. by revoking the employer's accreditation immediately, rather than waiting until they apply to renew their accreditation to take action.



Moving to an employer-led system, along with the increase in post-decision verification and assurance activity, was intended to improve information about employer profiles and compliance rates (this information was not collected in a robust and structured way prior to AEWV, as the system was migrant-led, not employer-led). The intention is that, **over time, better information about employers will improve risk profiling, and will feed back into policy settings** (e.g. additional standards for employers with more risk characteristics), **and operational settings** (e.g. requiring evidence upfront, upfront verification of documents and declarations where risk is higher, better targeting of post-decision checks). This will ultimately result in more bad actors being removed at both application stage, and through post-decision checks.

Risk management of Recognised Seasonal Employers over time

RSE has similar basic structure to AEWV, with upfront checks when an employer applies for RSE status and Approval to Recruit, and the ability to rescind RSE status if the employer is later found to be non-compliant. However, RSE does not currently have a system of post-decision checks like the AERM programme.

Under RSE, the upfront checks at application stage are more stringent, requiring more evidence to be provided, and more verification of that evidence. This is manageable under RSE, because of the much smaller number of employers using the scheme (around 200 under RSE compared to 20,000-30,000 under AEWV), and tolerance for a longer processing time (average of 44 working days for RSE status vs 6 working days for AEWV accreditation). However, as with the AEWV, it is acknowledged that upfront checks cannot prevent all non-compliance, so the ability to rescind RSE status is needed in order to deter non-compliance and address it promptly when it occurs. As there are currently no proactive post-decision checks under RSE, an employer's compliance and RSE status will generally only be reviewed if a specific concern or allegation is raised.

The RSE scheme has been successful in reducing exploitation and bad employment practices. However, there remain instances of bad behaviour in the scheme. A review of the RSE programme is currently underway. One of the recommendations is to establish an ongoing system of post-decision compliance checks, similar to the AERM programme, to ensure non-compliance is identified and addressed promptly. The review is also seeking to make it easier to remove employers from the scheme when non-compliance is identified. This has been difficult in practice, as many of the RSE standards are subjective and hard to assess (e.g. human resources policies and practices which are of a high standard), and there has been a high bar for rescinding RSE status (with an "education first" approach). Similar issues were observed under previous employer policies that were replaced by the AEWV, i.e. the Labour Hire and Talent (Accredited Employer) accreditation schemes. The AEWV has sought to address these issues by having clear, binary standards for employers, and a low bar for revoking accreditation.

Risk management in international education over time

It is standard practice across visa products to adjust risk settings over time, as new information becomes available and new risks emerge. An example of this is in international education.

The sector had grown rapidly from circa 2008. While this resulted in a significant increase in the reported economic value of the sector, it also resulted in poor student experiences while in New Zealand, and education quality issues. Agencies were concerned about the recruitment of



students primarily motivated by work rights and pathways to residence, and providers focussing on volumes and revenues, rather than for education outcomes.

In 2014 English language ability concerns of the students coming through the system were so significant, that in 2015 NZQA and INZ worked together to implement a rule that required evidence of English testing for any applicant coming from a country that had a visa approval rate below 80%¹.

In 2016 there was systemic financial fraud detected in the Indian student market and a burgeoning, unregulated sub-agent market. INZ worked with individual education providers (EPs) around their approval rates. The message was clear – improve their education agent selection, take responsibility for the students they were recruiting and start taking ownership of the messages and sales pitch to potential students. NZQA supported the approach, noting that if approval rates did not improve, individual EPs may face sanctions under the Code of Practice (essentially – not be permitted to recruit international at all, or from certain markets)².

As we shifted into 2018, the actions mentioned above, combined with the removal of some poor quality private training establishments (PTEs) by NZQA, the profile of applicant started to shift. NZQA strengthened the Code of Practice. Being a signatory is required to educate international students. There were indications that a ‘volume to value’ shift could be starting to occur (volumes dropping but approval rates increasing).

However the November 2018 post-study work visa (PSWV) changes reversed this behaviour in migration-driven markets. The decline rate increased as the immigration system grappled with rampant growth and a drop in quality of the applications. In 2019 high volumes saw a mismatch between applications and staff available to process and long delays in decisions. By the end of 2019, sector engagement increased; recruitment nearly doubled the number of immigration officers processing student visas. Timeliness was starting to improve and then the pandemic hit.

During the border closure, the Immigration Rebalance was able to better align the immigration incentives that drive much of the student volume, with the skills New Zealand needs. This was particularly evident in the post study work visa space. This is a major lever that can change the volume and presentation of student applicants almost overnight.

We have been very clear on striking the balance between facilitation and protection, and we have retained high evidential thresholds for key areas of instructions – particularly finances. Targeted Risk Monitoring and Review has been a key part of our approach, though the team have been stretched with other products.

¹ Removed in 2019, but NZQA rules in this space are stronger than previously.

² In 2018 Cabinet agreed to move the focus from international education being a revenue generating export industry focused on attracting high volumes of students, to one that focuses on quality of education, higher value students and markets, and student wellbeing.