

Assurance review of the operation of the Accredited Employer Work Visa scheme

February 2024

Confidential - Embargoed until 11am 27 February 2024

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Executive Summary

Context

1. In March 2020 New Zealand closed its borders due to the COVID-19 pandemic. Immigration New Zealand (INZ) made a number of operational changes in response to the border closures, including reducing its visa processing capability largely through the closure of some of its offshore offices.
2. The Government announced a phased re-opening of the borders in February 2022, and subsequently announced the acceleration of the same bringing the full opening forward to July 2022 from the originally planned October 2022 date. At the time of re-opening, there were unprecedented labour shortages in New Zealand with very low unemployment, a shortage of skilled workers across many occupations, and pent-up demand for migrant labour resulting from the border closure. Enabling an increase in the available workforce was a priority for the government and for employers.
3. Contemporaneously, and in that context, the Government introduced its new temporary work visa: The Accredited Employer Work Visa (AEWV), which sought to bring the previous 6 work-related visa categories into a single visa product. The policy development work on the AEWV scheme had been undertaken between 2017 and 2019, prior to the pandemic, with planning for the implementation occurring while the borders were closed. The Scheme was designed to reorient the focus of employment visas from a migrant led system, which relied on aspirant migrants to collate the relevant material and submit applications, to an employer led system. Under the new system the onus would be on the aspirant employer to provide assurance that they operated a financially sustainable business able to offer genuine employment, and that the need for the migrant worker was genuine. The migrant worker would then be required to provide assurance that they were of good character and health, and appropriately skilled/qualified to perform the job offered. The design of the Scheme included three processing gateways:
 - a. The Employer Accreditation gateway, which required employers to provide declarations relating to basic requirements associated with being a valid business and a good employer. A successful application resulted in them being accredited to use the AEWV scheme to hire migrant workers.
 - b. The Job Check gateway, which checked the job requirements of applications received from accredited employers to ensure that no New Zealander was available to fill the position being recruited to, and that the terms and conditions of employment were consistent with Immigration Rules; and
 - c. The Work Visa gateway, which checked that the migrant was of good character and health and was suitably qualified to do the job offered by the accredited employer.
4. A key feature of the policy design of the AEWV Scheme was that it was to be a “high trust” model. This meant that the front-end of the application process (that is, the first two gateways), was designed to rely heavily on the declarations made by employers. The main mechanism for checking the validity of those assurances was through system rules and risk integration functions built into the visa processing technology platform called Advanced Digital Employer-led Processing and Targeting (ADEPT), and through post-decision checks. Checks were to occur through:

- a. Accredited Employer Risk Monitoring and Review (AERMR). This involved conducting desk and site-based checks of a percentage of accredited employers, some targeted and some randomly selected, to identify and address non-compliance; and
 - b. Re-accreditation. Employers were required to renew their accreditation status after a certain period of time. The reaccreditation process involved checking that accredited employers were acting consistently with the declarations and commitments they had previously made.
5. In addition to informing the accreditation decisions in individual cases, AERMR and the reaccreditation process were designed to generate robust intelligence and feed into a continuous learning system.
 6. The AEWV scheme went live in three stages between May and July 2022 and has now been operational for almost two years.
 7. The AEWV scheme is administered by INZ, which is a business unit within the Ministry of Business, Innovation and Employment (MBIE). To process AEWV applications, Immigration Officers at INZ have been using the automated visa processing platform, ADEPT. ADEPT automates the initial process of checking employer declarations using several system rules. Where ADEPT identifies risk factors or possible areas of concern, Immigration Officers are alerted to the issue. The system is designed to allow Immigration Officers to take a light touch approach to checking aspects of applications, taking much information at face value whilst targeting their attention towards higher risk applications.
 8. From April 2023 concerns were raised with MBIE, the Minister of Immigration, and through the media, about the operation of the AEWV scheme. At a high level the concerns related to how the Scheme was being administered by INZ, particularly at the first two gateways, potentially resulting in opportunities for misuse and exploitation by third parties. To provide independent assurance as to the operation of the Scheme, the former Minister of Immigration asked the Public Service Commissioner to undertake this review.
 9. This review took place between August 2023 and February 2024 (with the investigation phase of the Review being undertaken between September and December 2023). Its purpose has been two-fold:
 - a. To consider whether Immigration New Zealand's administration of the AEWV scheme is being carried out appropriately, including but not limited to, consideration of operational efficiency, risk management, and the external post-COVID context; and
 - b. To identify any appropriate next steps for improvement in the administration of the AEWV scheme, with a focus on mitigating the risk of migrant exploitation and irregular migration.

Is the Scheme being administered appropriately?

10. To answer this question, it is necessary to look back at the circumstances surrounding the initial implementation of the AEWV scheme. As a result of the unusual circumstances eventuating from COVID-19, the new scheme went live in extremely challenging circumstances. There was a "perfect storm" of adverse conditions, namely:
 - a. The implementation of a new policy that merged 6 previous employer visas into one new scheme.

- b. Implementing necessarily new business processes (the three gateways, plus the post-decision checks).
 - c. The introduction of a new technology platform, ADEPT, that was not fully operational at the time of launch and had not been subject to user-testing resulting from resourcing challenges and the acceleration of the border opening.
 - d. Adopting published standard processing times that could not be tested for operational feasibility prior to go-live.
 - e. Implementation by an almost entirely new visa operations team (200 people were recruited in 2022 to process AEWV applications); and
 - f. Under immense pressure from the Government, employers, and the New Zealand community more generally, to get migrant workers into the country quickly.
11. Considering these unique and challenging circumstances, INZ executed the initial establishment of processing operations and commencement of processing AEWV applications well.
 12. Perhaps not surprisingly given the circumstances, a number of issues emerged almost immediately. Of particular note, it quickly became apparent that the volumes of applications were exceeding INZ's capacity to process them in accordance with the published timeframes. In response to this situation, to increase the volume of applications able to be processed and to bring visa application processing within published processing timeframes, INZ gave General Instructions that modified the order and manner of application processing by Immigration Officers for the second and third gateways reducing the amount of checking of applications Immigration Officers were required to undertake. The initial intention of the General Instructions was that they were to be an interim approach, would be reassessed four weeks from implementation, and adjusted as appropriate. They remained in place and largely intact until mid 2023.
 13. Following the identification of abuse being observed in the Scheme from April 2023, in June and August 2023, INZ made operational changes to tighten up on how applications were being processed in the final two gates of AEWV. INZ advise they have continued to make operational changes to strengthen the Scheme subsequently.
 14. It is critical that New Zealanders have trust and confidence in the AEWV scheme and its administration. Its integrity is of high public importance, given the potential impact on vulnerable migrants.
 15. The majority of New Zealand businesses are good employers seeking and offering genuine employment to migrant workers. Unfortunately, the relatively small proportion of bad actors in the system, both off- and on-shore, will always seek and exploit weakness in immigration systems and policy. The Review accepts that no immigration system can mitigate all risk to migrants, but there are additional steps that INZ should take to minimise the risks of irregular migration and migrant exploitation, and to ensure trust and confidence in New Zealand's immigration system. Further action is required as described in the section on recommendations below.
 16. In terms of whether the AEWV scheme is being administered appropriately, the review makes a series of general and detailed findings and recommendations. Consistent with the timeframe of the investigation phase of the Review being undertaken, the Review has focused largely on the period the

launch of AEWV to December 2023 to inform its findings and recommendations. The findings include that:

- a. During the period July 2022 – June 2023 changes made to operational settings did not include sufficient risk assessments.
- b. The immigration risk associated with the operation of the AEWV scheme increased between 27 July 2022 and 30 June 2023. This was the result of General Instructions 1, 2, 3 and 4. General Instructions 1 and 2 (given by INZ in July and August 2022), had the effect of temporarily limiting several application checks by Immigration Officers undertaken at the Job Check and Work Visa Gateways, thereby exposing the Scheme to increased risk of abuse. This situation was extended through General Instructions 3 and 4, which were given by the Incident Management Team (IMT) in November 22 and February 2023. General Instruction 5 (given in June 2023) re-introduced some checks to reduce the risk exposure to the Scheme in response to multiple examples of immigration risks materialising and being observed by INZ. General Instruction 6 continued the re-introduction of checks in August 2023.
- c. The Review considers the giving of General Instructions 1 and 2 were reasonable in the circumstances, given the need to increase processing volumes and reduce visa processing times to alleviate the pressure on the border at the time of re-opening. When approved and given, the intention was that the General Instructions would be introduced for a short period of time and their use reviewed before consideration of their extension. In approving the General Instructions INZ accepted the changes would increase the immigration risks. However, prior to their approval INZ did not undertake a structured risk assessment to fully understand the impact of the change on the overall risk profile and to ensure that key people could be made aware of the impact prior to the decisions being made. In future, if similar changes to the operational settings are required, structured risk assessments including establishing risk tolerances and mitigations should be undertaken. Similarly, and consistent with the original approval, the IMT operating at the time should have undertaken a structured review and risk assessment to understand the specific risks being accepted before extending the General Instructions alongside the limited risk and verification activity that was undertaken at the time. Again, there is a need for decision-makers and Ministers to be fully apprised of the shifting immigration risks and any limitations around their assessment, particularly when changes to the risk settings are being made.

Concerns raised by staff have not been given adequate attention

17. Immigration staff spoken to by the Review indicated they raised concerns with INZ senior leadership from April 2023 regarding the observed risk presenting at the various gateways (but in particular at Job Check and Work Visa), and indicated they felt responses by senior INZ leadership did not adequately address those concerns.
18. Discussions with INZ leadership indicate that, at the time, there was limited evidence of visa system abuse presenting through INZ's risk monitoring activity, which was consistent with their belief that nothing in the General Instructions given required immigration officers to ignore risk, and that concerns were largely reflective of some staff not necessarily understanding the policy and operational settings relating to the Scheme.
19. As well as this disconnect above being demoralising for some staff, this was a missed opportunity for

the system to learn, improve, and mitigate further harm, based on the intelligence gathered at the frontline.

20. The Review acknowledges that since September 2023, INZ leadership has made a number of changes to its staff communication and engagement and that this continues to be a priority.

Post-Decision Verification & Review checks are not fully operational yet

21. The AEWV Scheme was designed to be a learning system implemented over three years. It was designed to utilise intelligence and insights from post-decision verification and review to inform future changes to the Scheme design and operations in response to both changes in the external policy environment and operational learnings observed.
22. The de-scoping of the development of ADEPT's business analytics and intelligence modules has reduced the ability of the AEWV operations team to analyse system and scheme performance and to inform operational decision-making and review.
23. The Cabinet-delayed employer reaccreditation process means that verification of employer measures to minimise migrant exploitation have not yet been carried out, including for high-risk employers. It is scheduled to commence in the second quarter of 2024.
24. The diversion of AERMR resources to manage immigration risk in other areas of the immigration system during the second half of 2022 and early 2023 resulted in significant delays to the implementation of AERMR and post-decision review. This compromised INZ's understanding of the performance of the visa scheme and, whilst aspects of AERMR implementation are nearing completion, some aspects remain behind schedule.
25. The Review understands INZ has continued to make operational changes to its administration of AEWV consistent with the Scheme's design as a learning system in the period post when the Review's investigative work was conducted. The Review acknowledges INZ has a number of changes underway to continue to improve many of the issues identified and discussed since this review began in August 2023.

There is no clear picture of the extent of possible system abuse

26. It is difficult to compare trends of complaints and investigations between years, due to changed visa products, effects of COVID-19 and border closures, however the increase in the number of complaints and investigations relating to AEWV in recent months, may be possible indicator of increased system abuse. It also needs to be acknowledged that work being done by MBIE to make it easier to report migrant exploitation since 2020, the significant increase in working migrant numbers since the borders reopened, as well as the financial incentives resulting from the financial support package agreed by the former Minister, may be influencing the number of complaints received.
27. MBIE do not appear to have a methodology or approach through which they regularly are able to calibrate the extent or nature of migrant exploitation, relying largely on lag indicators of system abuse/non-compliance. Whilst reliance on their internal Risk and Verification activity is useful to determine the extent of non-compliance detected through review, the need to develop a wider intelligence model with greater lead indicators seems evident and would provide wider insights and intelligence than appears to be the case currently.

Key communications with frontline staff have been confusing

28. The numerous changes to General Instructions, Standard Operating Processes (SOPs) and Immigration Guidelines, coupled with complex documentation, and the lack of integration into a single set of operating instructions increased complexity for Immigration Officers and created confusion regarding the correct and current interpretation and processing practice.
29. The focus on visa processing standard timeframes, and the lack of focus on changed risk profile, resulted in undue emphasis on visa processing volumes and approvals, which was experienced by visa processing staff spoken to by the Review as disempowering and frustrating.
30. The introduction of ADEPT, the three-gateway system, and the inclusion of automation of a number of risk rules represented a significant change in visa processing practice in INZ. This change was not well communicated, and inadequate change management support was provided to visa processing staff to operate in the new system.
31. The full set of main and detailed findings is set out at the back of this report, grouped with reference to the topics that the terms of reference required this Review to consider.

What are the next steps for improvement?

32. As indicated above, AEWV is designed to operate as a learning system with operational scrutiny, risk tolerance and policy requirements constantly being adjusted to respond to environmental changes and competing priorities, including improving the experience for customers paying for INZ's services whilst minimising risks to migrants. In line with this model, and in response to issues identified by this Review, MBIE and INZ have made a number of changes to improve the administration of the AEWV scheme.
33. The recommendations section at the end of this report begins with a summary of work underway grouped into three main objectives:
 - a. Reduce the risk of migrant exploitation and improve immigration system responsiveness through the development of an integrated compliance and system monitoring model that balances employer, migrant and workforce needs.
 - b. Improve intelligence gathering and system learning opportunities; and
 - c. Work under way to reset the relationship between INZ's senior leaders and frontline staff.
34. The Review recommends MBIE continue to progress work planned and underway towards achieving these three objectives and makes 10 specific recommendations for areas of focus. Recognising that a number of the changes recommended require a dedicated programme of work which will take time to implement, the Review considers both work already underway and the changes once implemented, will strengthen the performance of the Scheme, enabling MBIE and INZ to provide the necessary assurances to the public and Ministers and further reduce the risk of harm to migrants.

Introduction

Context for this Review

35. The Review wishes to acknowledge the extraordinary challenge that the Ministry of Business, Innovation and Employment (MBIE) faced in reopening the borders post COVID-19. With New Zealand's borders having been closed to non-nationals for approximately 2 years, the demand for visas to work, study and visit was extreme. The demand from employers for migrant workers, from educational institutions to allow international students to return, and from the tourism and wider New Zealand community to allow visitors into the country, placed MBIE under extreme pressure to process an unprecedented number of visas in short timeframes, post opening of the borders. MBIE and Immigration New Zealand (INZ) also experienced direct operational impacts from COVID-19, with revenue significantly reduced due to fewer applications, and staff levels impacted by the effects of lockdown and mandatory isolation requirements.
36. At the time of reopening, there were unprecedented labour shortages in New Zealand with very low unemployment, a shortage of skilled workers across many occupations, and pent-up demand for migrant labour resulting from the border closure. Enabling an increase in the available workforce, international students, as well as visitors and family, to flow into the country was a priority for the government, and for New Zealanders
37. In September 2023 concerns were raised with the then Minister of Immigration about the operation of the Accredited Employer Work Visa scheme (AEWV), which was launched contemporaneously with the border re-opening. At a high level, the concerns related to the Scheme's administration by Immigration New Zealand (INZ) and the potential resultant opportunities for misuse and exploitation of migrants by third parties.
38. It is critical that New Zealanders have trust and confidence in the AEWV scheme and its administration. Its integrity is of high public importance, given the potential impact on vulnerable migrants. To provide independent assurance as to the operation of the Scheme, the Minister asked the Public Service Commissioner to undertake a review.
39. The objective of the Review is to determine whether INZ's administration of the Scheme is being carried out appropriately and to identify any possible improvements, with a focus on mitigating the risk of migrant exploitation and irregular migration.
40. The full Terms of Reference for the Review are included in Appendix A of the Report.
41. The Methodology applied, including written submissions and interviews between September and early November 2023, is outlined in Appendix B of the Report.

Irregular Migration and Migrant Exploitation

What Constitutes Irregular Migration and Migrant Exploitation?

42. Irregular migration is considered to be “the movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination”¹. In the context of this review, this would include persons who, by way of deception or fraudulent activity either by them, the proposed employer, or an agent working on either theirs or the employer’s behalf, obtained a Work Visa that permitted entry to New Zealand.
43. Migrant exploitation is considered to have occurred when harm is caused, or the risk of harm is increased, to the economic, social, and physical well-being of a migrant worker. Migrant workers are considered vulnerable to exploitation because they may be less aware of their rights, may have limited English language skills, can lack independent financial or other means of support, face high expectations from family members back in their home country, and are often reluctant to report exploitation for fear of losing their job, visa, and/or risk deportation. Consequently, it is understood that the extent of migrant exploitation is under-reported globally.
44. The nature of exploitation experienced by migrants in New Zealand takes many forms - from workplace exploitation, which involves breaches of minimum standards and entitlements under employment and immigration legislation, to serious workplace exploitation, which involves coercion or deception and abuses of power. At its most extreme, migrant exploitation relates to offences under the Immigration Act (2009) and the Crimes Act (1961), which include forced labour where victims are trapped in jobs that they were coerced or deceived into, and trafficking in persons, which is the recruitment, transportation, transfer, harbouring, or receipt of a person through coercion or deception².
45. Irregular migration and migrant exploitation are not mutually exclusive and in fact have a high degree of intersect. The Review heard numerous reports of migrants who had paid offshore agents large amounts of money to secure a Work Visa, which itself is illegal and constitutes irregular migration. Those people have often secured visas with employers who go on to exploit migrants, potentially by either not offering employment consistent with the contracts committed to as part of the visa application process, and/or failing to provide employment at all. It cannot be assumed that a migrant realises that their actions result in activity considered to be irregular migration in the New Zealand context. For example, in many source countries, the payment of large fees for jobs may be considered normal practice and so an individual may not realise that in a New Zealand context this falls foul of immigration rules and regulation and employment law.
46. Regrettably, irregular migration and migrant exploitation are not new problems in New Zealand or globally and certainly not something that has resulted from the introduction of the AEWV Scheme. While historical evidence indicates that it applies to only a small percentage of the migrants who choose to travel to work in New Zealand, the impacts on the individual being exploited are potentially profound and should not be under-estimated.

How does Migrant Exploitation manifest?

47. While not unique to migrant workers who hold an Accredited Employer Work Visa (AEWV), the following types of exploitation have been described to the Review in association with the AEWV scheme:

- a. On arriving in New Zealand, or soon after arrival, the migrant's employment may not exist. This may be because the job never existed, is no longer available, employment documents were falsified, or exploitation of the 90-day rule whereby employers can terminate employment of a new employee, by employers.
 - b. Offshore agents, potentially aided by on-shore actors, commanding significant fees for migrant workers (\$14,000-\$50,000 NZD), causing heavy debt and increased vulnerability (and which constitutes irregular migration).
 - c. Migrant workers being under-or-not paid (for example work for free, extended hours, or paying money back to the employer).
 - d. Instances of culturally integrated migrant exploitation where migrants from the same home country as the employer are subject to exploitation resulting from strong dependency and vulnerability for the migrant worker. This is particularly prevalent where the migrant cannot speak English, has low or no skills, and or cultural settings that prevent the migrant speaking out against their employer.
 - e. Migrant workers not being offered employment that is consistent with the employment contract provided by the employer as a requirement of visa.
 - f. Employers controlling living conditions, movement, and communication; and
 - g. Migrant workers being forced to work illegally as part of organised crime networks, either in breach of their visa, or in unlawful activities.
48. By the time a migrant worker has entered New Zealand, they may have invested heavily, both financially and emotionally, potentially having disposed of property, borrowed to fund their migration (either legal or illegal costs) and given up employment in their home country. They may be proposing to be separated from family and friends for considerable periods of time to realise the benefits available from migrant work.

¹ Irregular Migration International Organisation for Migration (IOM) definition of Irregular Migration relied upon by INZ.

² Ministry of Business, Innovation and Employment (2020). Temporary migrant worker exploitation review – final proposals (Cabinet paper proactively released) [Temporary migrant worker exploitation review – final proposals \(mbie.govt.nz\)](https://www.mbie.govt.nz/Temporary-migrant-worker-exploitation-review-final-proposals)

Indicators of the Extent of Migrant Exploitation in New Zealand

49. Gaining an accurate picture of the extent of migrant exploitation is difficult. In 2018 and 2019 the Labour Inspectorate and INZ reported that they were seeing increasingly complex cases of migrant exploitation, and evidence suggested that exploitation is a serious issue in New Zealand. In 2018, 8 percent of temporary migrants who responded to New Zealand's Migrant Survey said they had not received one or more of their minimum employment rights or had been asked to pay money to their employer to get or keep their job (a "job premium"). Extrapolated out this was estimated to mean around 20,000 temporary workers may be being exploited³. The same survey found that some industries present a higher risk of exploitation than others, for example nearly one in five migrants working in the agriculture, forestry, fishing, and retail industries indicated they had not received at least one of their minimum employment rights or had been asked to pay a job premium. This correlates with lower-skilled workers from low-income source countries being more vulnerable to exploitation, or migrant workers who have significant debt.
50. In 2011/12, INZ received exploitation allegations involving 31 individuals and businesses. In 2018/19 this had increased to 390⁴, indicating an increase in the level of exploitation. The number of allegations involving at least one employer has been climbing, with 421 in 2020, 590 in 2021, 467 in 2022, and as of 4 December 2023, 1552, complaints against Accredited Employers where one or more migrants have reported instances of migrant exploitation.
51. In August 2020 the Government announced new measures to better protect temporary migrant workers from exploitation. The measures included the creation of the Migrant Exploitation Protection Visa (MEPV) to support migrants to leave an exploitative situation quickly and remain lawfully in New Zealand. The visa is valid for up to six months to allow the migrant to find alternative employment. Also included in the measures were:
- a. a dedicated 0800 number and web form to make it easier to report migrant worker exploitation.
 - b. increased funding for a joint compliance and enforcement approach through Employment New Zealand and INZ to better respond to reports of exploitation.
 - c. a liaison service to support exploited migrant workers; and
 - d. proactive information and education to prevent exploitation.

³ Ministry of Business, Innovation and Employment (2020). Temporary migrant worker exploitation review – final proposals (Cabinet paper proactively released) [Temporary migrant worker exploitation review – final proposals \(mbie.govt.nz\)](#)

⁴ Ministry of Business, Innovation and Employment (2020). Temporary migrant worker exploitation review – final proposals (Cabinet paper proactively released) [Temporary migrant worker exploitation review – final proposals \(mbie.govt.nz\)](#)

52. The final piece of the 2020 Temporary Migrant Worker Exploitation Review to be implemented is legislative change through the Worker Protection (Migrant and Other Employees) Bill. This will amend the Immigration Act 2009, the Employment Relations Act 2000 and the Companies Act 1993 by introducing an offence and penalty regime including disqualifying people convicted of migrant exploitation and people-trafficking, from managing or directing a company. This legislation came into effect on 6 January 2024 and is expected to be in force by the end of March 2024. The level of applications and approvals for eligibility of the MEPV is another indicator of exploitation. In 2021 when it was first introduced (for a half year – July-December), 63 MEPVs were issued. A further 125 were issued in 2022, and in the first ten months of 2023, 652 MEPVs were issued. The measures to better protect temporary migrant workers from exploitation, including the MEPV, means that there is now a means for increased reporting of migrant exploitation. However, even with the MEPV available, for those workers in exploitative positions it can be difficult to come forward and many people choose to stay in their current situation rather than register for the MEPV. Reasons include fear of losing their visa, facing deportation or other barriers, or concern regarding being unable to find alternative employment during the 6-month term of the visa. This means that the number of MEPVs issued cannot be taken as a measure of the extent of migrant exploitation in New Zealand, however, the increase in the number of people applying for the MEPV can be seen as an indicator of a wider picture of migrant exploitation in New Zealand.

Changes to Migration Patterns

53. The fact that over 236,000 Job Tokens have been issued over 15 months to the end of October 2023, representing almost 3 times the regular annualised rate of migration, and with approximately 130,000 of those Job Tokens yet to be redeemed/converted into Working Visas and/or expiring unfilled, suggests the potential for unusual migration activity, even when considering the pent-up demand as a consequence of border closures and the exit of migrant labour over the Covid period. It's unclear what's driving the increase in job token numbers however, it may be reflective the newness of the policy and a tendency of employers to over-estimate the number of migrant workers required and therefore increase the number of job tokens being sought to provide greater flexibility to respond to pressures within their business.
54. The economic downturn experienced, and recent early indications of increasing unemployment rates tend to indicate that the labour market demand is currently saturated in certain areas/sectors, particularly relating to low/no skilled workers.
55. INZ have confirmed that the percentage of Work Visas granted to low/no skilled workers under AEWV has significantly increased when compared to the previous work visa categories AEWV replaced and is currently at 62% of Work Visas granted. This is approximately 20% higher than under the previous work visas in place.
56. Post-COVID 19 pandemic, New Zealand continues to be a desirable destination for migrant workers and is promoted as a safe country with good pay rates and the ability to get permanent residence quickly. Early indications suggest a post-COVID pattern of a greater number of applicants with higher-risk profiles applying for visas now than before as nationals from several countries experience a range of on-going impacts post COVID-19, cost of living crises, and other pressures in their home country.

The Immigration system – roles and responsibilities

The Minister of Immigration

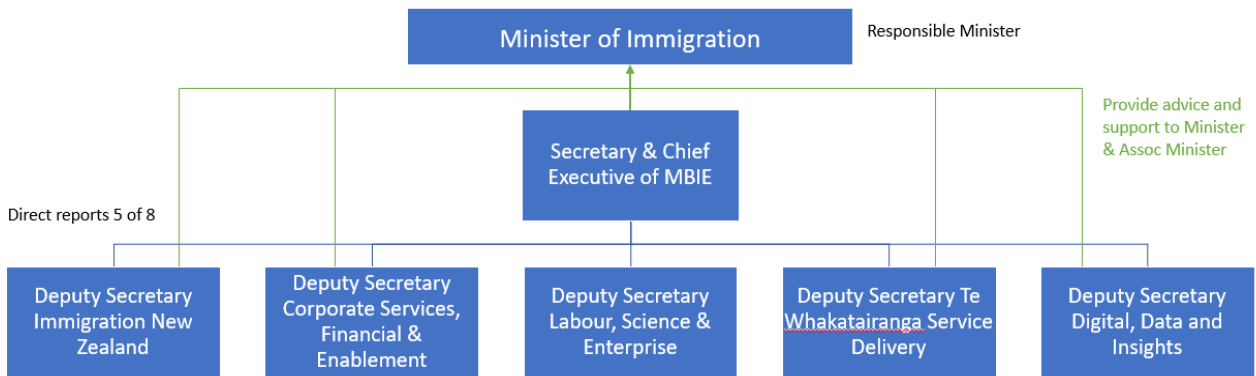
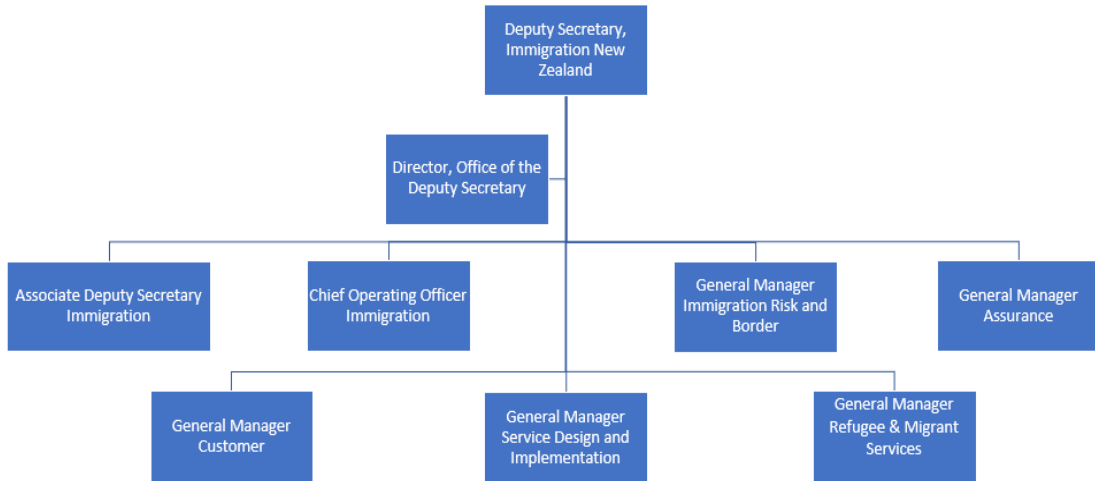
57. The Minister of Immigration (and associate Minister(s) of Immigration under delegation from the Minister) is responsible for the development of all immigration policy and legislation. Unlike most other areas of government, the Minister also has decision-making powers about individual non-citizens.
58. The Immigration portfolio includes two pieces of primary legislation:
- a. The Immigration Act 2009, which covers the immigration regulatory system; and
 - b. The Immigration Advisers Licensing Act 2007, which governs occupational licensing for providers of immigration advice.
59. The legislation relevant to this review is the Immigration Act 2009 (the Act), which amongst other things provides for “the development of immigration instructions (which set rules and criteria for the grant of visas and entry permissions) to meet objectives determined by the Minister.”⁵

MBIE and INZ

60. The administration and regulation of New Zealand’s immigration system is separated into multiple units within MBIE. INZ is one of eight business units within MBIE. INZ administers the core operational functions for visa processing. INZ is led by the Deputy Secretary Immigration, who reports to the Secretary and Chief Executive of MBIE and is a member of the MBIE Senior Leadership Team.
61. The structure of the immigration system at MBIE is as follows:
- a. INZ administers the core operational function.
 - b. The Employment Skills and Immigration Policy Branch within the Labour, Science and Enterprise group, provides policy advice across the Immigration Policy teams.
 - c. The Immigration Advisers Authority within the Te Whakatairanga Service Delivery group provides services to license people who provide New Zealand immigration advice and immigration compliance and investigations, and includes the Labour Inspectorate, which enforces and monitors minimum employment standards and the MBIE Customer Service Centre.
 - d. Lawyers from Legal, Ethics, and Privacy Team provide specialist first instance legal advice to support immigration decision-making; and
 - e. The Digital, Data and Insights branch lead IT systems including ADEPT.

⁵ Immigration Act 2009 s3(b)

The following diagram represents the organisational structure of MBIE and INZ:



Confidential -

The policy and design of AEWV

62. As outlined in the Terms of Reference for this review (Appendix A), the policy underpinning the development of the AEWV Scheme is outside of the scope of the Review and consequently the focus of the Review has been on the implementation of the policy. However, for the purposes of discussing the implementation of the Scheme, the policy objectives and settings are outlined below, including the history and timeline of its development. A full timeline for the development and implementation of AEWV is included in Appendix C.
63. Work on the development of a new working visa scheme commenced in 2017. The work was intended to bring together the six existing visa categories into one: Essential Skills Work Visa; Essential Skills Work Visa – approved in principle; Talent (Accredited Employer) Work Visa; Long Term Skill Shortage List Work Visa; Silver Fern Job Search Visa (closed 7 October 2019); and Silver Fern Practical Experience Work Visa.
64. Key policy objectives approved by Cabinet⁶ underpinning the design of the Scheme were:
- a. To provide increased certainty for employers in exchange for upfront checks.
 - b. Streamlined processes for genuine higher skill shortages.
 - c. A simplified system achieved through a reduction in visa categories.
 - d. Recognition that regions and sectors have different labour market needs.
 - e. An overall lift in the minimum standards for employing foreign workers.
 - f. Improved incentives on employers to recruit and train New Zealanders and to respond to skill and labour shortages; and
 - g. Improved compliance and treatment of foreign workers and reduced exploitation risk.

The Policy Design

65. Following policy development work by MBIE Immigration Policy between 2017 and 2019, Cabinet approved the design of a scheme to meet the policy objectives above, in August 2019. The Scheme was known as the Accredited Employer Work Visa (AEWV) Scheme.

⁶ Ministry of Business, Innovation and Employment (2019). A new approach to employer-assisted work visas and regional workforce planning: Paper One – Employer Gateway system and related changes (Cabinet paper proactively released). [A new approach to employer-assisted work visas and regional workforce planning: paper one - employer gateway system and related changes \(mbie.govt.nz\)](https://www.mbie.govt.nz/immigration/paper-one-employer-gateway-system-and-related-changes)

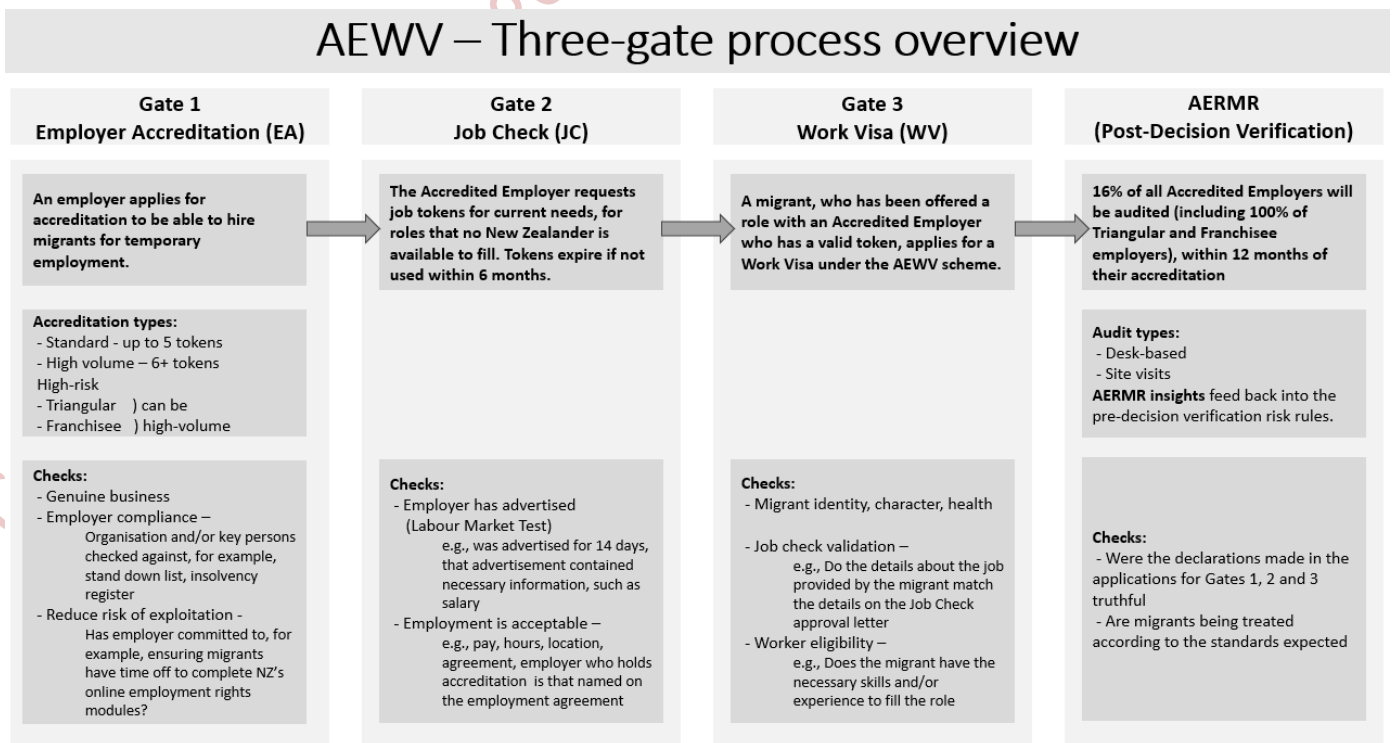
Employer-Led Scheme

66. The AEWV Scheme reoriented the focus of employment visas from migrant-led systems, which placed responsibility on the aspirant migrant worker to collate and complete the visa application, to an employer-led system where the onus is on the employer to provide assurance that they are a sound business and that the need for a migrant is genuine, and in doing so requiring employers to provide additional information about their businesses.

Three Gateway System

67. The AEWV Scheme design introduced three sequential processing gateways: the Employer Accreditation gateway, the Job Check gateway, and the Work Visa gateway:
- The Employer Accreditation gateway is where employers are required to satisfy basic requirements associated with being a valid business and good employer, resulting in them being accredited to hire migrants.
 - The Job Check gateway checks the job requirements of applications from accredited employers to ensure that no New Zealander can fill the position being recruited to and that the terms and conditions of employment are consistent with the Immigration Rules; and
 - The Work Visa gateway is where checks are made that the migrant is of good character and health and is suitably qualified to do the job offered by the accredited employer.
68. The following diagram outlines the Three Gateway System and the information required at each phase, complete with the linkage to the Accredited Employer Risk and Monitoring Review activity described in later sections.

Table 1 – AEWV Gateway process overview



Gate 1 – the Employer Accreditation Gateway

69. The Employer Accreditation gateway was designed to achieve the following three standards:
- a. That an employer must be operating a genuine business or other legitimate organisation.
 - b. The employer and key officers must have no recent history of regulatory non-compliance; and
 - c. The employer must take steps to minimise the risk of migrant exploitation. This includes declaring they will: provide information to migrant workers about living and working in New Zealand; provide migrants with time during paid work hours to complete online modules on employment rights; pay all costs and fees for the recruitment of migrant workers both in and outside of New Zealand; and not charge any fees to migrants outside of the country that would be unlawful if charged in New Zealand.⁷ It was intended that assurance activity to determine the level of compliance with these requirements would be undertaken post-decision.
70. As part of the approval of the three gateways, in 2019 Cabinet also approved the establishment of three categories of Accredited Employer, recognising the different labour market needs and risk profiles associated with different employer groupings, namely:
- a. Standard Employers – employers seeking five or fewer migrant workers in a twelve-month period.
 - b. High-Volume Employers – employers seeking more than five migrant workers in a twelve-month period and subject to further scrutiny as opposed to Standard Employers; and
 - c. High-Risk Employers – to cover Labour Hire companies with no limit on the number of migrants an employer may seek to employ but with the greatest involved scrutiny required in the accreditation process.
71. In 2021 the Minister agreed to a range of considerations that were required to be taken into account in considering an employer's ability to meet the standards outlined above. This included that INZ will primarily rely on declarations from employers, supported by automated checks where possible, for example, if organisation or key people are on the employer stand-down list, or if key people have been banned from being involved with the management of a business in New Zealand. In meeting the standard of a genuine employer, where specific risk indicators are flagged (e.g., the business has been trading for less than 12 months), further documentation may be requested to verify that the employer is a genuinely operating business. Other verification was to be carried out as part of post-decision assurance.
72. Employers falling into the high-risk business model definition, which was expanded in 2021 to include all triangular employment arrangements and franchisees, were subject to further scrutiny that included their accreditation only lasting for 12 months, being subject to site visits, greater up-front verification scrutiny, and more post-decision verification.

⁷ Ministry of Business, Innovation and Employment (23 March 2021). Briefing to Minister of Immigration – Employer Assisted Temporary Work Visa Reforms – Employer Gateway proposals.

73. High-risk employers additionally had to demonstrate that they were only contracting migrant workers to compliant businesses (i.e. those who meet employment standards consistent with those committed to by the accredited employer), that they have good systems in place to monitor employment and safety conditions on site, and that they have a history of contracts for placing New Zealand workers⁸.

Gate 2 - Job Check Gateway

74. The design intention underpinning the Job Check gateway was that migrant labour was only to be used to supplement the available New Zealand labour market and that labour market risks, such as underinvestment in training, displacement of New Zealanders, and wage suppression, be reduced.
75. The Job Check gateway design incorporated a requirement that a labour market check be undertaken to ascertain whether a New Zealander was available to do the work. The design involved both a requirement that the job be advertised, and that the employer provide evidence that no suitable New Zealander was available. Initially it was contemplated that where the employment involved lower-skilled roles, information from the Ministry of Social Development (MSD) was required to ensure that the role was not suitable for clients under its Job Seeker category.⁹ In December 2021 Cabinet introduced the median wage threshold for AEWV visas. This higher threshold meant MSD's role was redundant as it was intended MSD would only be reviewing roles below the median wage. A decision was taken to exclude sector agreement roles below the median wage as well as these were areas of agreed shortage.
76. Under the 2019 Cabinet paper¹⁰ three pathways were to be available under the Job Check gateway: The Highly Paid Migrant pathway, the Regionalised Labour Market pathway, and the Sector Agreement pathway. Regardless of pathway, employers were expected to ensure that the job being offered paid at least the current market rate.
77. The Highly Paid pathway would apply where the remuneration for the job being sought was over 200% of the median wage and as a result an exemption from labour market testing would apply. The key principle behind this was that high remuneration rates generally reflect a genuine skills shortage. Later in 2022, the Green List (priority occupations for New Zealand) was created and effectively added to this pathway.
78. The Sector Agreements pathway sought to acknowledge that certain sectors systemically have a high reliance on migrant workers. This pathway was intended to provide a basis for recruitment of migrant workers based on agreed and standardised conditions between government and sectors to meet policy objectives such as:
- a. improving wages and conditions.
 - b. reducing reliance on lower-skilled migrant workers; and

⁸ Ministry of Business, Innovation and Employment (2019). (Cabinet paper proactively released). [A new approach to employer-assisted work visas and regional workforce planning: paper one - employer gateway system and related changes \(mbie.govt.nz\)](#)

⁹ www.workandincome.govt.nz/products/a-z-benefits/jobseeker-support.html

¹⁰ Ministry of Business, Innovation and Employment (2019). (Cabinet paper proactively released). [A new approach to employer-assisted work visas and regional workforce planning: paper two - the job gateway \(mbie.govt.nz\)](#)

- c. incentivising the employment, training, and upskilling of domestic workers in order to provide a balance between employing New Zealanders and migrant workers.
79. The Regionalised Labour Market test pathway was intended to provide greater opportunities to potential New Zealand workers, whilst at the same time easing restrictions on employers employing migrant workers, where the risk of domestic job displacement through wage suppression was small.
 80. This pathway was intended to be coupled with a strengthened Labour Market Test that included ensuring that the employer is accredited, has met obligations under sector agreements, advertised the role sufficiently, committed to paying market rates, and have verification from MSD that no New Zealander was available to fill the role. As noted above, in December 2021 the median wage threshold was introduced, making the MSD check redundant.
 81. Accordingly, a Briefing was provided to the Minister and Associate Minister of Immigration outlining key criteria¹¹.
 82. Any employer applying for a Job Check was required to provide key information about the job, for example:
 - a. minimum and maximum pay rate for the job.
 - b. proposed employment agreement.
 - c. evidence of advertising and a declaration only from the employer that no/not enough suitable New Zealanders applied.
 - d. MSD vacancy number (if below median wage) – this requirement was removed under the Immigration Rebalance in December 2021 (see below paras 83-84); and
 - e. A Job Check application might include an application for multiple roles and/or positions. Assuming a Job Check application is approved, a Job Token or multiple Job Tokens may be issued allowing the employer to progress to recruit a suitable migrant worker.
 83. As referenced above, in December 2021, Cabinet agreed to an Immigration Rebalance, with changes for employer-assisted workers and partners.¹² These changes were designed to ensure immigration settings were balanced correctly as the country moved from near-zero inward migration through the COVID-19 pandemic to open borders.
 84. Perhaps the most significant change made under the Immigration Rebalance was the introduction of the requirement that AEWV roles be paid above the median wage. This effectively removed the need for the involvement of MSD in consideration of whether a New Zealander was available for a role as they were only checking roles under the median wage.

¹¹ Ministry of Business, Innovation and Employment (22 June 2021). Briefing to the Minister of Immigration and Associate Minister of Immigration: Employer-assisted temporary work visa reforms – job and migrant worker check proposals.

¹² Ministry of Business, Innovation and Employment (Dec 2021). (Cabinet paper proactively released). [Immigration Rebalance: options for employer-assisted workers and partners \(mbie.govt.nz\)](https://www.mbie.govt.nz/immigration-rebalance-options-for-employer-assisted-workers-and-partners)

Gate 3 – Work Visa Gateway

85. The Work Visa gateway was designed to verify the identity, health status, and character of the migrant and validate their ability to meet the qualifications and experience requirement for the role where applicable.
86. The AEWV Scheme design contemplated that should a Work Visa holder wish to change their employer, subject to the new employer being accredited and having a valid Job Token approved, the migrant worker could apply to vary employment conditions on their visa¹³.

High Trust Model

87. A key feature of the policy design of the AEWV Scheme was that it was to be a “high trust” model.
88. The high trust model contemplated that the Employer Accreditation and Job Check gateways relied significantly on employer declaration-based information for visa processing considerations. Assurance relating to the validity of employer declarations was designed to be obtained through a post-decision process called the Accredited Employer Risk Monitoring and Review (AERMR), which would in turn inform the Employer Re-accreditation process. The review understands the high trust model differed from previous work visa categories in this regard and was a significant departure from previous visa category designs requiring a different approach to implementation of the policy.

Reaccreditation and Accredited Employer Risk Monitoring and Review (AERMR)

89. AEWV was designed with the need to carry out employer reaccreditation to provide INZ with assurance that employers’ declarations were compliant with the declaration commitments made. For example, the completion of employment standards, learning modules and settlement support activities. Reaccreditation is an important aspect of the AEWV’s assurance designed to minimise migrant exploitation.
90. The policy intent was for most employers to have a shorter first accreditation period of 12 months, with renewals every 24 months after that for compliant employers. High-risk employers (franchisees and those using triangular employment arrangements) would be required to renew their accreditation every 12 months, reflecting the historically higher risk of migrant exploitation associated with these business models.
91. The initial policy intent as outlined to Cabinet¹⁴ was for employers operating high-risk business models to have upfront site visits as part of the employer accreditation process, and for this to also be a requirement for any employers identified as higher risk under the standard and high-volume categories. During more detailed design in 2021, the then Minister for Immigration agreed to remove this requirement, noting instead that INZ will develop a risk-based prioritisation process that priorities higher risk employers for more robust assessment and more site visits.

¹³ Ministry of Business, Innovation and Employment (22 June 2021). Briefing to the Minister of Immigration and Associate Minister of Immigration: Employer-assisted temporary work visa reforms – job and migrant worker check proposals

¹⁴ Ministry of Business, Innovation and Employment (2019). (Cabinet paper proactively released). [A new approach to employer-assisted work visas and regional workforce planning: paper one - employer gateway system and related changes \(mbie.govt.nz\)](https://www.mbie.govt.nz/assets/Uploads/2019-09-10-A-new-approach-to-employer-assisted-work-visas-and-regional-workforce-planning-paper-one-employer-gateway-system-and-related-changes.pdf).

92. Treatment of risks for AEWV were operationalised into pre-decision and post-decision. The pre-decision risk and verification activities that INZ traditionally deploys during a visa assessment were limited in the Employer Accreditation gateway because INZ held limited data on employers to inform employer risk identification and analysis.
93. The AEWV Scheme design therefore relies on post-decision checks to ensure employers are complying with accreditation requirements, with the ability to revoke accreditation if they are not. As well as reaccreditation, the intent was to use post-decision risk monitoring through AERMR and other risk monitoring and review to collect data and intelligence in the first year to build the data INZ holds on employers.
94. AERMR activities were designed to be a combination of desk-based and site-based checks. Desk-based checks leverage MBIE's information holdings and open-source information to assess the accuracy of employer declarations provided through the employer accreditation gateway and identify any additional indicators of immigration risk.
95. The desk-based checks included information relating to the viable and genuinely operating business or operational criteria, as well as compliance with specific employment, immigration and business standards and settlement support activities. AERMR would also conduct site-based checks either from a recommendation from a desk-based check, or by prescription for Triangular and Franchisee accredited employers.
96. This Risk Monitoring and Review model was intended to ensure monthly post-decision reviews of employers by INZ's Risk and Verification function to ensure that data was captured to inform ongoing risk analysis and findings and reported through to INZ's risk governance groups to inform risk tolerance and controls.¹⁵ This approach was intended to ensure a circular risk management approach was embedded into the system, in other words, a 'learning system'.
97. INZ designed the AERMR process to conduct post-decision checks on 16 percent of employers in the first year. Checks were specified as a combination of desk-based checks across a random selection of employers as well as targeted site based checks on a sample of all accredited employer types with a focus on franchisee and triangular employers and any business that have been referred through a complaint or issue raised. The implementation of AERMR was deferred for six months as an operational decision to move resources to address risk presenting elsewhere in the immigration system.

¹⁵ Ministry of Business, Innovation and Employment (10 May 2022). (Internal memorandum). Risk Monitoring and Review Governance Group Submission Paper: Pre-decision Immigration Risk Management Approach to the Accreditation Gateway for the Accredited Employer Work Visa.

The Operationalisation of AEWV

Decisions made at the launch of AEWV

98. INZ made final operational policy decisions in the weeks before implementation, including decisions on the visa processing standards for each gate. Visa processing standards were set at:
- a. 10 working days for the Employer Accreditation gateway.
 - b. 10 working days for the Job Check gateway; and
 - c. 20 working days for the Working Visa gateway.
99. One of the key features of the AEWV system consistent with the High Trust design was an automated visa processing platform called Advanced Digital Employer-led Processing and Targeting (ADEPT). The system was designed to automate checking of employer declarations through several system rules described in further detail below. This allowed for low touch where appropriate while allowing targeted scrutiny and challenge where there were risk factors or concerns. However, because the development of ADEPT was not completed sufficiently in advance of the commencement of AEWV operations, processing times outlined above were not able to be tested and as such the operational impacts of meeting the processing standards could not be understood by INZ.

Opening the Christchurch office

100. The launch of AEWV occurred at a time when MBIE, and within it INZ, were under immense pressure to enable movement of people across the New Zealand border post the COVID-19 border closure. Pressure on the Government and subsequently on MBIE, not only from the business community but also from the wider New Zealand community, to allow migrant workers, students, and visitors to travel to New Zealand was extreme. This translated into a requirement for urgency and timeliness of visa processing, and also unprecedented volumes as a result of pent-up demand.
101. Due to the pandemic, and the Government's decision to close the borders, INZ made the decision to close additional offshore offices responding to the flow-on impacts of border closures and reduction in revenue. This resulted in a loss of visa processing capability and capacity and created further pressure on the operations as it planned to support the reopening of the border. Consequently, to operationalise AEWV, and as part of its response to reopening the border, INZ made the decision to establish a new Visa operations team in Ōtautahi Christchurch, to be ready for the launch of the Employer Accreditation gateway.
102. During the period from March 2022 to November 2022, 200 people were recruited into the Christchurch offices to process AEWV applications.

What happened when AEWV was launched?

103. On 23 May 2022, the first gateway for Employer Accreditation was launched at which time only the front end of the system of ADEPT, the part that received and lodged the application was operational.
104. Within three days of opening 1,151 Employer Accreditation applications were received. The back end of the system, where the application is processed, was not operational for another week.

105. The Job Check gateway opened to applications on 20 June 2022. The design of this gateway required several activities to be undertaken by Immigration Officers, a key feature of which was new for INZ. The issuing of job tokens in response to an approved Job Check application was an entirely new activity. This resulted in delays in processing times as Immigration Officers were required, under the policy settings, to complete extensive assessment of draft employment agreements. This compounded processing time delays. These issues, coupled with the high volume of applications, resulted in significant slowing of visa processing beyond the 10-day commitment.
106. The Work Visa gateway was launched on 4 July 2022. There was a deliberate decision to allow migrants to apply with their job token through ADEPT, but to operate a hybrid model of processing in AMS for a short period of time. This was to ensure that full development of functionality and testing of the solution was undertaken before going live and that customers had a seamless interaction with the system. This is more fully outlined below.
107. Due to the challenges and delays outlined above, initial processing times for AEWV were slow and did not meet the published processing standards. As of 27 July 2022, the Job Check gateway had been operational for just over 5 weeks. In that time 2896 Job Check applications had been received but only 329 (11%) had been completed. Similarly, as of 23 August 2022, the Work Visa gateway had been open for just over 7 weeks with 2284 applications received, of which only 139 (6%) had been completed.

Policy changes impacting Immigration Instructions for AEWV

108. Visa processing relies on a range of tools and instruments, some of which are statutory while others are operational.
109. Immigration Instructions are the statutory tool whereby the rules associated with a Visa Product are set and give effect to the policy setting for the visa product. Immigration Instructions are established under section 22 and 23 of the Immigration Act 2009. They are certified by the Minister of Immigration and must be published and publicly available. The changes documented below respond to policy changes approved either by Cabinet or by the Minister. To support the launch of AEWV, Immigration Instructions relating to the Scheme were made publicly available prior to go-live. They became operational on the date of issue, indicated below:
- | | |
|-----------------------------------|------------|
| a. Employer Accreditation Gateway | 23/05/2022 |
| b. Job Check Gateway | 20/06/2022 |
| c. Work Visa Gateway | 04/07/2022 |
110. The Immigration Instructions relating to the Job Check gateway were amended on 31 October 2022, to reflect the first six sector agreements (for care workforce, construction and infrastructure, meat processing, seafood, seasonal snow, and adventure tourism).
111. On 5 December 2022 the Job Check Immigration Instruction was introduced so that migrant workers who wished to change their employer were not tied to their original employer.
112. A further amendment to the Job Check Immigration Instruction was issued on 26 April 2023 reflecting the seventh sector agreement (transport).
113. In October 2023, an amendment to the Job Check Immigration Instructions reflected the ban of the 90-day trial period being included in employment contracts for migrant workers under AEWV.

114. Despite these changes, the three substantive Immigration Instructions issued for each of the gateways remain largely unchanged.

Decision to amend risk tolerances

115. Given the pressure to allow workers into New Zealand and challenges being experienced by INZ in meeting published visa processing time standards resulting in delays in visa approvals, it quickly became apparent that further changes were needed. Three options for resolution of these delays were considered by INZ:¹⁶

- a. further automation in the ADEPT system.
- b. additional processing resource; and
- c. changes to risk tolerance.

116. Documents provided to the Review indicate that INZ considered neither automation nor increasing resources to be practical options within the required timeframes. For further automation to be developed into ADEPT additional data to support the development of risk rules was required. Given the short operating time of the system there was deemed to be insufficient data to proceed with this option. In addition, the lack of availability of technical resources to undertake any development in the system meant that further automation was not a viable option.

117. The option of increasing processing resources was also dismissed due to the lead times resulting from recruitment and training requirements and the demand on the other parts of the immigration system associated with reopening the border.

118. Consequently, the option left to INZ, to adjust the risk tolerance to accept more risk, was deemed the most pragmatic option available at the time. This was enabled through the giving of General Instructions.

119. In selecting this option, INZ considered that the risk trade-off from reducing the extent of Immigration Officer scrutiny of applications across the Job Check and Work Visa gates could be mitigated as follows:

- a. by the post-decision reviews (AERMR), designed to identify risk trends and inform risk settings over time, which were to commence as soon as possible.
- b. by increased Risk Management and Review to be undertaken by INZ's Risk & Verification Team.
- c. by the reaccreditation of employers, which was to be undertaken after the first 12 months; and
- d. by the proposed reduction in processing scrutiny being in place for only a short period of time, namely two months per the original proposal.¹⁷

¹⁶ Ministry of Business, Innovation and Employment (25 July 2022) Internal Memo: Operational Levers to Clear Current Job Check Queue

¹⁷ Ministry of Business, Innovation and Employment (30 September 2022) Internal Memo: Review of Operational Levers to Enhance Accredited Employer, Job Check and Work Visa Processing

120. While the immediate solution applied by INZ was to change risk tolerances, additional solutions were pursued in the following months, including moving additional staff from other visa category processing.

General Instructions

121. Under Section 26(4) of the Immigration Act 2009, the Chief Executive may give General Instructions. The Chief Executive has the ability to delegate this action and has established delegations to the Deputy Secretary of INZ and the Chief Operating Officer, INZ.

122. In accordance with the Act the Chief Executive or delegate may give General Instructions to Immigration Officers on the order and manner of processing any visa application. The intention behind the introduction of the General Instructions of AEWV applications was to improve processing times by reducing some of the manual checking required, to focus the attention of immigration officers to areas where risk was thought most likely to be present, and to make operational changes to better manage risk following the first few weeks of processing.

123. The six General Instructions given for AEWV to date are outlined in Table 2 below:

Table 2- Summary of General Instructions given

General Instruction No. and Gateways impacted	Summary of the effect of the General Instruction	Period over which the General Instruction was in place
Changes to settings		
1 – Job Check Gateway	This General Instruction limited, for some cases: checking of the employer regarding acceptability of the employment; the requirement to calculate remuneration; the requirement to determine the genuineness of the vacancies; and the requirement to determine that suitable labour market testing had been undertaken.	Authorised by the Deputy Secretary INZ and given on 27 July 2022 and was to be reviewed after four weeks. Was superseded by GI 3 on 6 October
2 – Work Visa Gateway	This General Instruction limited, for some cases, the job check validation step to considering the job check validation letter against the migrant's offer of employment only rather than also validating consistency with the employment agreement.	Authorised by the Deputy Secretary INZ and given on 23 August 2022 and was due to be reviewed at the end of September 2022. Was superseded by GI 3 on 6 October
3 – Job Check and Work Visa Gateways	This General Instruction extended the instructions in the previous 2 General Instructions. It noted that the previous two GIs were to have been reviewed, however, whilst data was available to indicate improved processing time there was insufficient data available to enable a clear understanding of the risk impacts of the GIs. This was not considered a reason not to extend the General Instructions.	Authorised by the IMT Controller under delegation from the Chief Executive MBIE and given on 6 October 2022 for the period to 2 December 2022 to align with the intended end date of the MBIE Reconnecting New Zealand Incident Management Team. Superseded by GI 4 on 28 February 2023
4– Job Check and Work Visa Gateways	This General Instruction was also presented as a review of the operational levers applied in the previous General Instructions and was dated three months after the 2 December deadline agreed in the previous General Instruction. General Instruction 4 noted that Risk Monitoring and Review activity suggested that the presence of untreated risks (specifically relating to the Job	Authorised by the Chief Operating Officer, INZ and given 28 February 2023. Superseded by GI 5 on 30 June 2023.

General Instruction No. and Gateways impacted	Summary of the effect of the General Instruction	Period over which the General Instruction was in place
	<p>Check) and risks not managed (relating to the Work Visa) were within INZ's risk appetite. To inform this decision, Risk Monitoring and Review sampling undertaken by INZ Risk and Verification indicated that of 1,225 applications sampled, 83 or 6.8% of applications were assessed as not having the AEWV risk adequately managed. This rate was considered within tolerances and comparable with historical levels.</p> <p>These General Instructions were extended by a delegate of the Deputy Secretary of Immigration until the end of June 2023, with a condition that Risk and Verification conduct "further, more comprehensive review activity by mid-June 2023."</p>	
Tightening of settings		
5 – Job Check and Work Visa Gateways	<p>This General Instruction sought to reintroduce verification regarding labour market testing in the form of advertising. It also required checking of location of employment, legal entity of the employer, employment type and role information declared matches that on the employment agreement, and where relevant, the advertising.</p>	<p>Authorised by the Deputy Secretary INZ and given on 30 June 2023. Superseded by GI 6 on 16 August 2023</p>
6 – Job Check and Work Visa Gateways	<p>This General Instruction replaced General Instruction 5. It sought to exclude high volume accredited employers and construction sector roles from the instruction to apply only face value checks when determining genuine employment, and included advice from Risk and Verification as a criterion for conducting additional verification at the work visa gateway</p>	<p>Authorised by the Deputy Secretary INZ and given on 18 August 2023</p>

124. A detailed analysis of the effect of the various General Instructions is contained in Appendix D.

Standing up the Incident Management Team (IMT)

125. Soon after the giving of the first two General Instructions by the Deputy Secretary INZ, the Chief Executive directed the establishment of a Reconnecting New Zealand Incident Management Team (IMT). MBIE regularly uses IMTs as a mechanism to bring wider enterprise resources to an issue or task.

126. The logic underpinning the establishment of the IMT was that significant concern was being raised by key external stakeholders, MBIE and INZ leadership and employers across the NZ labour market that AEWV, Student and Visitor visas were not being processed in timeframes that met the expectations of customers.¹⁸

¹⁸ IMT Controller Preliminary Scoping

127. The intent of the IMT was to ensure that resources from the wider organisation would support INZ to process visa applications more rapidly. The scope of the IMT was to deliver improvements across visa products, to expedite, manage risk at pace, and meet re-opening expectations. The IMT ran from 25th August 2022 through to 24th March 2023, at which point the delegated IMT functions returned to INZ under business as usual. The IMT was governed by 5 Deputy Chief Executives from across MBIE including the Deputy Secretary INZ.

128. An IMT Controller was appointed. The IMT Controller held the following authorities and delegations:

- a. Authority to direct the adjustment of (visa) risk levels.
- b. Authority to direct the adjustment of quality checks of visa products.
- c. Authority to direct change processes to the manner in which all visa products are processed (including giving General Instructions); and
- d. Authority to reallocate employees from any branch as required.

129. The review of the General Instructions was the responsibility of the IMT while it was operational between August 2022 and March 2023. Consequently, the giving of the third General Instruction (essentially an extension) was agreed by the IMT Controller, with instructions for the extension to align with the timing of the completion of the IMT (which at that point was expected to be 2 December 2022) and that further extensions would need to be submitted to the Deputy Secretary, Immigration.

130. The next review of the General Instructions was carried out in February 2023 when the core activity of the IMT was in the process of transitioning to business as usual. At this point, the Chief Operating Officer and acting IMT Controller, approved the further extension of the General Instructions, noting that a more comprehensive review of immigration risk was to be carried out before any further extensions were approved.¹⁹ In making this decision it was recognised that there was limited information available from which to identify data trends arising from implementation of the General Instructions, but that the risks appeared to be within INZs risk parameters for other visa categories.

131. Table 3 below documents the General Instructions that were given, and under what authority.

Table 3 – Dates of issue, duration and authorising party of General Instructions

AEWV Launched 23/05/22						
Controlled by	INZ		MBIE via IMT		INZ	
General Instruction	1	2	3 (extension)	4 (extension)	5 (amendment)	6 (amendment)
Dates	27/7/22- 6/10/22	23/8/22- 06/10/22	6/10/22 – 28/2/23	28/2/23 – 30/6/23	30/6/23 – 30/11/23	18/8/23 until present
Approved by (under delegation from the Chief Executive, MBIE)	Deputy Secretary Immigration	Deputy Secretary Immigration	IMT Incident Controller	IMT Incident Controller	Deputy Secretary Immigration	Deputy Secretary Immigration

¹⁹ Ministry of Business, Innovation and Employment (27 February 2023). Internal Memo: Review of operational levers to enhance Accredited Employer Job Check and Work Visa processing.

132. The Review understands that for the period of operation of the IMT, the IMT assumed responsibility for implementing changes to improve processing timeframes and management of risk consistent with the delegations established under the IMT Terms of Reference and in doing so replacing INZ's standing risk governance groups. Consequently, those groups were not actively involved in the governance and review of risk over this period. General Instructions 3 & 4 were given under the delegation to the IMT Controller. The IMT Governance Group are not mentioned as having been consulted or their approval sought prior to the approval of these, although it is assumed they were aware of the extension in their governance capacity.
133. The IMT was formally closed on 24 March 2023, by which time it was reported that better processes were in place for responding to surges in application volumes across visa products, contingency plans were in place, a new system for operational oversight and monitoring was in place led by the new role Deputy Chief Operating Officer, and that work was underway to design and implement an adaptive workforce plan.

The General Instructions and Risk Identification

134. Prior to implementation of General Instructions 1 & 2, INZ did not undertake a structured risk assessment to assess the change in risk profile and consequent impact on the risk of immigration visa system abuse, nor did it establish or have a mechanism to establish risk tolerances relating to the changed risk profile. The Review considers it would have been appropriate to conduct a structured risk assessment to understand what, if any, immigration system abuse may result both in relation to the introduction and subsequent extension of the General Instructions.
135. General Instructions 1 & 2 were authorised to be given as an interim approach to facilitate faster processing times. The potential reputational and political risks associated with INZ not consistently checking evidence were acknowledged, as they were in later internal reviews. The approvals noted that targeted post decision risk monitoring and review would be developed to identify any unintended consequences of the changes and that ILT would be regularly updated on results and receive a substantive summary report on immigration risks that may arise because of the interim streamlining approach.
136. On the 28th August after issuing General Instruction 2, Terms of Reference for post-decision monitoring and review were approved specifying that initial weekly risk sampling be undertaken until the end of September 2022. 735 applications were sampled from 8,952 applications decided between 23 August – 18 September 2022. Findings were not formally reported to ILT or IMT. Due to delays in obtaining data, risk monitoring activity was not available in time to input into the approval of General Instruction 3 (extension). However, a summary report was completed on 6 October 2022 and identified some immigration risks, for example non-compliant employment agreements, and employment agreements offering lower remuneration rates to job check conditions. The report did not make any conclusions or recommendations about the acceptability or otherwise of this immigration risk.
137. Further risk monitoring and review activity was used to inform General Instruction 4 (review of 1225 work visa applications decided between August and December 2022). 6.8 percent that were found to have not had risk effectively managed which was slightly below the rate across INZ's overall offshore temporary visa caseload, which was assessed at 6 percent over the same period.

138. From the documentation seen by the Review, INZ's risk assessment activity confirmed the presence of abuse of the visa system which resulted in the decision to introduce General Instruction 5 in June 2023. In its decision to reverse some of the reductions on processing introduced in previous General Instructions, the Review concludes that INZ was not comfortable with the increased immigration risk observed as presenting at the time. The options considered by the Deputy Secretary of Immigration at this time were either to revert to "BAU" settings (i.e. the removal of General Instructions altogether), maintain the General Instructions in place prior to 30 June 2023 in their totality, or maintain the General Instructions in place prior to 30 June 2023 with some increased tightening. A key consideration outlined in the document was the impact on visa operations and processing times and the observation that the visa category was performing within expected timeframes. The review notes that due to the limited time operating under BAU (i.e. no General Instructions), the impact of removing the General Instructions in totality on processing times was not well understood.
139. The reports provided to the review demonstrate a level of risk monitoring activity, however, the review has not received evidence that they were undertaken consistent with an overarching risk framework that responded to an assessed change in risk profile and/or risk tolerance settings, rather that there reflects a more reactive approach in consideration of the higher known risk areas and risks considered to be emerging.
140. The Review understands and supports INZ's decision to reduce the nature and extent of checking of visa applications via the General Instructions in response to the unique circumstances surrounding the border reopening. However, the Review does not consider it appropriate that, understanding the increased immigration risk it was exposing the visa system to (and later observed occurring) that, INZ did not undertake a structured risk assessment in parallel with the issuing of General Instructions, or develop a risk assessment framework against which to undertake risk activity. The Review acknowledges INZ did produce a series of Risk Reports considering aspects of the Scheme to inform possible extensions of the use of the General Instructions but considers these to be largely ad hoc and reactive.
141. In addition, the Review has asked for evidence that the potential immigration risks were clearly described to the Minister of Immigration. Senior MBIE and INZ officials have responded to the Review that Ministers were fully appraised of the risks (as they were known by MBIE and INZ at the time) through oral briefings throughout the implementation of AEWV and that at times during the implementation, daily processing volume information was provided to Ministers to provide assurance regarding performance. Senior MBIE and INZ officials advise no written briefings of these risk or file notes of oral briefings exist.

Managing risk

142. INZ operates in a dynamic risk environment and as such requires an ongoing analysis of outcomes to ensure the immigration system is achieving the desired outcomes. Risk governance across the Immigration system includes a Risk Monitoring and Review Governance Group (RMRGG) and a Risk Control Group (RCG), both of which report through to the Immigration Leadership Team (ILT). INZ report these groups reassumed risk governance responsibility once the IMT was stood down in March 2023.

143. The RMRGG is responsible for setting the risk appetite and is Chaired by the General Manager, Immigration Risk and Border. The Risk Control Group, chaired by the Chief Operating Officer Branch, decides the risk rules underpinning visa decisions. The latter is supported by a Triage Stakeholder Group, comprising a cross-agency group of risk and verification subject matter experts. The Review was advised that MBIE's Enterprise Risk and Assurance Committee has not considered AEWV as part of its programme.
144. Risk Briefs and Risk Reports are prepared by the Risk and Verification Group to report on Risk Monitoring and Review activities.
145. The identification and treatment of immigration risks associated with the AEWV were well considered in the lead up to the border re-opening and the implementation of the AEWV and leading to the development of the Immigration Instructions issued in 2022 specifying the rules and criteria, evidence and processes to be followed under the AEWV scheme. From as early as November 2021, INZ's Risk Monitoring and Review Governance Group (RMRGG) were being briefed on risk identification and treatment to inform policy settings and Immigration Instructions for the Employer Accreditation gateway.
146. Prior to the General Instructions, in May and June 2022, the RMRGG agreed to the identification and management of pre-decision risk for each of the Gateways. Key immigration risks within the AEWV were identified including migrant exploitation, sustainability of employment, employer phoenixing (obscuring previous non-compliance under another identify), non-compliance with immigration law, role or salary inflation, non-genuine job offers, non-genuine advertising, payments of premiums for employment, non-genuine work experience, national security, character, and identity. These risks were mapped against each of the Gateways, as 'The Gateways Risk Model.' The model was expected to evolve to reflect new immigration risks and treatment across gateways as further data, insights and intelligence was gathered.
147. The high trust design incorporated into AEWV and system rules-based ICT system, ADEPT, meant that some degree of pre-decision risk was accepted. This included that:
- a. Accreditation is likely to be granted to some businesses that do not meet the intent of the policy in the first 12 months while INZ focusses on establishing the post-decision RMR process.
 - b. It is likely that some businesses will incorrectly self-identify and as a result will not be identified as triangular, franchise or new businesses that would be subject to additional scrutiny and requirements; and
 - c. It is possible that accreditation will be granted to some businesses that are not financially sustainable and those businesses may be more likely to adopt or apply exploitative practices as a result of their financial circumstances.
148. Risk treatments were also identified, for example for the employer accreditation gate, a referral step was required for Risk and Verification to ensure all evidence is appropriately considered and deconfliction with open investigations occurs, that triangular and franchisee accreditation and all businesses who have been operating for less than 12 months be treated as high risk and thorough risk management practices be implemented, that all relevant officers complete training in identifying and treating risk, and that a specialist team of Immigration Officers be formed and assigned to process triangular, franchise and new business accreditation.

149. As has already been described, the General Instructions allowed for a departure from these agreed risk management approaches.

The introduction of the ADEPT IT System

150. The introduction of ADEPT represented a significant change to the approach to processing of visas by MBIE. ADEPT is the first technology platform whereby, once fully developed, MBIE will have the ability to process a visa entirely through an automated system with no human intervention. Automation of the system is supported by the use of risk rules in Azure BRE (Business Rules Engine), which automatically alerts a task for manual assessment when risk is present.

How ADEPT applies system and risk rules

151. Two types of rules are used to assess the acceptability and risk of an application - system rules and risk rules. System rules are rules that are binary rules based on the instructions that are in place for that particular product. The information that drives the system rules can be driven by declaration from the applicant or employer or by integration with AMS (previous visa type held). Risk rules are created in a Business Rules Engine (BRE). These are created by the Risk and Verification team and go through a governance and approval process before being implemented.

152. The result is that information submitted in an application is run through the BRE which then informs the creation of risk assessment by ADEPT in determining whether manual assessment by an immigration officer is required.

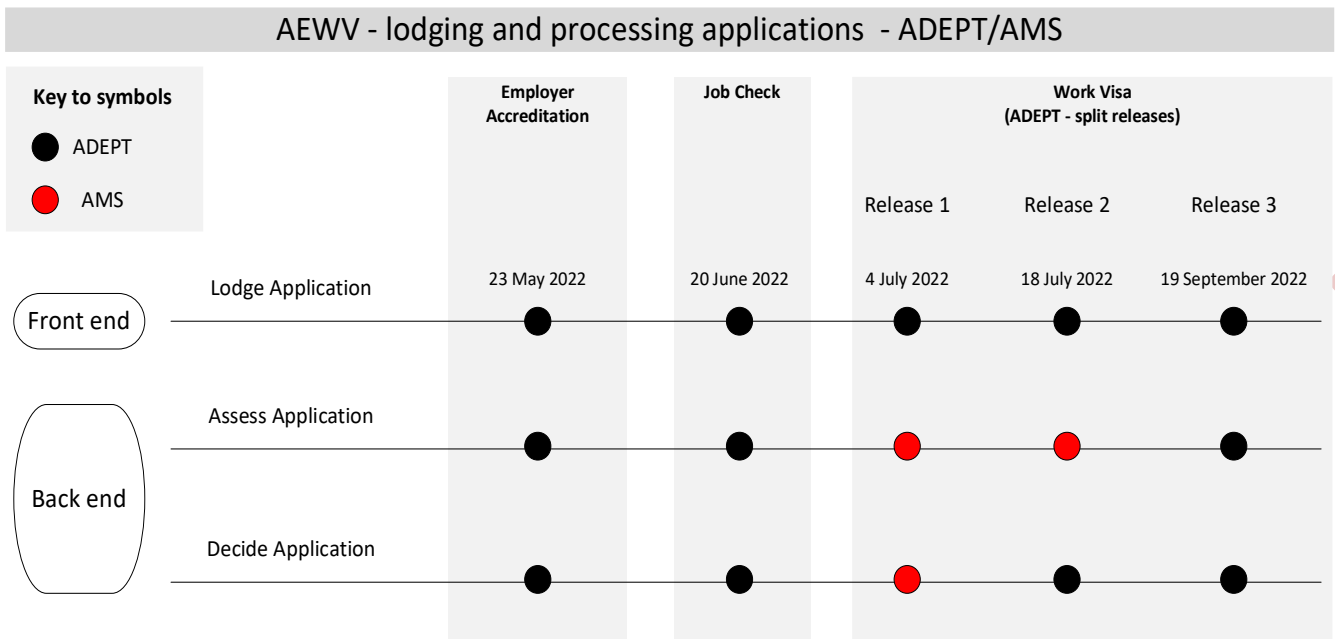
153. Risk rules are complex rules that are built by using historical data and data points to identify where risk might be present. The need for a risk rule typically is a response to an environmental change, an identified presenting or emerging risk, or based on a legal requirement. Once the rules are run, they trigger a triage level of low/medium/high risk. In ADEPT, where there are medium or high-risk rules triggered, this will create a manual assessment for an immigration officer to assess. Risk rules for AEWV have only been subject to minor change to date. It is expected that as more data is created (specifically on adverse outcomes and from AERMR insights) this will inform amendments to existing rules or new rules to be created.'

How ADEPT Integrated into MBIE and external sources

154. ADEPT uses information from multiple sources to determine whether any manual interventions are required. For example, at the employer accreditation gateway, ADEPT has integrations with a number of external data sources. These include the NZBN, the Insolvency Register and the Companies Officer database. ADEPT also uses updated tables for information such as the Labour Inspectorate Standdown list and the Immigration Offences List.

155. The following diagram shows, for each gateway, which aspects of AEWV application processing were carried out in ADEPT or in AMS (or part thereof) at various dates in the roll out of AEWV. It demonstrates the extent to which immigration officers were required to operate between and across the two systems in the course of considering visa applications and the frequency with which those operating practices were changed as the ADEPT system implementation progressed.

Table 4 – AEWV lodging and processing in ADEPT/AMS



Problems with the implementation of ADEPT

156. Whilst the vision for ADEPT seems consistent with a modern compliance system and progressive approach to visa processing, its implementation to date has been problematic for several reasons:

- a. Given the need to launch the system in time for the revised border reopening dates, the IT system development was not complete before it was put into production. It was implemented in stages as work progressed on the AEWV gates, but it was also being built as it was being used. For example, although it could accept Work Visa applications, initially their processing occurred in the AMS system. These two systems, ADEPT and AMS, were not fully integrated, requiring users to work across two systems to manage the integration manually. Furthermore, user testing was not able to be conducted prior to it being deployed in a live environment.
- b. Not all risk alerts were synchronised across ADEPT and AMS, INZ's legacy visa processing system – requiring users to be aware (and remember) that they had to conduct a manual check across both systems.
- c. Training on the new system when AEWV was launched was time constrained and User Acceptance Testing was not possible due to tight deadlines. The Review understand the training environment has now improved.
- d. The User Manual did not reflect the system's current functionality, at times noting how the system should function, but not how it did function, which created confusion and frustration.
- e. ADEPT was changing constantly as bugs were fixed and new functionality was added. Changes were poorly communicated, often “last-minute” and without clear rationale, leaving staff with little or no time to prepare and a lack of understanding of the reason for the change or its impact ahead of working with the changes in the system. The constant change, coupled constantly changing documentation, caused confusion and stress amongst staff as noted above.

- f. Furthermore, ADEPT behaved according to the Immigration Instructions it was designed to give effect to (i.e., was not modified to respond to the General Instructions in place at the time). The consequence of this once the General Instructions were given was that the system continued to create assessment activities consistent with Immigration Instructions that were not applicable under the General Instructions. Users were then required to record the assessment activities as complete in ADEPT, even though they had not been undertaken at all. This contributed to confusion, frustration and mistrust of the ADEPT system amongst some frontline staff.
- g. Teams were given little technical support when using ADEPT (this has now improved); and
- h. Initially, there were issues with the reliability of ADEPT operational data. Dashboards could not be relied upon, with staff having to compile the data manually, resulting in challenges in understanding system performance. This appears to have improved somewhat over the operation of the Scheme to date.

157. The prevalent sentiment from frontline staff interviewed by the Review was that, at the time of launch, ADEPT was not ready, not fit for purpose, and staff described this period as “hell, chaotic and frustrating.”

158. Frontline staff have advised that many of the technical challenges they experienced in ADEPT have largely been addressed over the intervening period and that ADEPT is now largely operating to requirements, albeit it with some manual work arounds still required.

159. The ADEPT system was originally intended to provide rich data through its reporting functions and was a key feature in the selection of the platform by INZ. However, this functionality was not fully developed by INZ and was largely descoped during the development of the system. Staff were also not given training in how to utilise the limited reporting functionality still available in ADEPT. This represents a missed opportunity to achieve built-in system performance information as an input to inform INZ’s management of the Scheme.

160. The Review understands that work is underway in MBIE to further improve both ADEPT and the risk analytics system and that MBIE plan to provide investment advice in mid-August 2024.

Constantly changing AEWV operating procedures

161. The Review heard a consistent theme of frustration from Immigration Officers, Technical Advisors, and Immigration Managers in relation to the frequent and seemingly ad hoc changes to both policy and settings. The resultant changes to operating procedures for AEWV processing, the manual nature of those instructions, and the lack of a single, integrated set of Standard Operating Procedures (SOPs) presented a challenging operating environment for visa processing staff.

162. A core element of an Immigration Officer's role is to comply with Immigration Instructions consistent with their warrant. Standard Operating Procedures and Immigration Guidelines are issued by INZ to provide guidelines and interpretation assistance to Immigration Officers to support consistency and quality of decision making. In the case of AEWV, General Instructions were also given by the Deputy Secretary of Immigration and delegates. The Review understands the dynamic nature of the immigration system and that government policy and operational settings are constantly under revision across all visa categories. The introduction of AEWV contemporaneously with the reopening of borders could reasonably be expected to see significant, rapid, and fluid changes to settings. An unfortunate consequence of the constant changes to operational and processing settings was the resultant stress and frustration experienced by some staff as they tried to operate in this ever-changing operating environment.
163. While Immigration Instructions are issued by the Minister and do not typically change frequently, Immigration Guidelines and SOPs are intended be changed by INZ management in response to operational settings. Since the launch of AEWV, weekly Visa Paks have contained changes to General Instructions, Immigration Guidelines and SOPs. The Visa Paks outline changes both in ADEPT and changes required to be operationalised manually by the processing teams.
164. Immigration Officers commented to the Review that the way in which changes to General Instructions, Immigration Guidelines and SOPs were communicated, and the lack of a "single source of truth," made it extremely challenging to maintain an up to date and consistent understanding of the SOPs, instructions, and guidelines in place at any point in time. The Review considered a range of materials from INZ, which included multiple sources of instructions that Immigration Officers were expected to consider in the discharge of their duties and observed Immigration Officers consulting the various operating instructions in the pursuance of their considerations. Overall, the operating instructions for Immigration Officers were disparate and risked confusion and/or error and/or inconsistent application.

Immigration Officers' discretion to conduct manual checks

165. INZ management have consistently expressed to the Review their view that nothing in the General Instructions or any other guidance provided to visa processing staff overrode the responsibilities of Immigration Officers to consider risk and that they were operating under the expectation that this was the case. The Review accepts management's view and acknowledges this is explicitly stated in the Visa Pak issued to staff announcing the initial General Instruction given (#1). However, one of the most consistent themes brought to the attention of the Review by a significant number of frontline staff who contacted the Review, including Immigration Officers, Technical Advisors and Verification Officers, was that their ability to do what they believe would be adequate checks at each gateway consistent with the discharge of their responsibilities as an Immigration Officer, was constrained by the General Instructions, the Immigration Guidelines that give effect to them, and management's expectations of their interpretation. The Review received several written submissions from frontline staff on this topic and explored the issue in many of its interviews with frontline staff as well as discussing it at length with senior management. The Review accepts there may have been some conflation of issues relating to policy (namely the high trust model) and operational settings relating to the gateways at play here. However, at the time of the interviews with staff there appeared to remain a difference of opinion between senior managers and frontline staff spoken to regarding an Immigration Officer's authority to investigate concerns presenting and the extent to which this was constrained by the General Instructions. Discussions with senior leaders within MBIE indicate they accept this may have been an issue for some frontline staff and that it is an area of focus for the organisation coming out of the Review.

166. Immigration Officers reported to the Review that the instruction from managers was not to investigate anything that was not raised as a risk in ADEPT and that they needed to “trust the system.” The idea that the risk rules built into the ADEPT system were sufficient to identify aspects of possible non-compliance did not sit well with Immigration Officers and that was frequently conveyed to the Review. It was not clear to the Review whether the frontline officers interviewed held this belief solely resulting from the impact of the General Instructions in place, or whether this reflected a conflation of issues relating to a discomfort with the underlying policy settings relating to the “high trust model”.

167. The mistrust of the ADEPT system and frustration expressed to the Review by frontline staff appears to have resulted from:

- a. the as-designed role of ADEPT in detecting possible non-compliance being a new feature for visa processing for MBIE. The Employer Accreditation gateway is the first process to have a fully automated response deployed via ADEPT consistent with the “high trust” policy design. As such it represents a significant change in approach for Immigration Officers, and while not an operational or implementation issue per se, it did have an impact on Immigration Officers’ confidence in the system.
- b. the fact that ADEPT continued to operate its system and risk rules in accordance with the Immigration Instructions not the General Instructions requiring Immigration Officer to mark tasks as completed to navigate the system where they in fact were directed not to complete them under the General Instructions.
- c. the issuance of the General Instructions, which changed the extent and nature of checking of applications that Immigration Officers were directed to undertake, leaving Immigration Officers feeling restricted in their ability to perform their role; and
- d. the pressurised context in which AEWV was rolled out, which meant that communication and change management regarding the Scheme and ADEPT’s role in managing risk were not well communicated by INZ, leaving many frontline staff feeling unsupported.

168. A further factor the Review considers contributed to mistrust in the system amongst visa processing staff was the activity-based allocation of tasks across the three gateways. In ADEPT applications for a particular gateway and or subtask associated with that Gateway are randomly allocated to Immigration Officers. Each Immigration Officer considers the task presented to them by ADEPT and, in the case of the Employer Accreditation and Job Check gateways, may see the application to the conclusion of that gateway, however they are highly unlikely to consider or be allocated the same case or application across all three gateways.

169. Consequently, Immigration Officers have no ability to oversee an entire case across the three gates from end-to-end, so are unlikely to be aware of risks highlighted at previous gates and which may have a bearing on the application they are tasked with considering. Whilst the task-based approach was part of the design of the Scheme, operational concerns raised by Immigration Officers regarding the lack of visibility across the three gateways were further compounded by the immigration guidelines, which encouraged Immigration Officers not to “go back” or consider previously processed aspects of the application, even where that could have informed the task currently under consideration. The Review understands the policy decision to disaggregate the three gateways was as an intentional shift away from the more traditional end-to-end processing by an Immigration Officer, both to facilitate processing efficiency and to avoid the bias risk of Immigration Officers becoming too close to applications or applicant. However, the Review heard examples of Immigration Officers who felt unable to address risks at the Work Visa gate because the issues identified related to previous gates. The Review therefore

makes the observation that the task-based design is resulting in an artificial separation between the applications in respect of each of the gateways which is resulting in operational challenges to identify and consider risk for Immigration Officers.

170. Whilst no single issue significantly compromises the ability of Immigration Officers to perform their role, the Review considers that the cumulative effect of the reduced level of manual checking of applications resulting from automation in ADEPT, the General Instructions, and the instructions not to consider information provided at prior gateways, reduced the ability for Immigration Officers to discharge their responsibilities.

Employer Reaccreditation

171. In December 2022, Cabinet agreed to extend all employer accreditations applied for before 4 July 2023 by 12 months. This was agreed as a one-off extension to support employers while they were still getting used to the new system and was a Ministerial decision in response to business feedback.

172. Planning for the first round of reaccreditation is due to get under way in early 2024 ahead of the July 2024 start date. However, the practical impact of the extension is that all employers who received Employer Accreditation have had an extended accreditation period. Consequently, they have not been subjected to the review anticipated in the original design of the AEWV scheme after the initial 12-month period.

173. This has also reduced MBIE's visibility of the extent and/or nature of compliance by employers with their gateway declaration and in doing so delayed informing any changes to risk settings.

174. In addition, the Review understands that to date, no validation of the application of the automation in Gate 1 has been undertaken to verify that it is working as designed and appropriately identifying risk factors that manually require an Immigration Officer's consideration.

Post-decision assurance through AERMR

175. The planned implementation of AERMR was delayed by six months. The Review was informed that this was primarily due to diverting resources to support general reopening work, including risk monitoring and review activity, across high-risk Visitor Visa activities.

176. Initial desk-based AERMR activity began between December 2022 and February 2023, and direct employer contact commenced in July/August 2023. Although requests for information were ready for employers, some as early as January 2023, direct employer contact could not commence until other aspects of readiness were developed, such as response letters, legal review, training, ADEPT processing capability, outcome actions, full health and safety considerations for staff, and field work testing.

177. The Review was provided with samples of dashboard reporting²⁰ within the ADEPT system that included AERMR activity reporting for the months of May, June, and July 2023. For the period from 23 May 2023 to 3 July 2023 (the July report) there were 1736 Employer Accreditations assigned for review (an increase on 1250 from the month prior) and 453 unassigned (down from 922 the previous month), with 436 completed AERMR activities (up from 257), all of which resulted in no concerns. The MBIE dashboard commentary makes it clear that this is not an indication of an overarching lack of concerns, rather it is the result of low-concern activities being faster to complete.

178. INZ have identified four targets for AERMR by the end of January 2024:

- a. 16 percent of all Accredited Employers who have supported a migrant in the first year have AERMR activity.
- b. 100 percent of all Franchisee and Triangular Employer Accreditation types receive desk-based activity.
- c. 50 percent of all Franchisee and Triangular Employer Accreditation types receive a site-based activity; and
- d. remainder of activity to achieve the 16 percent will be conducted across High Volume and Standard accreditation types.

179. As of early December 2023, INZ reported that they are generally on track to reach these targets, except for site visits, which are below target.

180. Moreover, as of December 2023, of the completed AERMR activities (as per the AERMR model design), no concerns have been identified for 77 percent of the Accredited Employers who were sampled. Significant concerns have been identified for 9% of the completed AERMR activities, with the accreditation types having the highest percentage of concerns being Triangular and High Volume (noting the number of completed AERMR activities on Standard, High-Volume Franchise and Triangular are significantly lower than the volumes across other accreditation types).

181. However, as of December 2023 the randomised 'system health check' contemplated by the original design was not underway, with activity currently only drawing on employers referred through a complaint or check. Therefore, these results may not be an accurate reflection of the entire Employer Accreditation pool.

182. A process for internal referrals has also recently commenced and was confirmed to be operational in September 2023. The process is intended to apply when INZ staff may be concerned about an employer who has already been granted accreditation, but where there are sufficient concerns that additional scrutiny is required to ensure compliance with accreditation requirements. Or it may be that the concerns are unresolvable at the time of application, for example, the employer is relatively new and has little financial background.

²⁰ MBIE internal Accreditation employer Interim Reporting - Accredited Employer Risk Monitoring & Review: May, June, July 2023

183. In contrast, frontline staff told the Review that they understood that this referral process was already in place and were encouraged to refer applications to AERMR as early as August 2022. As part of key messaging, they had been told that AERMR would pick up concerns they may have of unmanaged risks. INZ has confirmed that prior to the AERMR internal referral process being deployed in ADEPT late in 2023, staff were asked to send any potential employer concerns to the NPP mailbox for AERMR.
184. From the perspective of frontline staff the Review spoke with, the progress on the roll out of AERMR has been frustrating. In large part, this frustration comes from the expectation set by management that AERMR would consider concerns raised by frontline staff in relation to individual applications and underpin the streamlined upfront checks resulting from the introduction of the General Instructions.
185. The expectation set with staff represents a fundamentally different role for AERMR to that originally contemplated. AERMR was originally conceptualised to inform ongoing risk analysis and findings, enabling AEWV to become a 'learning system'. Frontline staff, and in particular Risk and Verification officers, were clearly told that AERMR would pick up concerns they may have of unmanaged risks at the Accredited Employer and Job Check gates providing essentially a second line of defense function.
186. While AERMR activity has ramped up and the process for internal referrals was implemented in late 2023, the Review notes that the target for high-risk employer site visits is behind schedule and the randomised system health check component is yet to be implemented. Therefore, the function as a critical input to AEWV as a 'learning system' is yet to be fully implemented. It also appears to the Review that AERMR activities risks being deployed as a risk control tool to address other issues rather than a risk assurance measure as originally contemplated by the design.
187. Concerns and frustration amongst some frontline staff have grown as a result of the delay to the implementation of the AERMR programme, the internal referrals processes only becoming operational in October 2023 and the necessary sensitivity surrounding processes to suspend or revoke approvals. This risk undermining the confidence of some frontline staff in the AEWV scheme's risk control and assurance processes. There remains a lack of clarity regarding AERMR's role and reach amongst MBIE staff spoken to by the Review.

Declines, Suspensions and Revocations

188. In exercising their regulatory role, Immigration Officers can decline visa applications. However, the process of declining an application is significantly slower than the process of approving one. While the approval process is highly automated and fully templated, in order to decline an application increased justification and explanation is required to meet natural justice and fairness obligations. Due to the circumstantial nature of the reasons for declining, it is not possible to provide the same level of templated support for Immigration Officers, and while some standardised paragraphs are provided, Immigration Officers are required to perform more manual drafting in order to appropriately document a decline process. All declines also require a Quality Control check.
189. The level of declines across all three gateways when compared to the decline rates of previous work visa categories which AEWV replaced is markedly different. Acknowledging that AEWV is a different visa product and therefore not directly comparable, the Review notes that the decline rate for AEWV Work Visa in 2023 was 2.15 percent and for Essential Skills, the most similar product, in 2019 (pre-COVID) was 8.42 percent (see Table 5).²¹

Table 5. Decline Rates across Essential Skills Visa and AEWV Work Visa, the most comparable visa products

²¹ MBIE (27 January 2022) Internal Memo to the Risk Control Group: RCG Memo AEWV Visa Rules Review.

Year	Visa product	Approved	Declined	Withdrawn	Decline rate
2019	Essential skills	49920	4713	1353	8.42%
2020	Essential skills	34247	1657	1303	4.45%
2021	Essential skills	44192	600	1133	1.31%
2022	Essential skills	19831	238	526	1.16%
	AEWV - WV	22202	69	297	0.31%
2023	AEWV - WV	78954	1783	2041	2.15%
2024	AEWV - WV	4722	175	124	3.49%

190. Revocation (or suspension) of Employer Accreditation is similarly an important part of the accreditation system. The expectation conveyed to the Minister of Immigration in July 2023²² was that if, through the AERMR activity, it is shown that an employer is not complying with the accreditation standards, their accreditation can be immediately revoked.
191. All revocations and suspensions are considered by a committee that meets regularly. The most recently publicly available data from INZ states that as of 2 February 2024, 136 employers have had their accreditation revoked and 51 have had their accreditation suspended.
192. A further issue associated with this is the question of what is recorded against an employer under investigation in the ADEPT system. Frontline staff interviewed indicated that unless information about complaints and/or investigations is entered into ADEPT, they do not necessarily have access to information that would bring this to their attention while processing an application. Consequently, they may be processing applications for Job Checks and/or Work Visas unaware of investigatory actions underway against the employer. Additionally, if a suspension notice is put in place against the employer, it is unclear how Immigration Officers are to respond so as not to jeopardise the investigation, and/or respond to the employer in the interim. The Review understands the imperative to maintain the confidentiality surrounding investigations so as not to compromise the investigations, however the competing priorities of maintaining confidentiality versus mitigating the potential for further harm do not appear to have been reconciled to date. This is one area of visa processing where the rules are not well documented and further resolution is required.

Quality Assurance and Control

193. MBIE undertakes Quality Assurance and Control over all its visa products and applies a common statistical methodology designed to provide a 95% confidence level to all products. Consistent with this methodology AEWV Quality Assurance is focused on the migrant check/work visa gate and 60 decisions are sampled per quarter. The sample size appears to have remained constant over the time AEWV has been operating.

²² MBIE (12 July 2023) Briefing to Minister and Associate Minister of Immigration: Options for duration of employer accreditation following the end of one-off extensions.

194. The first sampling quarter for AEWV was reported in December 2022 (for the period of Jul-Sep 2022) for which the Quality Assurance target of 90 percent compliance with quality assurance targets was met. However, over the subsequent two quarters (Oct-Dec 2022 and Jan-Mar 2023) the Quality Assurance rate was low for AEWV, falling to 63.3 percent of targets met in Oct-Dec quarter. The main issues related to risk errors where some risks were not identified, and where expected information was not found (i.e., job descriptions). The Quality Assurance report concluded that this was due to a misalignment between what is measured at the Quality Control stage, carried out by INZ Technical Advisors, versus what is measured at the Quality Assurance stage. For the April-June 2023 quarter (reported on in October 2023), there was an increase to 81.7 percent, which was credited to fewer risk treatment errors and clearer instructions for when information (i.e., job description) is required.
195. Quality Control is focused on the decisions of Immigration Officers. For example, are instructions complied with, is risk identification and mitigation appropriate, have processes been properly followed, and are reasons for any decisions recorded. It does not consider the outcome of the application.
196. For all new Immigration Officers working on Employer Accreditation and Job Check gateways, at least their first ten decisions (at each gate) are Quality Control checked by a Technical Advisor. For the Employer Accreditation and Job Check gateways, Quality checks are conducted on site by Technical Advisors. Once the first ten decisions have been checked, the regular Quality Control is for two checks per Immigration Officer per month. Immigration Officers can self-select which two are checked. In line with the INZ Success Measures, an Immigration Officer is expected to deliver within a productivity range. The Review understands that Immigration Officers working within the productivity range could be processing between 160-200 applications per month (based on 8-10 per day), which translates to a sampling of just under 1% of applications processed. All success measures are agreed between MBIE and the PSA.
197. For the Work Visa gateway, Quality Control is managed through ADEPT. The level of meaningful data available through that process is not apparent. For example, only yes/no answers are provided against what the system has asked, not what the officer did, and the two applications checked monthly are picked up randomly, not per officer. INZ has confirmed that further work is being done to address this as part of the continuous improvement plan for ADEPT.
198. The Review has been told that a quality assurance and control system is intended for Risk and Verification, including AERM, but is yet to be established.

Success Measures and processing targets and their impacts

199. As previously outlined, the processing time standards for each gate of the AEWV were established prior to the Scheme's launch and for straightforward applications were set at 10 working days to process an Employer Accreditation, 10 working days to process a Job Check application and issue any job tokens, and 20 working days to process a Work Visa application. Due to time constraints and ADEPT not being operational prior to go live, no testing of the achievability of these targets was undertaken ahead of their adoption.
200. The rationale underpinning the establishment of the processing times standards appears to have been a desire by INZ to establish a clear customer service expectation, and a belief that as a paid service employers should be entitled to achieve timely responses. Reviewing INZ's monitoring of visa processing performance, the ILT regularly monitored the following performance metrics in relation to AEWV:

- a. Customer Satisfaction.
- b. Volumes of applications received and completed.
- c. Timeliness of processing.
- d. Call Centre Sentiment.
- e. Complaints; and
- f. Quality Assurance score (provided quarterly).

201. The performance monitoring dashboard reports viewed relating to January 23 – August 23 did not include any metrics relating to immigration risk. The Review considers it might have been useful for the dashboard to have included information on irregular activity that may be possible indicators of immigration risk. For example, declines against benchmarked levels, profile of skilled to non-skilled migrants, numbers of job tokens and/or work visas granted against forecast volumes. INZ management agree with this and have confirmed work is underway to develop improved reporting on risk indicators.
202. Application processing times are provided on the INZ website. Current information at the time of writing (February 2024) indicates that the average processing time for employer accreditation applications is, on average, 33 weekdays, with 90% processed within 47 weekdays. We heard from a range of individuals or organisations interviewed that Employer Accreditation approval times vary significantly, with some being approved within hours, some five days, and some up to six weeks. According to the INZ website, Job Check applications are, on average, processed in 36 weekdays and 90 percent of applications are processed within 49 weekdays. A Work Visa application is, on average, processed in 15 weekdays, and 90 percent of applications are processed within 62 weekdays.
203. Currently, INZ recommends employers allow at least 6 weeks to apply for an accreditation and 6 weeks to apply for a Job Check, a consequence of the recent tightening of the Job Check General Instructions. The Review understands that processing times have increased significantly since the giving of General Instructions 5 & 6, which increased the level of Immigration Officer scrutiny of applications. This demonstrates the very clear connection between quality, risk, the extent of application checking, and processing timeframes, and the balance MBIE is consistently assessing.
204. In the period immediately after the launch of AEWV post the borders reopening, the external targets were a key driver for setting the expectations of applicants. These became a core element of INZ's Success Measures, a set of metrics that INZ considered, if met, would constitute successful visa system performance.
205. Processing targets (i.e., the Immigration Officer's productivity range for any visa product) were, and continue to be, set quarterly by Visa Operations Managers for their teams, with the approval of Heads of Operations. Processing queues are actively monitored by Visa Operations Managers and Immigration Managers, and staff performance against decision targets is closely monitored by both.

206. Success measures are in place and agreed between MBIE and the PSA. These state that immigration officers are expected to make between 5-9 work visa decisions per day. Early in the AEWV implementation daily reporting of visa processing numbers was required for Ministerial and agency performance reporting. While that is no longer the case, the frontline staff the Review spoke with talked about high expectations of processing, for example 50 applications per week. Operational leaders acknowledge that the current success measures require review, although the 5 decisions per day is being largely achieved and remains reasonable.
207. While internal success measures include a range of attributes including customer service, quality, managing immigration risk, being productive and living the MBIE values, during the period immediately after the reopening of the border, the need to process visa applications and in sufficient volumes was clearly understood to be the primary success measure by the frontline staff we spoke too. Some staff spoken to conveyed how they were encouraged to “ring the bell” at the completion of an application while others reported feeling “named and shamed” if they missed processing targets or managers using “league tables” of processing volumes in team meetings. The Review acknowledges the intent of some managers may have been to create momentum and delivery on the wider success measures including meeting customer satisfaction measures, but to many of the staff spoken to these activities contributed to their belief that processing volumes were the primary measure of success.
208. A further matter raised by frontline staff interviewed related to the targets being purely on the decisions made and did not make any allowance for the complexity of individual applications, the increased time required to decline applications or time spent on training or other organisational activity. Given the relative newness of the Christchurch visa processing operation, the introduction of AEWV as a visa product, the launch of ADEPT as a new processing platform and the pressure INZ was under to support the reopening of the border, it is not surprising that frontline staff felt under pressure as there was very little established practice or process for either frontline staff or the wider INZ management to fall back on initially.
209. Despite these concerns being raised through relevant channels (reporting lines and subject matter experts) frontline staff felt that nothing changed, leading them to conclude that achieving processing volumes was all that mattered. When asked where they believed the pressure on processing volumes was coming from, interviewees were clear that their perception was that it came from senior management and that line and office managers were under pressure to deliver against the Success Measures and published processing timeframes.
210. While the Review acknowledges that the General Instructions given did not remove the ability to address risk when it was observed consistent with immigration officer’ warrant, the culmination of factors at play to ensure the borders could be reopened successfully, reinforced the view for staff that achieving processing volumes was all that mattered at this time. While there doesn’t appear to be a single point of failure in communication or management, senior leaders do accept that this is what staff experienced during this period and this will be a key area of focus coming out of this review.
211. Communication across multiple layers of management, coupled with the dominant focus on processing times and volumes, distorted the messaging to frontline staff. Further, despite these concerns being raised directly with some line managers, through staff forums and in questions directly to the Deputy Secretary, Immigration, Immigration staff interviewed, and submissions received by the Review indicate that some staff felt their concerns were not adequately addressed by INZ management generally, that there was little to no feedback when concerns were raised, and that explanations provided by senior leadership in all staff hui did not allay their concerns.

Concerns raised internally post-implementation of AEWV

212. INZ have multiple avenues for staff to raise concerns, including staff hui (Ask me Anything), 'No Surprises Fact Sheets', regular visits by senior INZ leaders across sites with town-hall meetings and leader check-ins, an MBIE Integrity Team, and via the management line.
213. The frontline staff the Review interviewed were clear they have been raising concerns about risks they were seeing throughout the implementation of AEWV. The earliest documentary evidence the Review has received indicates staff were beginning to raise concerns to senior managers in early 2023, although frontline staff interviewed reported concerns had been raised with managers relating to individual cases prior to this. The Review accepts that concerns relating to individual cases may not have been interpreted as relating to operational settings and may not have been escalated. The Review also notes that no reports to MBIE's wider Integrity Team appear to have been made in relation to AEWV.
214. INZ's No Surprises Fact Sheets are designed for raising emerging risks and issues. INZ's No Surprises Advisory Group meets weekly to discuss and escalate emerging risks. The Group includes representatives from every INZ branch as well as subject matter experts.
215. During interviews, multiple frontline staff made mention of completing No Surprises Fact Sheets to raise issues such as employers receiving accreditation despite being ineligible, migrant workers arriving and not getting paid, migrant workers receiving scripted responses on arrival to conceal the fact that significant fees had been paid to secure job token and visa, businesses applying for incorrect accreditation categories, and employers utilising AEWV instead of Recognised Seasonal Employer Visa. In each example, staff indicated it was unclear what happened to the submitted No Surprises Fact Sheets and felt that they had not received a response.
216. In late November 2022, the Deputy Secretary Immigration all-staff email referred to the importance of raising emerging risks and issues through the No Surprises Advisory Group. Staff were reminded of what kind of issues should be referred, for example: other Government agencies or foreign governments are involved; high-profile individuals or companies are involved; there has been, or there is likely to be, media attention; the issue involves serious injury or threat to life or wellbeing of our people or customers, including self-harm; where there are serious unintended consequences arising from immigration instructions (e.g. there is potential for an undesirable precedent to be set or there appears to be a systemic issue); and involvement of vulnerable people (e.g. exploited migrants, children, and protected person/refugees/asylum claimants).
217. The ILT lead an all-staff hour-long monthly webinar, which alternates between a hui with questions and answers in the last part of the session, and a dedicated question and answer forum known as Ask Me Anything. This initiative was introduced by the Deputy Secretary of Immigration and demonstrates a commitment to the practice of obtaining feedback from frontline staff and a facilitated process for it.
218. The Review heard through the interviews with staff that from the end of Q1 2023 onwards, staff had been using the Ask Me Anything forum to raise concerns relating to AEWV but felt that the responses were dismissive and that issues raised were "swept under the carpet." Information provided to the Review indicated that of the approximately 133 questions put to the ILT through the forum 26 (approx. 20%) related to the AEWV Scheme or issues being experienced associated with the Scheme²³.
219. Questions to the Ask Me Anything forum from March / April 2023 onwards show staff were raising concerns relating to INZ's management and monitoring of immigration risk. Areas of concern expressed related to a range of topics, some of which relate to AEWV policy while others referred to INZ's operationalisation of the policy and potentially have broader application to other visa categories. Examples of the types of questions raised include:

- a. Question relating to progress of system assurance of ADEPT given the heavy reliance on systems rules.
- b. Alignment between the requirement to keep borders safe and the perceived lowering of risk setting and verification activity in visa processing.
- c. Question whether ILT was concerned about the high approval rates; and
- d. Question relating to the balance of quantity over quality of visa processing.

220. As part of INZ's continued review of staff communication's practice in May 2023 the Deputy Secretary communicated to staff a change in practice for Ask Me Anything forums to require submitters to identify themselves. Senior management told the Review the change was made to ensure that matters raised were able to be properly considered and followed up as the previous practice of anonymous questions being submitted made it hard for the ILT to respond appropriately without adequate context and/or no ability to follow up with the submitter. The unfortunate consequence of the timing of this change is that it was interpreted by some staff as constraining their ability to freely raise concerns. INZ senior management confirm they are increasing efforts to highlight the range of communication channels available to staff consistent with their desire to improve communication across the organisation.

221. In July 2023, again in response to media reporting about AEWV, questions were asked as to the effectiveness of the General Instructions and whether they should have been extended. Frustration about issues with ADEPT was also raised.

222. These questions were repeated in August 2023, again in response to the media reporting, this time regarding reporting of the Indian and Bangladeshi nationals in Auckland living in overcrowded and unsanitary conditions across six Auckland homes and with no jobs or income. Questions also related to the treatment of hidden agents, why it is so difficult to get an application declined, revoked, or suspended, how risk mitigation could be considered at each gateway, and how loopholes are being addressed. The Review has been informed that responses were given, including assurance that all cases where detail emerged, cases would be referred for investigation.

223. The Review received copies of Risk Briefs from August 2023 that began to cover issues with employers going into liquidation, fraudulently obtained job offers, and offshore agents commanding significant charges from migrant workers.

Public-facing evidence of risks emerging post-implementation of AEWV

224. INZ has multiple avenues for the public to raise concerns and report issues. Public complaints can be made (e.g., via Crimestoppers), these and others get channeled through the MBIE National Prioritisation Process (NPP). Complaints are also received through MBIE's Migrant Exploitation channels (e.g., helpline), and these are collectively triaged for action (for example to either the Labour Inspectorate or to INZ).
225. The media is also often a source of information for INZ. Issues relating to AEWV were reported in March 2023 by an immigration lawyer suggesting the new work visa has "prompted a free-for-all", with migrants from India, Vietnam and elsewhere paying up to NZ\$40,000 to overseas agents and New Zealand employers.
226. In June 2023 there were similar media reports, and in early July 2023, several stories ran of migrant workers left jobless after paying significant sums for AEWV Work Visas from different countries, including India, Nepal, South America, and China. The workers ranged across hospitality, beauty therapy, farming, and construction, and all were reported as paying anything from NZ\$14,000 to \$30,000 (incurring substantial loans) by unregulated, unlicensed, offshore agents for a work visa.
227. In response, in July 2023 INZ stated that similar scams existed prior to borders being closed due to the Covid-19 pandemic, but recognised this was at a larger scale, is coming from multiple countries, and is being taken extremely seriously.²⁴
228. In mid-August 2023 media reported on dozens of Indian nationals living in squalid conditions and without work, leading to immigration investigators speaking with 115 Indian and Bangladeshi nationals who had arrived in New Zealand on AEWVs with the promise of employment when they arrived. Individuals indicated they paid a substantial amount for the visa and a job, yet most are still waiting for any paid work.
229. Further stories have since emerged involving migrant workers from different nationalities, including China and the Philippines.
230. The impacts of these issues have been described as many-tentacled, with multiple parts of the MBIE system and wider New Zealand social support systems being affected.
231. Beginning at the border, as has been reported in the media, border staff were instructed to take any AEWV at face value, and only to address any new information that became available after the issuing of the visa. This is not a new practice and is consistent with INZ practice for other visa categories.
232. As of 28 October 2023, over 65,700 AEWV holders have arrived onshore. Since July 2022, 18 AEWV holders have been refused entry, with the majority coming from Vietnam and India. This number does not include AEWV holders interdicted offshore. The border turnarounds are due to a near equal share of character concerns, lack of experience and training to fulfil the intended job, lack of knowledge about the role and what it entails, the employer is in liquidation, and the offer of employment is withdrawn.

²⁴ 'Held to ransom': Immigration boss targets growing migrant scam, hundreds affected | Stuff.co.nz

233. MBIE Investigations report currently facing a significant number of complaints affecting migrant workers from many different countries, including Vietnam, China, and India. As of 7 November 2023, 880 allegations had been received by MBIE involving at least one employer, and 426 allegations had proceeded to investigations, with a further 58 unassigned. This is an increase from 2022 where 138 of 467 allegations had investigations were underway. In 2021 there were 257 allegations that proceeded to investigations, and in 2020 there were 81 investigations. Investigations numbers are not specific to Accredited Employers only. As of 2 February 2024, 1,958 complaints had been received against Accredited Employers. While these raw numbers suggest substantial increases in complaints and investigations, the context of improved migrant exploitation support (i.e., reporting, MEPV etc) must be considered, as so must the disruption of COVID-19 and border closures.

234. Voluntary migrant worker support services that the Review spoke with also reported huge increases (in the order of 600% in some instances) in the numbers of individuals coming forward for support, and their experience indicates to them that the numbers coming forward do not represent the full extent of the issue due to the concerns held by migrant workers regarding making complaints. The Review understands the previous government had increased focus on migrant exploitation in 2021 including providing improved channels for reporting, increased safeguards (such as the Migrant Exploitation Protection Visa). It is not possible to conclude to what extent these interventions may have changed the pattern of reporting of migrant exploitation as opposed to changes in the underlying instance occurring.

Findings - Was MBIE's administration of AEWV carried out appropriately

Main findings

235. The Review makes five main findings relating to INZ's administration of AEWV.

236. Firstly, it was reasonable in the circumstances, namely the opening of the borders post-Covid-19 in June 2022, for the Deputy Secretary of Immigration to give General Instructions 1 & 2 with the aim of reducing visa processing times across the AEWV gate settings, given the pressure to allow movement across the border and in particular the need from employers to access migrant labour.

237. Secondly, prior to giving General Instructions 1 & 2, INZ should have undertaken a structured risk assessment specifically to understand the change in risk profile from that which applied to the Immigration Instructions. While this General Instruction was appropriate, it would have been preferable to indicate the risks being accepted to ensure that key people could be made aware of this prior to the decisions being taken.

238. Thirdly, MBIE, operating through the IMT, should have undertaken a dedicated risk assessment to understand the specific risk being accepted in extending the general instructions, alongside the targeted risk monitoring and review that was undertaken.

239. Fourthly, when in March/April of 2023, visa processing staff and risk and verification staff starting raised concerns regarding the observed risk presenting at the various gateways (but in particular at Job Check and Work Visa), that senior INZ leadership did not pay adequate attention to those concerns, instead rationalising that:

- a. staff did not understand the automation of risk management integrated through ADEPT.
- b. there was inadequate evidence of visa system abuse presenting through INZ's risk monitoring activity; and
- c. Immigration officers are required under the Immigration Act to actively consider and exercise their discretion when dealing with applications and in doing so to respond appropriately where they perceive risk.

240. The consequence of the above was that immigration risk associated with the AEWV scheme increased between 27 July 2022 and 30 June 2023 until General Instruction 5 re-introduced some increased checking of applications.

241. Fifthly, General Instruction 5, in June 2023 (and subsequently General Instruction 6 issued in August 2023), responded to multiple examples of immigration risk observed by visa processing staff and the Risk and Verification unit of INZ, reintroducing checking of aspects of applications to reduce the risk of immigration harm occurring in the short to medium long term. These changes have had an expected and commensurate impact on processing times, slowing the time taken to issue Job Checks and Work Visas. This reflects the ongoing challenge faced by INZ to balance quality, resourcing, processing time and risk management.

Detailed findings

Service Delivery, Efficiency and Performance

242. The visa processing standards set for the Job Check and Work Visa gateways of AEWV could not be tested prior to the launch and proved to be unachievable without reductions in the extent and nature of checking of applications at those gateways.
243. The focus on visa processing standards and the lack of focus on changed risk profile resulted in undue emphasis of visa processing volumes and approvals.
244. With the phasing for the reopening of the border being brought forward, ADEPT was not able to be fully operational in time for the launch of each of the gateways. The non-integration of ADEPT at the launch with other INZ processing systems, coupled with the lack of user testing, meant frontline staff experienced numerous bugs and manual work arounds, particularly in the early months of AEWV. This created increased frustration and pressure on staff working on AEWV.
245. The numerous changes to General Instructions, SOPs and Immigration Guidelines, the complex documentation, and the lack of integration into a single set of operating instructions increased complexity for Immigration Officers and created confusion in relation to current interpretation and processing practice. This likely contributed to the poor-Quality Control results for AEWV during the latter part of 2022 and early part of 2023.
246. The as designed task-based approach coupled with the General Instructions and guidelines not to review information of considerations contained in previous gateway decisions limited the ability of Immigration Officers to assess the merits and/or risks associated with the task associated with applications under consideration.
247. The de-scoping of the development of ADEPT's business analytics and intelligence modules has reduced the ability of the AEWV operations team to analyse performance and inform operational decision making.
248. The Cabinet delayed reaccreditation process means that verification of employer measures to minimise migrant exploitation have not yet been carried out, including for high-risk employers.
249. The delayed implementation of the Post Decision Verification or AERMR means that there is little verification of AEWV decision outcomes to date and the learning system objectives are yet to be realised.

Operational Decision Making

250. INZ executed the establishment of processing operations and commencement of processing AEWV applications well in difficult circumstances and with limited lead times.
251. INZ's implementation of the Employer Accreditation gateway was as designed and operated within performance parameters from the outset.
252. The General Instructions given to Immigration Officers relating to Job Check instructing them to take certain parts of the application at face value reduced the effectiveness of checking for the need for the job being sought, and the genuineness of employment being offered.

253. The limitation of checking at the Work Visa gate to aspects of the characteristics of the migrant applicant and their fit with Job Token requirements meant that if system abuse had been missed at the previous two gates, Immigration Officers had no authority/ability to review and/or decline applications at the final gate.
254. The delay of the introduction of AERMR further extended the potential for abuse of the system by removing the element of Post Decision Verification as designed. Furthermore, while AERMR is now ramping up, activity is yet to be operationalised as designed and is yet to contribute to the Learning System as intended under the Scheme design.

Verification and Monitoring

255. The increase in the number of complaints and investigations relating to AEWV in recent months is a possible indicator of system abuse, however, it is difficult to compare trends between years due to changed visa products, effects of COVID-19 and border closures, and relatively recent efforts to improve migrant exploitation reporting. The delay to Post Decision Verification has meant that the extent of any increase in system abuse is not yet established.
256. INZ do not appear to have a methodology or approach against which they regularly are able to calibrate the extent or nature of migrant exploitation, relying largely on lag indicators of system abuse/non-compliance. Whilst reliance on their internal Risk and Verification activity is useful to determine the extent of non-compliance detected through review, the need to develop a wider intelligence model with greater lead indicators seems evident and would provide wider insights and intelligence than appears to be the case currently.

Resourcing and Capability

257. The introduction of ADEPT, the three-gateway system, and the inclusion of automation of a number of risk rules, represented a significant change in visa processing practice in INZ. This change was not well communicated, and inadequate change management was provided to visa processing staff to support them to operate in the new system.
258. The diversion of AERMR resource to manage immigration risk in other areas of the immigration system, resulted in significant delays to the implementation of AERMR and post-decision review. This compromised INZ's understanding of the performance of the visa scheme and is yet to be implemented in a way that is consistent with the design of this function.

Other Matters

259. The administration of AEWV by INZ including the perceived limitation of Immigration Officers' ability to perform their role, the perceived lack of recognition of increased risk and the focus on process volumes has resulted in a number of staff who inputted into the review both feeling unsupported by their managers and having reduced trust and confidence in the leadership and management of the organisation.
260. Despite senior INZ and MBIE officials having provided numerous verbal briefings to Ministers regarding the administration of AEWV and the risks associated with introduction of General Instructions, no documentary evidence of the same exists. As such, it is not possible for the Review to conclude the extent to which Ministers were advised of the risks. The Review would have expected some written record to have been made of key advice given and Ministerial decisions, given the significance of the General Instructions and the fluidity of the operating context.

261. The Review considers that the impact of the General Instructions in place between 27 July 2022 and 30 June 2023 was to increase the exposure of the AEWV system to abuse. In some instances of visa system abuse reported to the Review, instances of migrant exploitation have also been observed. The Review has not attempted to draw any conclusions relating to the extent of either the visa abuse or the migrant exploitation occurring over this period.

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Recommendations

262. The Review acknowledges that AEWV is designed to operate as a learning system with operational scrutiny, risk tolerance and policy requirements constantly being adjusted to respond to environmental changes and competing priorities, including improving the experience for customers paying for INZ's services whilst minimising risks to migrants. The Review also acknowledges that MBIE is only 2 years into the originally planned three-year programme of implementing that system of learning.

263. Throughout the Review and in response to issues identified both by MBIE and the Review, MBIE have made numerous changes to operational settings around AEWV to improve issues with the implementation of the Scheme which have made significant improvements to how the Scheme is operating. These changes by MBIE and INZ broadly support three main objectives for improvement as outlined below:

264. To reduce the risk of migrant exploitation and improve immigration system responsiveness through the development of an integrated compliance and system monitoring model that balances employer, migrant and workforce needs MBIE has:

- a. Implemented a policy change to increase the proportion of the workforce in high-risk areas that must be New Zealanders to 35 percent (from 15 percent) for labour hire companies in the construction sector.
- b. Begun to implement an infringement regime and the immigration standdown list (enacted in the Worker Protection (Migrant and Other Employees) Act 2023).
- c. Commenced work on development of an end-to-end integrated compliance and system monitoring model.; and
- d. Worked underway to remove remaining General Instructions relating to the AEWV scheme.

265. To improve intelligence gathering and system learning opportunities, INZ has:

- a. Developed a model for using lessons learnt from the rollout of AEWV in the roll-out of ADEPT across other visa categories (such as Visitor Visas and Permanent Resident Visas) through Regular surveys are being undertaken with staff to check in during the first couple months of rollout; and
- b. Begun a rapid review of outstanding job tokens, as requested by this review.

266. To reset the relationship between INZ's senior leaders and frontline staff over the past year, INZ has:

- a. Conducted regular pulse and engagement surveys with staff and introduced numerous staff engagement forums including monthly hui, Ask-Me-Anything sessions, a People Leader forum, regular *Korero Series* from INZ leadership, and the introduction of an INZ People Committee.
- b. Made structural changes to realign visa product leadership under the Chief Operating Officer Immigration, to allow more time for operational leaders to create a people-centred environment; and

- c. Put out clearer guidance to staff on how to escalate issues.

267. In support of these objectives, the Review makes the following 10 Recommendations to build upon the work already underway by MBIE and INZ above:

1. The Review recommends MBIE continues to progress work in relation to the objectives highlighted above and that INZ continue work on, and fully implement, the 'consolidated end-to-end' integrated compliance model and system reporting prompted by this Review and ensure that includes the following measures:
 - a. A system- wide focus on assurance around the health of the immigration system, coupled with an integrated operational approach to risk and compliance.
 - b. An operational framework guiding the use of General Instructions, their duration, content, review and use.
 - c. A consolidated risk model focusing on both system risk and migrant exploitation risk.
 - d. The development of indicators, measures, and triggers of system abuse and/or migrant exploitation to better inform INZ's decision making and wherever possible use lead indicators to decrease reliance on lag indications; and
 - e. Further embed appropriate and effective governance structures to provide governance oversight across the system model outlined above.
2. The Review recommends that, to ensure the level of scrutiny undertaken at each of the AEWV gateways matches the risks associated with the relevant application, INZ:
 - a. Continue work on whether current settings are appropriate for known high-risk categories and whether the weighting of information requirements and verification activities is adequately informed by the risks observed in the Scheme to date.
 - b. Introduce a priority lane and processing pathway for Green List applications; and
 - c. Review the achievability of currently published processing times recognising the need to balance resourcing and risk considerations and service standard considerations.
3. The Review recommends that, to enable INZ and the public to have a more "real time view" of the nature and extent of migrant exploitation in New Zealand, INZ:
 - a. Strengthen existing and consider developing further formal feedback loops with Non-Government Organisations and community groups working with migrant communities.

- b. Use wider system and community intelligence in addition to internal intelligence to develop a system for monitoring migrant exploitation; and
 - c. Explore the options for regular public reporting on the extent of migrant exploitation and how it changes over time.
4. The Review recommends that INZ continue to explore how best to utilise ADEPT, AERMR, and MBIE's wider intelligence system to support the gathering of insights and intelligence by:
 - a. Implementing ADEPT as it was originally designed to maximise ADEPT's potential as an intelligence gathering tool which will support a modern compliance system.
 - b. Completing the Implementation of AERMR as it was originally designed.
 - c. Considering further integration of functionality of legacy systems into ADEPT: and
 - d. Undertaking further targeted remedial review activities as required, specifically relating to high-risk employer accreditation.
5. The Review recommends that INZ set a clear expectation for managers to reinforce the importance of frontline staff being supported to fulfil their regulatory obligations in the exercise of their duties. This expectation should be supported by further training for managers, as well as regular audit checks in the future to ensure management practices on the ground are aligned to this.
6. The Review recommends that INZ establish and maintain a single, integrated set of standard operating procedures for Immigration Officers in relation to AEWV, which includes:
 - a. Putting in place a process to ensure that ADEPT functionality and its User Manual are always consistent with the standard operating procedures and implementation.
 - b. Ensuring frontline staff have adequate training and development on both policy and operational settings.
7. The Review recommends that INZ consider ways to increase Immigration Officer engagement and provide improved change management support for processes involving changes to the AEWV operating system.
8. The Review recommends that INZ continue to develop existing and potentially new forums for staff to engage with INZ leadership could be modified/created to continue focusing of building trust and confidence in the relationship between front line staff and senior leadership.

9. The Review recommends that MBIE provide further policy advice to Ministers that specifically includes:
 - a. The risk of domestic job displacement through AEWV, together with policy options to mitigate that risk, which may include consultation with MSD about exploring the potential reintroduction of a Labour Market Test.
 - b. Removing the requirement for a new Job Check if a migrant changes employer. The requirement to conduct a new Job Check if a migrant changes employer is a barrier that limits mobility of employment and increases the risk of migrant exploitation.
 - c. Development of formal risk notification system to ensure end-to-end transparency to better articulate the changes of risk tolerances to all key decision makers, as a result of changes to operational settings.
 - d. Introducing a differential Employer Accreditation model that rewards low risk and good employer practices for employers.
10. The Review further recommends that INZ provide regular reports to the Minister on its progress in addressing recommendations 1 to 9 of this review. The first of these reports should be provided to the Minister within 3 months and should set out INZ's intended programme of work, including proposed reporting, costs, resourcing and milestones to be agreed with the Minister.

Appendix A – Terms of Reference

Assurance review of the operation of the Accredited Employer Work Visa scheme

Background

Immigration New Zealand is a business unit within the Ministry of Business, Innovation and Employment (the Ministry).

In May 2022 the Government introduced a new temporary work visa: The Accredited Employer Work Visa (AEWV). The AEWV scheme, administered by Immigration New Zealand, consists of three steps, which each have a distinct range of checks that are completed:

- The Employer Accreditation Step is where employers are accredited to enable them to hire a migrant.
- The Job Check Step is where the job is checked to ensure that a New Zealander is not available to fill the job being recruited.
- The Migrant Step is where checks are made that the migrant is of good character and health and is suitably qualified to do the work offered.

The three steps are supported by a post-decision assurance process. This is comprised of a mix of desk and site-based reviews that allow Immigration New Zealand to test an employer's compliance with all accreditation requirements post decision. This evidence is then used to support re-accreditation decisions.

The AEWV and the three-step process became compulsory from 4 July 2022. To support transition, employers were able to submit accreditation and job check applications from 23 May 2022 and 20 June 2022 respectively.

Concerns have been raised with the Minister of Immigration about the operation of the AEWV scheme. At a high level, the concerns relate to how the Scheme is being administered by Immigration New Zealand particularly at steps one and two, potentially resulting in opportunities for misuse and exploitation by third parties. The Ministry is itself investigating over 160 accredited employers following complaints of worker exploitation and breaches of the AEWV scheme.

It is critical that New Zealanders have trust and confidence in the AEWV scheme and its administration. Its integrity is of high public importance, given the potential impact on vulnerable migrants. To provide independent assurance as to the operation of the Scheme, the Minister has asked the Public Service Commissioner to undertake a review.

Purpose

The purpose of this review is to:

- a. Consider whether Immigration New Zealand's administration of the AEWV scheme is being carried out appropriately, including but not limited to, consideration of operational efficiency, risk management, and the external post-COVID context.

- b. Identify any appropriate next steps for improvement in the administration of the AEWV scheme with a focus on mitigating the risk of migrant exploitation and irregular migration.

Scope

This review is to consider, make findings, and report on the appropriateness of all aspects of the employer accreditation and job check processes undertaken by Immigration New Zealand as part of the AEWV scheme. This will include consideration of:

- service delivery performance
- operational decision-making including management and internal controls
- verification and monitoring
- resourcing and capability
- any other matter considered relevant to achieving the purpose of the review.

Out of scope

This review will not:

- examine the appropriateness of the policy settings
- consider the merits of any individual accreditation or job check decisions, except in so far as they relate to any wider issues of process
- examine decisions made during the Migrant Step of the process
- make recommendations in relation to any individual cases
- make findings or recommendations as to criminal, civil or disciplinary liability.

Process

This review will request and consider all relevant and available documentation from Immigration New Zealand and the wider Ministry. This will include the results of the Ministry's internal investigations into complaints by migrant workers into the actions of accredited employers. The reviewer may also discuss the operation of the Scheme with representatives from Immigration New Zealand and other Ministry employees. Further, the Reviewer may develop a process for hearing from other interested parties, as considered necessary to achieve the purpose of the review.

The Reviewer will provide a draft of the report to the Public Service Commissioner and the Secretary for Business, Immigration and Employment before it is finalised and take into account any comments received. The Reviewer will also meet any natural justice obligations.

The Public Service Commissioner's functions and powers

Under section 44 of the Public Service Act 2020 the Public Service Commissioner has the following general functions:

- a. to promote integrity, accountability, and transparency throughout agencies in the State Services, including by setting standards and issuing guidance
- a. to act as the employer of public service chief executives, including by— to the extent relevant in each case, reviewing the performance of the public service agency that the chief executive leads

or carries out some functions within.

The Commissioner may conduct a review to assist in exercising these functions. The Commissioner's jurisdiction includes public service agencies but does not include Ministers.

Appointment and delegation

The Public Service Commissioner appoints Ms Jenn Bestwick to undertake this review (the Reviewer).

Under schedule 3, clause 6 of the Public Service Act 2020, and for the purposes of this review, the Public Service Commissioner delegates his functions and powers under schedule 3, clauses 2 to 4 of the Public Service Act to the Reviewer, with effect from the date of the appointment of the Reviewer.

Deliverables, timeframe and reporting

This review will commence immediately on the appointment of the Reviewer and must be carried out as soon as practicable with an indicative reporting date of 15 December 2023.

The intention is for the final report to be made publicly available.

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Appendix B- Methodology / Approach followed

268. The methods used in this review are:

- a. Interviews with nominated Immigration NZ and MBIE staff involved with the administration of the Scheme.
- b. interviews with MBIE and Immigration NZ staff who sought an interview with the Review.
- c. wider staff feedback sessions.
- d. interviews with parties external to Immigration NZ and MBIE.
- e. consideration of emailed submissions from a range of interested stakeholders.
- f. document review; and
- g. thematic analysis, providing a multi-faceted understanding of the situation.

Interviewee identification

269. Interviewees were identified both by the Ministry and the Review and included:

- a. key management staff.
- b. key operational staff.
- c. email submitters requesting an interview; and
- d. heads of associated system external agencies.

Information gathering

270. Information was gathered in several ways through:

- a. email submissions from INZ and MBIE staff, and from external parties involved with migrant workers in New Zealand.
- b. interviews conducted with selected INZ and MBIE staff, with other public agencies with an interest in the operationalisation of the AEWV scheme, with community agencies involved with migrant workers, and with email submitters who requested an interview.
- c. feedback sessions with AEWV teams (peers) who contacted the Review team via the Review email.

- d. observing operational staff as they processed AEWV applications across the three gateways and discussing the process with them.
- e. targeted information gathering sessions regarding operational roles (e.g., Technical Advisor, Verification Officer), or processes regarding IT system functioning; and
- f. review of AEWV-related documentation, including establishment documentation, operational / change documentation, and status reports and other documents provided to the Review by INZ.

Numbers of submitters/interviewees

271. 24 written submissions plus seven email requests for interview only, from a mix of internal and external stakeholders between September to early November 2023.

272. In total the Review interviewed 74 people in 43 separate interviews conducted over September and October 2023.

Data analysis

273. A thematic analysis using the constant comparative method was used to analyse data from submissions, interviews, and staff feedback sessions to build up of a broad picture of the system and, through which themes were identified that capture the essence of the data gathered. The themes are reflected in the findings:

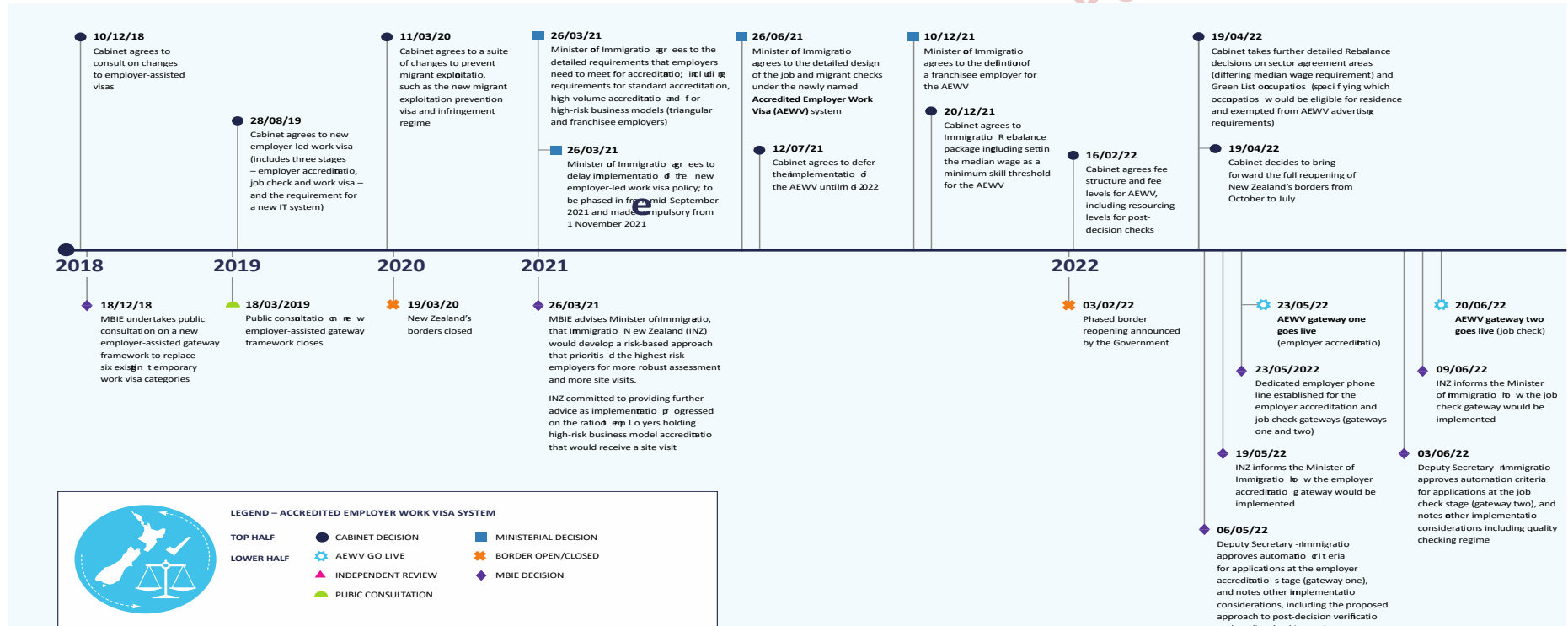
- a. Emerging themes were reflected back to, and tested with, interviewees and senior INZ and MBIE leadership throughout the evidence gathering phase to assist with calibration and further information gathering; and
- b. Data from documents was used to create a quantitative view of the situation (e.g., volumes of applications processed / job tokens outstanding).

Appendix C - AEWV Timeline



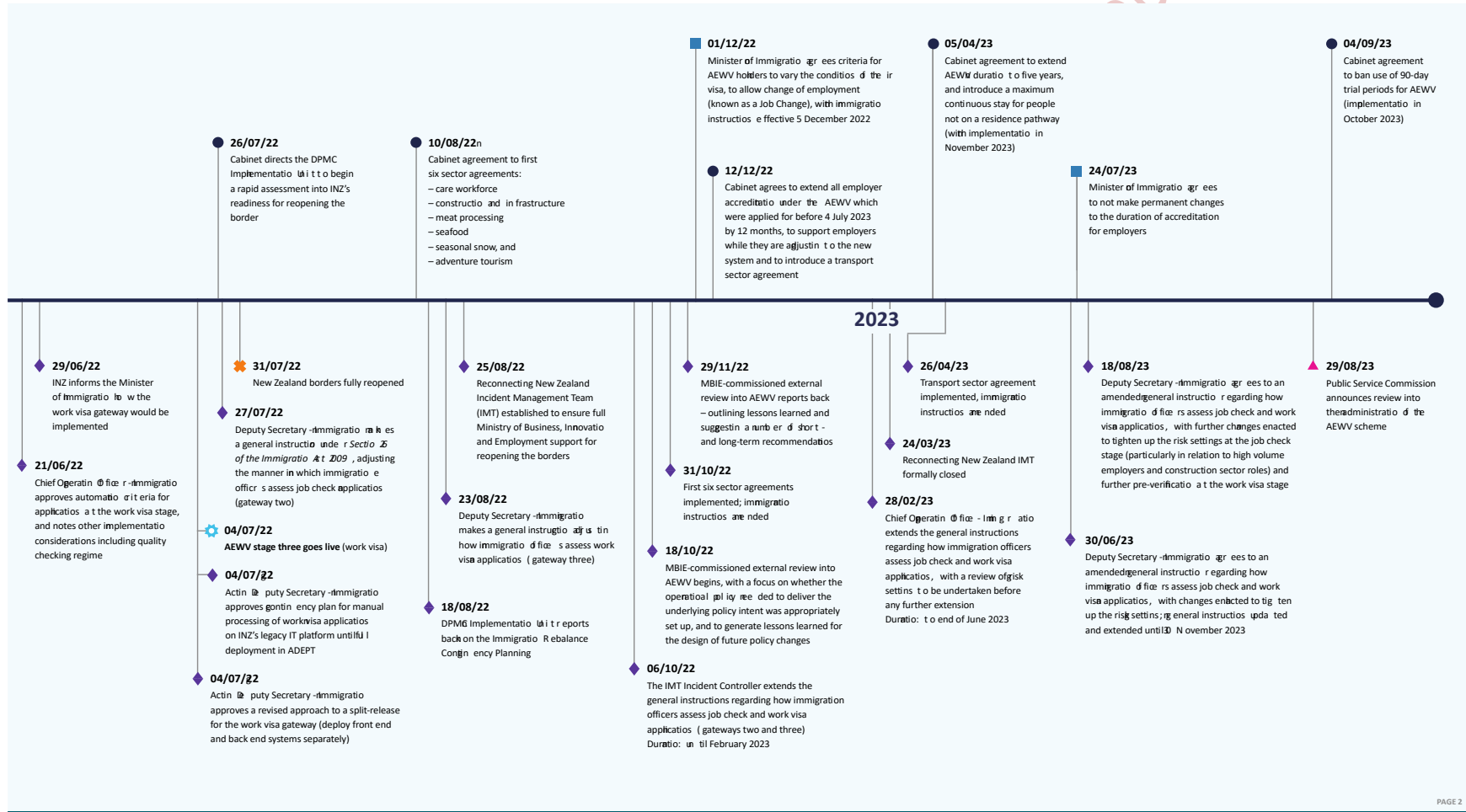
Accredited Employer Work Visa timeline

February 2024



Confidential

February 2024



Appendix D - Detailed Analysis of General Instructions

274. There have been six General Instructions (GIs) given that impact the processing of AEWV applications against Immigration Instructions. These apply only to the Job Check and Work Visa gateways. A summary of the GIs is provided, followed by details of each GI, the relevant Immigration Instruction, and the significance of the GI.

275. GIs introduced changes to application processing alongside frequent ICT system changes and periodic amendments to the Immigration Instructions, as follows:

- a. 31 October 2022 – the first six sector agreements were implemented.
- b. 5 December 2022 – the Job Change provision was implemented.
- c. 26 April 2023 – the Transport Sector agreement was implemented; and
- d. 29 October 2023 – the ban on the 90-day trial period was implemented.

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Summary of the General Instructions

General Instructions						
27 July 2022			30 June 2023		18 August 2023	30 Nov 2023
GATE 2 - JC	GIs 1 – 4 (original, extensions)			GI 5 (tighten)	GI 6 (tighten)	
GATE 3 - WV	GIs 2 – 4 (original, extensions)			GI 5 (tighten)	GI 6 (further pre-verification)	
23 August 2022						
Gates impacted	Gate2	Gate 3	Gates 2 and 3			
General Instruction	1	2	3 (extension)	4 (extension)	5 (amendment)	6 (amendment)
Aim	Clear JC queue	Enhance WV processing	(extending GIs 1 and 2)	(further extension of GIs 1 and 2)	Tighten risk settings	Tighten JC risk settings - especially for high volume employers and construction sector roles. Further WV pre-verification.
Dates	27/7/22	23/8/22	6/10/22 – 28/2/23	28/2/23 – 30/6/23	30/6/23 – 30/11/23	18/8/23
Approved by	Deputy Secretary	Deputy Secretary	IMT Incident Controller	Delegate of Deputy Secretary	Deputy Secretary	Deputy Secretary
Memo	25/7/22 OPERATIONAL LEVERS TO CLEAR CURRENT JOB CHECK QUEUE	19/8/22 OPERATIONAL LEVERS TO ENHANCE ACCREDITED EMPLOYER WORK VISA PROCESSING	30/9/22 REVIEW OF OPERATIONAL LEVERS TO ENHANCE ACCREDITED EMPLOYER JOB CHECK AND WORK VISA PROCESSING	27/2/23 REVIEW OF OPERATIONAL LEVERS TO ENHANCE ACCREDITED EMPLOYER JOB CHECK AND WORK VISA PROCESSING	29/6/23 REVIEW OF OPERATIONAL LEVERS TO ENHANCE ACCREDITED EMPLOYER JOB CHECK AND WORK VISA	18/8/23 GENERAL INSTRUCTION ON MANNER OF PROCESSING ACCREDITED EMPLOYER JOB CHECK AND WORK VISA APPLICATIONS – HIGH VOLUME EMPLOYERS AND CONSTRUCTION SECTOR ROLES

GI 1 – To Clear Current Job Check Queue

276. These instructions were initiated on 27/7/2022 and remained in force (via two GI extensions) until 30/6/2023.

277. This GI represented a temporary adjustment to the way immigration officers assess applications against Immigration Instructions for Job Check applications, to recognise the pressures in the labour market environment and the effort required to support the reopening of New Zealand to migrant workers.

278. Notes: Adverse declaration means the applicant has answered 'no' to a question in the application form that indicates they do not meet the policy.

279. If ADEPT presents Assessment Activities for any of the requirements excluded by the General Instruction, they will be marked as 'requirement met' by the Immigration Officer.

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GI 1 - Details of change in the GI – Job Check	Immigration Instructions – to check...	Significance	
<p>Advertising (as per Policy advice to Minister)</p>	<p>Excluded from the requirement to advertise: <i>Guidance is already in place [i.e., even before this GI was introduced] for staff that Green list and highly paid roles that earn twice the median salary should not be checked.</i></p> <p>For all [other] roles immigration officers will check the advertising for the salary requirement. Noting that the employer will have declared in the application form that they have included salary, if it is found that they have not, request PPI.</p> <p>For any other issues with the advertising (e.g. not advertised for full period, advert being closed) immigration officers should educate rather than enforce.</p>	<ul style="list-style-type: none"> - That minimum requirements for the job include the requirements of the occupation on the Green List - That advertising was completed nationally via a national general job listing website or by other means so that suitable NZ citizens or residence class visa holders could apply. - That advertising includes: <ul style="list-style-type: none"> - job description detailing tasks and responsibilities; - key terms and conditions of employment incl. min/max rates of pay or estimated earnings if actual earnings are not guaranteed. - minimum guaranteed hours. - location of job - minimum qualifications; and - work experience, skills, or other specifications of the job - That minimum qualifications, work experience, skills, or other specifications required for the job are restricted to those necessary to perform the job. - That the vacancy was listed for 14 days - That advertising closed within 90 days of Job Check application submission. - That the job was advertised in multiple means or platforms - Were the details of the job consistent across all platforms? - Is the job to be carried out in one location only? - Is the job carried out remotely? - Did any NZ citizen or residence class visa holders apply for the role? If so, were any suitable/available? 	<p>Of the requirements listed, salary is the only requirement that is checked and must be consistent between the application and the advertisement.</p> <p>Beyond checking the advertisement was placed and consistent with the key employment terms and conditions, no further validation of advertising or application process was required to be considered.</p>
<p>Employment agreements</p>	<p>Group 1: Triangular or franchises business models, roles that are paid by piece rates, or any other roles of concern or where INZ holds adverse information on the employer: the check of the employment agreement will be limited to immigration related aspects:</p> <ul style="list-style-type: none"> • Hours • Pay and deductions • Location 	<p>These instructions only checked for Group 1:</p> <ul style="list-style-type: none"> - Proposed employment is full time (at least 30 guaranteed hours per week for every week worked)? - Proposed employment agreement does not pass costs for recruitment or fees onto the migrant, including any unreasonable deductions? - Proposed employment agreement includes changing locations, and if so, do the terms and conditions regarding changing locations disadvantage or exploit the migrant? 	<p>No applications are fully vetted - checks of the Employment Agreement on <i>all applications</i> are limited in some way, as indicated.</p>

GI 1 - Details of change in the GI – Job Check	Immigration Instructions – to check...	Significance
<p>• Job description.</p> <p>(Roles of concern: Cook/Chef Retail Manager / Supervisor Hotel Managers / Hospitality managers Café/Restaurant Manager Dairy Farm Workers/Managers Any other role of concern)</p> <p>Group 2: All others - accept all claims in application form at face value.</p>	<ul style="list-style-type: none"> - Proposed employment agreement has a pay period that is no longer than one month? - Employer guarantees each hour of pay will be at least the minimum pay rate provided for each pay cycle and any leave will be paid at that rate? - Are the hours of work included in the employment agreement considered variable? - Does the remuneration include other employment related allowances, deductions, piece rates and bonuses? <p>The following instructions are not checked on any applications:</p> <ul style="list-style-type: none"> - The employer (organisation) who holds the accreditation is the direct employer who is named on the employment agreement. - Employment agreement is for a single accredited employer. - Proposed employment agreement is compliant with all relevant NZ employment laws in force. - Proposed employment agreement includes terms and conditions that offer no less than those offered in the NZ market for that occupation, including the rate of pay and notice periods. - Is the job check for self-employment, or for the planting, maintaining, harvesting, or packing crops in the horticulture or viticulture industries? - Does the proposed employment agreement include the migrant working overnight? - Is the job check to support a foreign crew of a fishing vessel? 	<p>It was recognised by INZ (and validated by external review) that it was not appropriate for Immigration Officers to be fully assessing Employment Agreements for compliance with relevant NZ law.</p>
<p>Number of roles in a Job Check</p> <p>The number of roles requested in a Job Check application from employers in the health and education sectors will be accepted at face value based on declarations in the application form.</p> <p>For the construction sector, all Job Check applications for up to 50 roles will be accepted at face value based on declarations in the application form.</p>	<p>Except for the Standard application type that had a limit of 5 Job Tokens, there was no Immigration Instruction limiting the number of Job Tokens an employer could apply for.</p> <p>There is no requirement that the employer provide evidence of the need for these roles, had the ability to support them, and that the roles are needed now.</p>	<p>This GI introduced a tightening up of the rules around numbers of Job Tokens that could be applied for.</p>

GI 1 - Details of change in the GI – Job Check	Immigration Instructions – to check...	Significance
<p>For other sectors, all Job Check applications for up to 30 roles will be accepted at face value, based on declarations in the application form unless it is an industry or business that is unlikely to need that many roles e.g. chef.</p> <p>For other sectors (including construction), where the number of roles exceeds the advice above, all Job Check applications will follow the guidance already in place (which is being adjusted to align with these new thresholds).</p>		
<p>Salary</p> <p>All declarations of salary <i>in the application form</i> will be accepted at face value, except for, Triangular or franchises business models, roles that are paid by piece rates, or any other roles of concern, or where INZ holds adverse information on the employer.</p>	<p>Employer guarantees each hour of pay will be at least the minimum pay rate provided for each pay cycle and any leave will be paid at that rate?</p>	<p>Salary requirements checked for the exception group only.</p>

GI 2 - TO ENHANCE ACCREDITED EMPLOYER WORK VISA PROCESSING

280. These instructions were initiated on 23/8/2022 and remained in force (via two GI extensions) until 30/6/2023.

281. This GI represented a temporary adjustment to the manner in which immigration officers assess applications against immigration instructions for **Work Visa** applications to recognise the pressures in the labour market environment and the effort required to support the reopening of New Zealand to migrant workers.

Proposed Approach

(Ref: the GI memo noted in the summary above)

23. INZ will take a facilitative approach to work visa applications in the short term. We will review this approach at the end of September [2022] and make appropriate adjustments at that point. During this period, INZ will take a pragmatic risk-based approach to decision making. This approach accepts more risk for a limited period to ensure that work visas are processed within a timeframe that reflects the current labour market shortages.

24. Officials have considered the following to implement a pragmatic, manual “educate over enforce” approach:

All applications must meet identity, health, and character components of the work visa application.

50. **The proposed streamlining will accept more documentation regarding skills, qualification, and experience at face value.** The Christchurch site visit indicated a high risk of immigration officers spending long periods trying to confirm skills for low-risk applicants so streamlining is appropriate. ***The skill test was also more important for below median wage roles that are no longer available to migrants, but it remains important for detecting migrant inflation and justifying the collection of evidence in the first instance. However, the interim proposals are acceptable.***

Notes: Adverse declaration means the applicant has answered 'no' to a question in the application form that indicates they do not meet the policy. If ADEPT presents Assessment Activities for any of the requirements excluded by the General Instruction, they will be marked as 'requirement met' by the Immigration Officer.

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GI 2 - Details of change in the GI - Work Visa		Processing Impacts	Significance
<p>Job check validation</p> <p>Check that details provided in the application match the Job Check Letter:</p> <p>For all applications the INZ job check approval letter will be used to ensure that:</p> <ul style="list-style-type: none"> • The location and job title of the role are the same as what was approved in the job check; • The job description matches the job title of the role; • The rate of pay is within the range declared by the employer in the job check; • The hours of work are the same as declared by the employer in the job check. <p>Check that details in application / Job Check Letter / Applicant’s Employment Agreement match:</p> <p>Exception Group: For applications in the following categories, the key points above should be checked against the same details in the provided employment agreement signed by the applicant. Further verification should only be carried out if there are other risks that are evident as a result of this check. This applies to employees:</p> <ul style="list-style-type: none"> • of triangular employers including labour hire companies; • of franchise business models; • whose remuneration includes a piece rate component; • whose applications trigger an alert or warning or for whom INZ holds adverse information. 	<p>Not checking for self-employment or employment of a family member</p>	<p>This step was automated on 19 September 2022 (except for Triangular or Franchisee employers).</p> <p>Accepts all declarations at face value that visa is not for self-employment or for a family member.</p> <p>The Employment Agreement signed by the applicant is only checked for the exception group.</p>	
<p>Worker eligibility</p> <p>For the worker eligibility component of the application, immigration officers will refer to the triage rating (low, medium, high) and the relevant SOP under “Assess Temporary Visas” to determine next steps for an application with that triage rating.</p> <p>Risk rules (Triage Rating)</p> <p>Low-risk applications <u>do not require any verification</u> unless a specific risk is identified. The following applications will be treated as low risk despite triaging:</p> <ul style="list-style-type: none"> • Health and education roles; • All roles that require registration; • All tier 1 Green List roles; • All migrants paid at 200 per cent of the median wage. <p><u>Medium-risk applications do not require any verification</u> unless a specific risk is identified though a risk rule triggering.</p>		<p>For the four groups treated as low risk despite triaging, they will be accepted. For these positions it is assumed that the Employer will have verified their suitability for the role.</p>	

Requirement under JOB CHECK immigration instructions (WA3)	GI 5 adds some checks back	GI 6 – how is it different to GI 5
<p>Determining the employer meets the requirements for labour market testing set out at (WA3.20)</p>	<p>Base the assessment on the declarations made in the application form, but for all assessments check:</p> <ul style="list-style-type: none"> • that the <u>advertisement</u> is for the role that the Job Check has been applied for; • the key terms of the employment are consistent with the employment agreement and other information included in the Job Check application, including: <ul style="list-style-type: none"> • The minimum and maximum rate of pay or salary; and • That position has not been advertised as casual or part time; and • The location of the job. 	<p>Same as 5</p>
<p>Determining whether the employer meets the requirements for acceptable employment set out at WA3.15 related to the proposed employment agreement</p> <p>Calculating the remuneration as set out in WA3.30</p>	<p>For all assessments, check:</p> <ul style="list-style-type: none"> • the location on the declaration matches the location on the employment agreement and the advertising; • the legal entity declared in the Job Check application matches that on the employment agreement; • the employment type (permanent or fixed term/seasonal) declared matches that on the employment agreement; • where the proposed employment is for an occupation that is exempt from the median wage threshold (Appendix 14), the job description provided matches the description of the work for the declared ANZSCO code. <p>For all other assessment activities, proceed to base the assessment on the declarations made in the application form, only, unless any of the below criteria is met:</p> <ul style="list-style-type: none"> • all or part of the payment for the proposed employment is calculated by piece rates; • the employer holds accreditation as a franchisee employer or an employer who places Accredited Employer Work Visa holders in triangular employment arrangements; 	<p>Same as 5</p>

Requirement under JOB CHECK immigration instructions (WA3)	GI 5 adds some checks back	GI 6 – how is it different to GI 5
	<ul style="list-style-type: none"> • the employer has made an adverse declaration in the application form; • INZ holds any relevant adverse information about the employer (such as a warning of where an application triggers a risk rule); or • the role is of concern. <p>Where the above applies, also check:</p> <ul style="list-style-type: none"> • the remuneration of the employment, including the hours of work, details of pay and any deductions; and • the job description. 	
<p>Determining whether the number of positions requested in a Job Check application are for genuine vacancies as required by WA3.15(l)</p>	<p>Determine [assume] that this requirement is met without assessing or requesting additional evidence, where the proposed employment is:</p> <ul style="list-style-type: none"> • in the health or education sector; or • In the construction sector – face value up to 50 positions • all others – face value up to 30 positions <p>EXCEPT WHERE: -</p> <ul style="list-style-type: none"> - Franchisee employer - Or triangular - Or calculates pay by piece rates - Or INZ holds adverse information about employer - Or role not in health, education, or construction and is in an industry unlikely to require the number of positions requested - Or the employer has had more than 50 previous job checks - Or the role is of concern 	<p><i>Largely the same as GI 5 but excludes high volume accredited employers and construction sector roles from the instruction to apply only face value checks when determining genuine employment.</i></p> <p>Determine [assume] that this requirement is met without assessing or requesting additional evidence, where the proposed employment is EITHER:</p> <ul style="list-style-type: none"> • in the health or education sectors, unless: <ul style="list-style-type: none"> o the employer holds accreditation as a franchisee employer or an employer who places Accredited Employer work visa holders in triangular employment arrangements; or o INZ holds adverse information about the employer; <p>OR</p> <ul style="list-style-type: none"> • offered by an employer who holds Standard Accreditation, unless: <ul style="list-style-type: none"> o INZ holds adverse information about the employer; or o the remuneration is calculated by piece rates; or o the role is in an industry that is unlikely to require the number of positions requested; or o the role is in the construction industry; or o the role is of concern. <p>For all other Job Checks, use standard processes to consider whether the positions requested in a Job Check application are for genuine vacancies.</p>

Requirement under Work visa immigration instructions (WA4)	GI 5 – adds some checks back in	GI 6 – how is it different to GI 5
<p>Determining whether an applicant holds an offer of employment that meets the requirements of WA4.10.1</p>	<p>For all applications, check that the remuneration on the employment agreement offered [IEA] is the same as that included in the AEWV meta data. If a range was approved in the Job Check application, the remuneration stated in the IEA must fall within the approved range.</p> <p>Ensure that the hourly rate entered in ADEPT matches what is stated in the IEA and approved Job Check application.</p> <p>[The remainder is as per GI 2]</p> <p>For all applications if there is a Job Check validation activity, the Job Check validation powerBI will be used to ensure that:</p> <ul style="list-style-type: none"> • The location and job title of the role are the same as what was approved in the Job Check; • The job description matches the job title of the role; • The hours of work are the same as or more favourable than that declared by the employer in the Job Check • The direct employer is the same as in the Job Check. <p>For applications in the following categories, the key points above should be checked against the same details in the provided employment agreement signed by the applicant.</p> <p>Further verification should only be carried out if there are other risks that are evident as a result of this check. This applies to employees:</p> <ul style="list-style-type: none"> • Of triangular employees including labour hire companies; • Of franchise business models; • Whose remuneration includes a piece rate component; • Whose applications trigger an alert of warning or for whom INZ holds adverse information; 	<p>Same as 5 but adds in an additional bullet point at the end:</p> <ul style="list-style-type: none"> • Where guidance provided by Risk and Verification as a result of pre-screening advises that verification is appropriate
<p>Determining whether the applicant meets the requirements for applicants as set out in W.2.10.1(b)</p>	<p>As per GI 2</p>	<p>As per GI 2</p>

Appendix E - AEWV processing volumes to date

282. Since the introduction of the AEWV Scheme, the following volumes of applications under the three gates have been processed by INZ.

283. As at 11 November 2023, the number of Employer Accreditation applications submitted, approved, withdrawn and declined, broken down by month, was:

Month	Total Submitted	Total Approved	Total Withdrawn	Total Declined
May 2022	2,186	150	0	0
June 2022	3,364	3,938	0	0
July 2022	2,559	3,189	0	0
August 2022	2,203	2,107	15	1
September 2022	1,823	2,176	15	0
October 2022	1,578	1,581	12	1
November 2022	1,699	1,499	16	1
December 2022	1,279	1,237	7	1
January 2023	1,342	1,263	12	2
February 2023	1,662	1,428	7	5
March 2023	2,048	2,298	50	8
April 2023	1,534	1,573	30	19
May 2023	1,713	1,745	20	14
June 2023	1,669	1,485	27	3
July 2023	1,401	1,539	32	6
August 2023	1,383	1,075	29	7
September 2023	1,220	663	15	7
October 2023	1,043	782	41	13
November 2023	339	330	9	6
Total	32,045	30,058	337	94

284. As at 11 November 2023, the number of Job Check applications submitted, approved, withdrawn and declined, broken down by month, was:

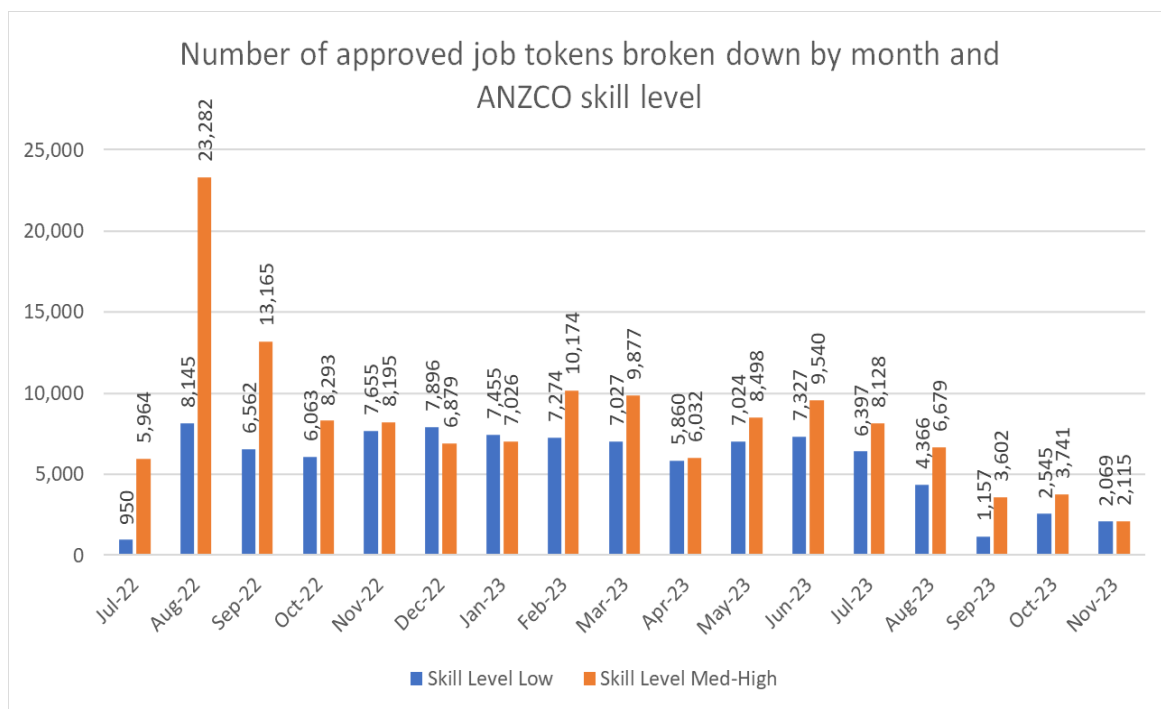
Month	Total Submitted	Total Approved	Total Withdrawn	Total Declined
June 2022	674	0	0	0
July 2022	2,690	967	1	0
August 2022	3,707	4,748	1	55
September 2022	3,235	3,696	4	44
October 2022	3,280	2,975	3	41
November 2022	3,604	3,094	2	56
December 2022	2,786	2,943	2	19

Month	Total Submitted	Total Approved	Total Withdrawn	Total Declined
January 2023	2,666	2,908	1	8
February 2023	3,398	3,234	3	82
March 2023	3,832	3,814	8	38
April 2023	3,306	3,135	7	34
May 2023	4,128	3,720	11	61
June 2023	3,748	4,229	2	44
July 2023	3,604	3,372	15	35
August 2023	3,789	2,743	7	52
September 2023	3,028	1,378	6	25
October 2023	2,985	1,754	16	54
November 2023	1,001	1,044	1	29
Total	55,461	49,754	90	677

285. As at 11 November 2023, the number of job tokens requested, approved, withdrawn and declined, broken down by month, was:

Month	Total Requested	Total Approved	Total Withdrawn	Total Declined
June 2022	4,267	0	0	0
July 2022	17,698	6,914	0	10
August 2022	25,772	31,427	481	2
September 2022	16,588	19,727	207	19
October 2022	15,607	14,356	479	9
November 2022	18,755	15,850	487	7
December 2022	13,280	14,775	50	3
January 2023	14,368	14,481	16	5
February 2023	19,121	17,448	1,182	16
March 2023	16,510	16,904	109	513
April 2023	13,779	11,892	170	25
May 2023	16,393	15,522	516	55
June 2023	15,689	16,867	447	2
July 2023	14,831	14,525	154	105
August 2023	14,413	11,045	405	17
September 2023	5,518	4,759	87	19
October 2023	2,772	6,265	288	94
November 2023	237	3,621	174	6
Total	245,598	236,378	5,252	907

286. As at 13 November 2023, the number of approved job tokens, broken down by month and ANZCO skill level, was:



287. As at 11 November 2023, the number of Working Visa applications submitted, approved, withdrawn and declined, broken down by month, was:

Month	Total Submitted	Total Approved	Total Withdrawn	Total Declined
July 2022	297	2	0	0
August 2022	3,536	1,119	19	7
September 2022	7,272	3,978	43	8
October 2022	6,897	2,984	58	13
November 2022	8,409	7,125	73	15
December 2022	7,017	7,001	105	26
January 2023	6,629	7,755	99	35
February 2023	11,478	7,404	121	41
March 2023	6,983	11,015	200	104
April 2023	6,414	6,846	148	135
May 2023	8,124	8,720	208	134
June 2023	7,083	7,312	166	118
July 2023	6,622	5,877	175	152
August 2023	6,715	6,623	205	239
September 2023	4,780	5,544	241	220
October 2023	4,159	4,076	198	240
November 2023	1,576	1,286	47	71
Total	103,991	94,667	2,106	1,558

Glossary of Terms

Accredited Employer Risk Monitoring and Review (AERMR)	Post-accreditation employer checks across 15% of employers carried out by INZ in a combination of desk and site-based checks to inform risk tolerances and controls.
Accredited Employer Work Visa (AEWV)	Employers can get accreditation to use the Accredited Employer Work Visa (AEWV) to hire migrants on visas for up to 5 years. Employers must pay at least the NZ median wage, unless the role is on an exemption list, and show that there are no New Zealanders able to fill the role. The AEWV is a 3-step process requiring: Employer Accreditation, Job Check and Work Visa.
ADEPT	Advanced Digital Employer-led Processing and Targeting (ADEPT) is the Immigration Online ICT system, which includes the Accredited Employer Work Visa processing.
AMS	Application Management System (AMS) is Immigration New Zealand's legacy visa processing system, which is still in use for most visas.
Chief Executive	Chief Executive of the Ministry of Business, Innovation and Employment
Employer Accreditation	Gate 1 of the 3 step AEWV process. An employer applies for accreditation to be able to hire migrants for temporary employment.
General Instructions	General instructions are matters of rule and practice of the Department and relate to the order and manner of processing applications (Immigration Act 2009 s26).
Green List	Priority roles that, if a migrant worker has the has the qualifications registration or experience required, may be able to get residence immediately or after 2 years of working in New Zealand.
Immigration Instructions	The statutory tool whereby the rules associated with a Visa Product are set. These may be certified by the Minister of Immigration and are statements of Government policy (Immigration Act 2009 s22).
Immigration Officer	Responsible for assessing and deciding visa applications in accordance with immigration law, and through the effective administration of immigration policy and procedures.
Immigration Rebalance	Cabinet agreed changes for employer-assisted workers and partners, designed to ensure immigration settings were balanced correctly as the country moved to reopening borders following the COVID-19 pandemic.
Irregular migration	The movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination.

Job Check	Gate 2 of the 3 step AEWV process. The accredited employer requests job tokens for current needs where there are no New Zealanders able to fill the role.
Job token	Under the Job Check, an employer may apply for multiple roles under one application if the jobs are all subject to the same labour market test. These are issued as Job tokens.
Migrant exploitation	When harm is caused, or the risk of harm is increased, to the economic, social, and physical well-being of a migrant worker.
Migrant Exploitation Protection Visa (MEPV)	A temporary visa available since 2021 to support migrants to leave an exploitative situation quickly and remain lawfully in New Zealand to find alternative employment within a 6-month period.
Reaccreditation	The process by which employers apply for a renewal of their accreditation every 24 months or every 12 months for employment models that present higher immigration risk. Reaccreditation requires employers to demonstrate compliance with the declaration commitments made, for example, the completion of employment standards, learning modules and settlement support activities.
Reconnecting New Zealand	The planned re-opening of New Zealand following the border closures during the COVID-19 pandemic.
Risk and Verification	Onshore and offshore teams within the Immigration Risk and Border function of Immigration New Zealand. Offshore teams are responsible for providing specialist advice for the region within which they operate, and onshore teams provide risk advice to Immigration Operations as well as complex or advanced verification activity.
Technical Advisor	Roles within Immigration New Zealand, providing specialist, technical support in relation to the assessment of visa applications, ensuring quality and consistency, and providing subject matter expertise across visa applications.
Triangular employers	Triangular includes labour hire companies but also includes employers who send employees on secondments to a third party, and a parent or umbrella companies who place their employees with a third party such as a subsidiary company, or with a branch of their business that has a separate legal entity.
Verification Officer	Roles within Immigration New Zealand providing specialist verification activities including interviews, document verification and third-party checks to support immigration decisions.
Visa Processing staff	The Review use this term to describe front-line Immigration New Zealand staff involved in processing visas. This includes Immigration Officers, Technical Advisors, and Verification Officers.

Work Visa	Gate 3 of the 3 step AEWV process: A temporary visa that a potential migrant worker may apply for if there is a job offer from an accredited employer and they have the skills and qualifications for the job.
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