



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 which 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:

- 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.
- 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:

- (b) to promote integrity, accountability, and transparency throughout agencies in the State services, including by setting standards and issuing guidance
- (d)(ii) 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.