



Accredited Employer Work Visa Employer Accreditation Policy

Facilitator guide



Contents

Introduction	2
Preparation	3
Course outline	5
Welcome and introduction.....	6
About Accredited Employer Work Visa	7
Requirements for all employers.....	16
Requirements for Triangular employment arrangements	40
Requirements for Franchisee employers.....	48
Overview of Accredited Employer Risk Management and Review (AERMR)	50
Live activity with TA	51
Close	52

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Introduction

Purpose

The purpose of this course is to deliver Stage 1 Employer Accreditation of the Accredited Employer Work Visa (AEWV) stream. This will be achieved by introducing the pathway attributes, application criteria, and then learning through practical experience working on case studies to provide an end-to-end view of the process.

Learning outcomes

At the end of this course, learners will be able to:

- explain what the Accredited Employer Work Visa is and why it's important
- describe what's involved in stage 1 of an Employer Accreditation Work Visa application
- use immigration instructions to check stage 1 Employer Accreditation requirements have been met in an application
- explain what post-decision Risk Management Review is and why it's important.

Audience

This course has been developed for immigration officers that will be processing AEWV Stage 1 Employer Accreditations.

Duration

1 day

Prerequisites

Before undertaking this course, the learner must have completed all courses in the 'First Steps' and 'My Role' stages of the induction.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Preparation

Guide layout

This guide uses the following layout:

Time	Topic	Resource	Your Notes
Suggested time for each section.	Instructions on how to deliver each section.	Resources needed for each section.	Background information for each section, including where content is specific to a particular role/audience. Also includes space for your notes.

Facilitator topics

The Facilitator Topics, listed in the right-hand column of each lesson plan, are designed to help the facilitator prepare for the delivery of this course. They provide generic information as well as links to relevant information, including instructions and external websites. As you deliver the course, keep the Facilitator Topic open in the background, so that you have the links at hand when you want to demonstrate or show information on the screen to learners.

Availability of Technical Advisor

Before delivering this course, contact the target training site to arrange for a Technical Advisor (TA) to be available for the full duration of the course to support facilitation and to oversee the processing of live applications.

Note: please ensure that during the practice days with the TA the learner works on applications using the full process, not the streamlined process.

General Instructions & Technical Advisor

From page 20 onwards references are made to SOPs. At the time of writing this guide, SOPs for employer accreditation are under review. Discuss with TA how to run these sections as there may be a general instruction in place which may override normal processing activities, or the SOPs may have changed since this guide was published.

Resources

- Facilitator computer and projector
- Participant computers
- Pens and whiteboard markers
- Case study files
- Employer Accreditation Policy PowerPoint
- Handout of application form
- AEWV Overview Graphic
- [Employer Accreditation Instructions \(Operational Manual\)](#)
- [Employer Accreditation Standard Operating Procedures \(Global Process Manual\)](#)

Room set-up

Refer to the Learning Delivery Team for suggested room set-up.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Course outline

Time	Topic
5 minutes	Welcome Purpose: To welcome learners to the workshop.
1 hour	About Accredited Employer Work Visa Purpose: To learn what the Accredited Employer Work Visa is, why it's important and how to apply.
2 hours 27 mins	Requirements for all employers Purpose: To learn and gain practical experience using INZ tools to follow processes and procedures which support an immigration assessing application concerns.
1 hour	Requirements for triangular employment arrangements Purpose: Use INZ tools to follow processes and procedures when assessing application concerns for triangular employment arrangements.
15 minutes	Requirements for franchisee employers Purpose: Use INZ tools to follow processes and procedures when assessing application concerns for franchisee employers.
5 minutes	Overview of Accredited Employer Risk Management and Review Purpose: Introduction to Accredited Employer Risk Management and Review (AERMR)
1 hour	Live activity with TA

Welcome and introduction

Topic outcome

By the end of this topic, learners can describe what they will learn in this session.

Resources

Employer Accreditation Policy PowerPoint

Lesson plan

Time	Topic	Resource	Your notes
5 mins	<p>Welcome and introduction</p> <p>Show slide 2</p> <p>Tell learners:</p> <ul style="list-style-type: none">• The agenda for the workshop on slide 2• How the course is structured and the topics that will be covered• The time that you will be taking breaks (morning, lunch and afternoon tea breaks and what time the day finishes; ensure you cover this point at the beginning of each day)• Site specific health and safety emergency procedures <p>Course structure and learning outcomes</p> <p><i>Explain</i></p> <p>Use the Course Outline as a reference as you provide learners with an overview of how the course is structured and the topics that will be covered. Explain that once we start working on the case studies they will first work in pairs, and then individually once they have gained confidence.</p>	Slide 2	<p>Note: Suggest to learner's that as the course progresses, they save key links to external information to their favourites so that they have easy access to these throughout the course and once they are in the role.</p> <p>Facilitator to remind learners to do this as the course progresses.</p>

About Accredited Employer Work Visa

Topic outcomes

By the end of this topic, learners will be able to:

- explain what the Accredited Employer Work Visa is and why it's important
- describe what's involved in stage 1 of an Employer Accreditation Work Visa application
- use immigration instructions to confirm stage 1 Employer Accreditation requirements

Resources

- Employer Accreditation Policy PowerPoint
- AEWV Overview Graphic.pdf
- Handout of application form.pdf
- [Employer Accreditation Instructions \(Operational Manual\)](#)

Lesson Plan

Time	Topic	Resource	Notes
10 mins	<p>The Accredited Employer Work Visa policy</p> <p><i>Explain</i></p> <p>Businesses are encouraged to train, upskill and hire New Zealand workers before they hire migrants. Employers who can't find suitable New Zealanders for a role, can apply to hire migrants on the Accredited Employer Work Visa (AEWV).</p> <p><i>Play this video to give learners an overview Accredited Employer Work Visa</i></p> <p>https://www.youtube.com/watch?v=1nz6navMjjQ</p> <p><i>Show slide 3 to recap and give learners the AEWV Overview Graphic to refer to throughout the session.</i></p> <p>There are three stages in the Accredited Employer Work Visa that must be completed and approved by INZ before the migrant can start their employment.</p>	<p>Slide 3</p> <p>AEWV Overview Graphic.pdf</p>	

<p>10 mins</p>	<p>These are:</p> <ul style="list-style-type: none"> • Employer Accreditation - the employer must be granted an employer accreditation (WA2) • Job Check - the accredited employer must have a Job Check approved by INZ for any vacancy they need to fill with a non-New Zealand citizen or resident worker (WA3) • Work Visa - a non-New Zealand citizen or resident worker must be granted an Accredited Employer work visa (WA4). <p>Today we'll look at the first check, stage 1 Employer Accreditation. An employer needs to be approved for an accreditation before stage 2 and 3 can happen.</p> <p><i>Explain</i></p> <p>Let's use the Operational Manual a.k.a immigration instructions to see what's involved when applying for Employer Accreditation. It's important to take your time and familiarise with the information in the Operational Manual, this is your go to place when assessing visa applications.</p> <p><i>Demonstrate how to open the Operational Manual</i></p> <ul style="list-style-type: none"> • Go to Te Taura > INZkit > Operational Manual • On the left-hand side click Temporary entry class visa • Click Work visas • Click on WA Accredited Employer Instructions <p>The objective of Accredited Employer instructions (WA1.1)</p> <p>Organise the class into pairs, allow 5 minutes to research the question as shown.</p> <p><i>Ask: What are the 4 objectives of the Accredited Employer instructions? WA1.1(a)-(d)</i></p> <ul style="list-style-type: none"> • Bring the group back together <p><i>Ask: Who can get me started on one of the objectives? Repeat for each objective.</i></p> <ul style="list-style-type: none"> • Reveal on the slides what the objectives are and discuss <p><i>Explain</i></p>	<p>Slide 4</p>	<p>WA1 Objective and Overview of Accredited Employer instructions</p>
----------------	---	----------------	---

5 mins	<p>The Accredited Employer instructions contribute to the overall objective of the ‘Work instructions’ by:</p> <ul style="list-style-type: none"> • incentivising employers to employ more New Zealanders to respond to skill and labour shortages over time; and • ensuring that employers only recruit non-New Zealand citizen or residents for genuine shortages, while not displacing New Zealanders from employment opportunities or hindering improvements to wages or working conditions; and • reducing risks around business models and practices that might enable migrant exploitation; and • ensuring that employers are compliant with specific employment, immigration, and business standards, as set out in the instructions. <p><i>Explain</i></p> <p>Each instruction has an alpha-numeric code on the end of a heading. We will use these codes to navigate the instructions during this session.</p> <p><i>Show the (WA1.1) code on slide 5, that relates to the objective of the instructions.</i></p> <p><i>Ask: Why is it important for employers to have an accreditation?</i></p> <p>Answer: Employer Accreditation gives INZ confidence the employer’s business is viable, it meets immigration and employment standards, and they will not exploit the migrants they hire.</p> <p>Applying for an Employer Accreditation</p> <p><i>Explain what’s involved when applying for an Employer Accreditation using slide 6.</i></p> <ul style="list-style-type: none"> • The application must use the Immigration online form. • The employer must have a New Zealand Business Number, unless they are a foreign diplomatic or consular mission. • Evidence must demonstrate the employer meets requirements. 	Slide 5	Slide 6
--------	---	---------	---------

RELEASED UNDER THE OFFICIAL INFORMATION ACT

10 mins	<p>Note – In many cases, the Immigration Online requires the employer(applicant) to declare that they will meet set requirements. They may not ever have to provide evidence of some aspects of the policy however, we may conduct site visits and desk check activities to ensure that they remain complaint at certain points of time after approval.</p> <ul style="list-style-type: none"> • Fees to apply or upgrade must be paid. <p>Ask: What is a foreign diplomatic or consular mission?</p> <p>Answer: It could be an Embassy, High Commission or Consulate. These aren't eligible for NZ Business numbers because they are based overseas.</p> <p>Review application form Give learners a copy of the application form, and 10 mins to read through asking them to focus on the different sections and the information they must provide – consider why this information is required by INZ. This example is for [REDACTED] who are applying for a Standard Accreditation.</p> <ul style="list-style-type: none"> • About the business and applicant – (Page 1 and 2) • Establish to type of accreditation and supporting evidence – (Page 2 and 3) • Business compliance – (Page 4 and 5) • Settlement support – (Page 5) • Supporting documents – (Page 6) • Declarations made by the applicant – (page 7 – 10) <p>You now have the basics of what an employer needs to do to apply for accreditation. Now we'll look at the different accreditation types that an employer can choose from when completing their online application form.</p>	Handout of application form.pdf	
---------	--	---------------------------------	--

OFFICIAL INFORMATION ACT

<p>10 mins</p>	<p>Accreditation types</p> <p>Accreditation type scenario</p> <p><i>Explain using this scenario and the diagram.</i></p> <ul style="list-style-type: none"> • Standard example - Cherry owns a residential renovation business and needs to employ more carpenters. She recruits and employs them herself, so her business needs to be accredited. Cherry does not need more than 5 carpenters on Accredited Employer Work Visas (AEWV), so she applies for Standard Accreditation. • High Volume example - Brendan has just opened a restaurant (Chicken Nuggets Ltd) and needs to hire 2 chefs, 2 cooks and 5 wait staff. Chicken Nuggets Ltd is the direct employer and needs to apply for accreditation. Because Brendan needs to employ 6 or more workers on AEWV, he applies for Standard High-Volume Accreditation. • Triangular example - Dayna runs a labour hire company (Dayna's Recruitment Ltd) which recruits staff from overseas to work on construction projects. The employees are employed by Dayna's Recruitment Ltd, however they work on projects under other businesses who direct their day-to-day work (controlling third parties). Since Dayna's employees will do contract work for controlling third parties, she applies for High Volume Triangular Accreditation. • Franchisee example - Rhiannon runs a McDonald's (Rhiannon's McDonalds Ltd) which is a well-known franchise. As a franchisee, Rhiannon's McDonald's Ltd has purchased the right to use McDonald's pre-existing business model and branding. The franchise agreement between Rhiannon's McDonalds Ltd and McDonalds means that McDonalds controls certain activities within the business, such as where to source ingredients. Since Rhiannon's business operates under a franchise agreement, she applies for High Volume Franchisee Accreditation. • Triangular Franchisee example - Smile Dentistry Ltd own a number of dental practices which are under different legal entities, for example Teeth and Gums Ltd. Teeth and Gums Ltd uses Smile Dentistry's branding and business model and meet the definition of a franchisee employer the same way McDonald's does. Smile Dentistry Ltd employs staff and contracts them out to work for the other legal entities they own, such as Teeth and Gums Ltd. This makes Teeth and Gums Ltd a controlling third party because they will direct the employees 	<p>Slide 7 - 8</p>	
----------------	--	--------------------	--

<p>10 mins</p>	<p>day-today work. Because Smile Dentistry contracts their employees out to work for controlling third parties who are also franchisees, Smile Dentistry Ltd applies for High Volume Triangular Franchisee Accreditation</p> <p>Accreditation type overview</p> <p><i>Summarise:</i></p> <p>The two main types of accreditation are: Standard and High Volume. High Volume has variations, as described below. Each variation has a set of different requirements.</p> <ul style="list-style-type: none"> • Standard - If employer wants to employ up to 5 people under the AEWV policy. Every employer needs to meet the generic instructions for all employers. • High volume - If employer wants to employ more than 5 people under the AEWV policy. A simple High-Volume accreditation involves one employer recruiting 6 or more people. The following high-volume accreditation types involve different arrangements for recruiting 6 or more people. <p><i>Explain</i></p> <p>Triangular and Franchisee employers can be confusing to begin with, but it's important to be familiar with them. You may be given an assessment activity to check if the client has selected the correct accreditation type.</p> <p><i>Read</i></p> <ul style="list-style-type: none"> • Ask the group to take 5 mins to read through INZ definitions WA2.60.15 and WA2.60.20 and see if they can come up with an example of an employer who fits these definitions. • Ask the group if anyone would like to share their examples. <p><i>Summarise High Volume Variations</i></p> <ul style="list-style-type: none"> • Triangular - When an employer, third party business and migrant worker are involved. The employer (e.g. A Labour hire agency) applies for accreditation. They recruit and employ migrants who they place in the third-party organisation. • Franchisee - When a franchisee business, such as a McDonald's franchisee business, applies for accreditation. There are different rules associated with franchisee businesses, so we have 	<p>Slide 9</p>	
----------------	---	----------------	--

another category for them.

Note - A Franchisor (such as Mc Donald's NZ) cannot apply for accreditation for all its franchises. Each franchisee needs to apply separately.

- **Triangular Franchisee.** When the owner of multiple franchisee businesses applies to become an accredited employer so they can place the migrant employees into one of any of those third-party franchisee businesses. E.g. An owner of three McDonald's restaurants applies to employ many migrant employees to work in one of their various restaurants.

Triangular employment arrangements

Explain these further details:

- A triangular employment arrangement is where AEWV visa holders are **employed by an employer (e.g. a labour hire agency)** and placed with a 'controlling third party'. The employer could also be an employer who wants to place an employee on a secondment in a different business, or an employer who want to place their workers across their different legal entities.
- A 'third party' is a **separate legal entity** to the labour hire agency. The third party may have an arrangement or contract with the agency, allowing the agency 'employees' to perform work for the benefit of the third party.
- The **third party may assign work and direct the employees** placed with them, similar to the control they would have if they were the direct employer.
- Examples of the employer in triangular employment arrangements include:
 - Labour hire agencies
 - Labour for-hire and contingent labour employers
 - Employers who send migrant employees on secondments
 - Parent companies who place their migrant employees with subsidiary companies that are separate legal entities.
- In the first example, the labour hire agency, as the employer, has all the rights and responsibilities of an employer.

Simplified overview of requirements

Reveal the requirement/fees/upgrades graphic and explain:

[How much does it cost to apply for an Employer Accreditation ?](#)

Each accreditation type has different requirements. You can see how these are additive in the slide. We will discuss each set of requirements in detail later in this session.

Fees

Explain

Different fees are associated with each accreditation type. The fee structure is designed to reflect the amount of work required to process each type of accreditation.

Explain how higher levels of processing and risk management activities result in higher accreditation fees.

Upgrades

Employers with a Standard Accreditation can apply to upgrade to High Volume. The duration of their accreditation won't change, just the type they hold. Upgrade fees apply.

Note - If an accreditation application is approved for Franchisee or Triangular employment arrangements, they will be automatically granted High Volume Accreditation, because they will usually want to employ over 5 people.

Note - If they want to change or downgrade their accreditation type, for example from standard or high-volume accreditation to controlling third party accreditation, they must re-apply. The full fee will apply. This is because the changing the application type will require a full assessment by an Immigration Officer.

Complex recruitment structures

Explain

It is possible that various relationships may be formed, between industry groups that need labour, the businesses in those industry groups and labour hire agencies. However, INZ only offer the

	<p>accreditation types we've covered. Many complex arrangements for sourcing labour will come under the rules for the Triangular accreditation type.</p> <p>Accreditation terms and renewing accreditation</p> <p><i>Explain</i></p> <ul style="list-style-type: none"> • For any accreditation type, an employer can apply for accreditation in advance of their need for staff. e.g. seasonal work such as ski field operators. • Standard and High-Volume initial accreditations are valid for 12 months. When these accreditations are renewed, they are granted an accreditation period of 24 months. • All other types are valid for 12 months, with 12-month renewal periods. <ul style="list-style-type: none"> • The way an accreditation application is processed is mostly the same for first year applications and renewals. <p><i>Explain</i></p> <p>At this early stage, it's all about building a picture of the employer, that they are choosing the right accreditation type for their recruitment needs.</p>	<p>Slide 10</p>	
<p>5 mins</p>	<p>What happens in the background</p> <p><i>Use slide 11 to explain what happens when the client submits their online application form.</i></p> <p><i>Explain in relation to the Manual Assessment box on slide 11.</i></p> <ul style="list-style-type: none"> • Some employer accreditation applications may be processed and approved without any human interaction required. • During the automated assessment of the application, our system may detect concerns e.g. a genuine business concern and risk assessment concern that need to be assessed further by an immigration officer. • An activity is created by the system for each concern for an immigration officer, in this case Edmund, to manually assess each concern before a decision can be made on the application. • Employer accreditation applications will be case managed (rather than activity-based) by immigration officers, which means you'll assess all concerns relating to a single application. 	<p>Slide 11</p>	

Requirements for all employers

By the end of this topic, learners can provide an overview of the policy requirements for all Accredited Employer clients.

Resources

- Employer Accreditation Policy PowerPoint
- Case Studies 1 - 3
- [Employer Accreditation Instructions \(Operational Manual\)](#)
- [Employer Accreditation Standard Operating Procedures \(Global Process Manual\)](#) - All Employers:
 - Assess viable and genuinely operating business/organisation
 - Assess Settlement activities
 - Assess Employer compliance

Lesson Plan

Time	Topic	Resource	Notes
10 mins	<p>INZ tools for assessing applications</p> <p>Briefly explain the INZ tools used when assessing applications.</p> <p>Ask learners to navigate to each tool and encourage them to save both tools as favourites in their web browser.</p> <p>Tools</p> <ul style="list-style-type: none">• Operational Manual – we've already been looking at the Operational Manual, which are the immigration instructions we use based on the Immigration Act.• Global Process Manual – contains step-by-step standard operating procedures (SOPs) for processing visa applications.	Slide 12	

	<p>Instructions for accessing tools</p> <p>On Te Taura (The Link) go to About us, select Our groups, then Immigration New Zealand, then Resources, finally click INZkit to access the following:</p> <ol style="list-style-type: none"> 1. Click Processing applications, click on View under 'Global Process Manual', click Accredited Employer. 2. Click Employer Accreditation 3. Click Assess Employer Accreditation 4. Click Assess risk and general requirements for Employer accreditation, scroll down and focus on the structure of the page i.e. When to use, Role, Prerequisites and Context 5. Click Operations Manual, click Temporary entry class visas, then Work visas, then WA Accredited Employer Instructions, then WA2 Employer accreditation instructions, then WA2.10 Requirements for all employers. 		
10 mins	<p><i>Explain</i></p> <p>We briefly talked about how every Accredited Employer application must meet a standard set of requirements, and some types must meet additional requirements. In this topic we will cover the detail of the Standard requirements.</p> <p>Requirements for all employers</p> <p><i>Summarise using the slide graphics</i></p> <p>For an application for employer accreditation to be approved, the employer must:</p> <ul style="list-style-type: none"> • be a genuinely operating business or organisation, and • complete settlement support activities, and • be compliant with the specific immigration, employment, and business standards. • If the employer is a sole trader, a partnership or a trust, New Zealand must be the primary place of established residence for the sole trader, or at least one partner or trustee. <p>Activity</p> <p><i>Explain</i></p>	Slide 13	

	<p>I will call out a few requirements and see if you can locate them under the correct topic. Once we have had a go at guessing the correct topic, we will look at the details.</p> <ul style="list-style-type: none"> The employer must not have provided false or misleading information to INZ (Topic - Compliance with specific standards) In the employee’s first month, the employer must provide information about accommodation options. (Topic – Settlement Support) The employer must be registered as an employer with IRD. (Topic - Viable and Genuine) <p><i>If available, provide small prizes/chocolates for a correct answer or willing guess.</i></p>		
10 mins	<p>Viable and genuine business (WA2.10.1)</p> <p><i>Explain</i></p> <p>When an employer submits their application for accreditation, they declare they meet certain requirements in the immigration instructions. On receipt of their application, our system performs automated checks. If the system thinks something isn’t quite right, a manual activity will be generated for an IO to assess. If no risks/concerns are triggered then their application will proceed as normal. However, just because a client declares something as correct or in place, it doesn’t mean it’s true. We have post-decision verification/risk management activities to ensure employers meet the standards after they gain accreditation.</p> <p>Now let’s look at the <i>Viable and genuine business</i> requirements. The employer must:</p> <ul style="list-style-type: none"> be registered as an employer with IRD; and have no sole traders, or general partners* who are bankrupt or subject to a No Asset Procedure. <p><i>* A general partner is defined in section 19 of the Limited Partnerships Act 2008.</i></p> <p><i>Explain the basic difference between partners of a partnership and general partners of a limited partnership.</i></p> <p>A general partner in a limited partnership is liable for all the debts and liabilities of the partnership, where limited partners are only liable to the extent of their capital contribution.</p> <p>Note - <i>A limited partner in a limited partnership is not taken into account based on the definition in instructions, only the general partner is assessed</i></p>	Slide 14	

OFFICIAL INFORMATION UNDER THE OFFICIAL INFORMATION ACT

The employer must also have:

- **not made a loss** (before depreciation and tax) over the last 24 months; **or**
- **a positive cash flow** for each of the last 6 months; **or**
- **sufficient capital and/or external investment** (e.g. funding from founder, parent company or trust) to ensure the business remains viable and ongoing; **or**
- **a credible, minimum two-year plan** (e.g. work contracts) to ensure the employer's business remains 'viable and ongoing'. *

***'Viable and ongoing'** includes being able to meet financial obligations e.g. pay for wages, salaries, all operating costs, and inventory (if relevant).

The employer only needs to meet one of the criteria at WA2.10.1(b) and will make a declaration regarding this in the application form. If the employer has been operating less than 12 months OR they declare they do not meet any of the criteria at WA2.10.1(b), ADEPT will create a manual activity for the Immigration Officer to assess.

Refer to Handout of application form and explain

If the employer has declared in the form that they have been operating for less than 12 months:

Pathway

Has your organisation been operating or trading for more than 12 months?

No

Further down in the application form, they have declared that they meet WA2.10.1(b)(iii) – they have sufficient capital and/or external investment (for example funding from a founder, parent company or trust) to ensure the employer's business remains viable and ongoing;

Financial information

In every month for the last six months, has your organisation had a positive cashflow?

Yes

Provide details (optional)

██████████ Profit and Loss statements attached.

Since the business has been operating less than 12 months, the Immigration Officer will have to check the supporting documents to confirm that the employer meets WA2.10.1(b)(iii) as claimed. The IO can check the SOPs to find out how to assess whether the instruction is met and may need to request additional evidence or PPI if the evidence provided at lodgement is not satisfactory.

Note to Facilitator – Reminder as per page 3, discuss with TA about using SOPs and how to handle any general instructions currently in place.

Evidence

Ask: What evidence might be used to prove Viable and Ongoing?

Answer: Evidence of meeting the requirements set out at (a) to (c) above may include, but is not limited to:

- financial statements such as an annual report and profit and loss statements;
- evidence of start-up capital and/or funding;
- a cash-flow statement and/or credible revenue forecast;
- contracts for work;
- GST returns;
- income tax returns;
- PAYE returns;

- bank statements;
- stock lists/orders;
- lease agreements for business premises or space.

Emphasise

This broad detail is in the policy, but there is also a set of SOPs in the Global Process Manual you can refer to, for specifics.

Open the link to the SOP - [Assess viable and genuinely operating business/organisation.](#)

Provide these instructions:

Open the link to the SOP on your device and identify how the following details are assessed or confirmed:

If the sole trader, partner in a general partnership or general partner in a limited partnership applying for accreditation are the same as person listed on the insolvency register.

Answer: Compare the information:

- in ADEPT and AMS
- on the NZBN websites
- on the Insolvency register website
- from the Insolvency and Trustee Service.

If an employer that has indicated that they have a positive cashflow for each of the last 6 months

Answer: Review cashflow statement, (or year-to-date or profit and loss statement) and GST and PAYE or payday filing provided by the employer to establish whether the income is higher than the expenses for the organisation.

If an employer has indicated that they have sufficient capital and/or external investment to remain viable and ongoing.

Answer: See SOP on financial sustainability. This is equivalent to an assessment of whether an organisation is likely to remain viable and ongoing.



15 mins	<p>That was a lot to taken! Let's see what that looks like for the [REDACTED] example.</p> <p>Activity: Case Study 1 [REDACTED]</p> <p>Facilitator overview</p> <ul style="list-style-type: none"> • Case study notes – refer to notes in each slide. • Operational Manual – WA2.10.1(b)ii. • Global Process Manual – Assess viable and genuinely operating business/organisation - point 4. • Outcome: Instruction met. IO's check Profit and Loss and confirms 6 months of positive cashflow. <p><i>Explain</i></p> <p>We are going to look at a common assessment activity you'll need to complete.</p> <p><i>Give each learner a copy of the case study and take them through the example using the slide notes. Use your judgement on whether to let them have a go in pairs or to step them through it.</i></p> <p><i>Explain that the group needs to:</i></p> <ul style="list-style-type: none"> • <i>Read the Concern details</i> • <i>Check the Related Instructions and locate the appropriate SOP for guidance on what to do</i> Facilitator note - The current SOP states we should request cashflow statement, (or year-to-date or profit and loss statement) AND GST and PAYE or payday filing. <p><i>However, we would only request the GST and payday filing info if there was reason to think the cashflow/profit and loss statements were not legitimate. GST and payday filing would back up the information in the cashflow/profit and loss.</i></p> <ul style="list-style-type: none"> • <i>Decide if the INZ Instruction has been met</i> • <i>Explain the rationale behind your decision</i> 	<p>Case Study 1 [REDACTED].pptx</p>	
---------	---	-------------------------------------	--

OFFICIAL INFORMATION ACT

	<p>Case Study 1 Debrief</p> <ul style="list-style-type: none"> • Ask the group how many thought the instruction was met – ask them how they came to the decision and what did they do? • Ask the group, those who thought the instruction was not met, how they came to the decision and what did they do? 		
--	---	--	--

Time	Topic	Resource	Notes
10 mins	<p>Activity – No online or physical presence WA2.10.1(a).</p> <p>As part of the ‘genuine business assessment activity’ in ADEPT, an assessment concern that often triggers is ‘no physical or online presence’. This happens when the employer declares in the application form that they do not have an online presence. When a business has no online presence and/or is operating out of a residential address, this can be an indicator that they may not be genuinely operating as per WA2.10.1.</p> <p><i>Ask: What checks could we do in this instance to establish if the business is genuine?</i></p> <p>Answers to include:</p> <ul style="list-style-type: none"> • Go to the address specified on the employer’s application form. • Google Maps and street view search to locate the business. • Check our INZ systems to see if we have them on file for previous work-related visas. • Google the business to see if they have any online reviews, articles written about them or a website. Sometimes employers will declare having no online presence, even if they do have an online presence. 		

There are some open source search we can use before deciding to request additional financial information from these employers.

Operating address and online presence

Does your organisation operate from a physical address?

Yes

Is the address that your organisation primarily operates from the same as the physical address entered on the Organisation details page?

Yes

Does your organisation have an online presence?

No

Explain

We'll use a different example to [REDACTED] because they told us on their form they have a physical address and an online presence.

Explain

Scenarios to discuss in groups – 'No online or physical presence'

1. Milk Ltd is a dairy farm who have applied for standard accreditation so they can hire Dairy Cattle Farm Workers and Herd Managers. In their application form they declared they do not have an online presence. You carry out the following checks:
 - Googled the business and it does not bring up any results besides that the business was registered in 2014
 - Visited the business address on Google Street View and note it is a house in the middle of a large paddock
 - Checked the client contacts report in AMS and note we have issued 15+ work visas for this employer in the past.

Slide 15

Question – Based on these checks, would you request any additional evidence from Milk Ltd to be satisfied that they are viable and genuinely operating?

Answer – There is no need to request additional information. It is normal for a dairy farm not to have an online presence, and what we saw on google street view is in line with what we would expect. The business has been operating for 8 years and we have issued multiple work visas in the past. We can explain this in our rationale and resolve the activity as instructions met.

2. Hammer and Nails Ltd is a construction company that has been operating for 4 months and have declared they do not have an online presence. You carry out the following checks:
- Googled the business and get several hits indicating they are a registered company
 - Visited them on Google Street View and note that the business address is a residential address in an Auckland suburb
 - Checked the client contacts report in AMS and notice that we have not received visa applications in the past based on job offers from Hammer and Nails Ltd

Question – Based on these checks, would you request any additional evidence from Hammer and Nails Ltd to be satisfied that they are viable and genuinely operating?

Answer – Additional information required. Whilst the business is registered, this isn't an indication they are genuinely operating as it is not hard to register a company. There is nothing at the registered address to indicate there is a construction company operating out of it, and as we have not issued visas to this company before they do not have a recognised history with INZ. In this scenario we would likely make a phone call to the employer to find out more about the business (eg how do they get business with no online presence, what projects do they have on at the moment etc). If after that we still had concerns, we would follow the SOP 'employer is not a viable and genuinely operating business or organisation'.

3. Pies Ltd is a bakery that has been open for 1.5 years and have declared they do not have an online presence. You carry out the following checks.
- Googled the business. Whilst they do not have a website, they do have a number of recent positive google reviews.

Slide 16

In room TA take this section

[They can choose to use GloPro or explain current practice e.g. general instruction directives](#)

	<ul style="list-style-type: none"> • Visited them on Google Street View and can see signage for the business. • Checked the client contacts report in AMS and note we have never received visa applications in the past based on job offers from Pies Ltd. <p>Question – Based on these checks, would you request any additional evidence from Pies Ltd to be satisfied that they are viable and genuinely operating?</p> <p>Answer – No further information required. Whilst the business has no recognised history with INZ, they appear to be genuinely operating and the recent reviews indicate they are doing well. We would not have any concerns with their financial position and would take their declarations in the application form regarding this at face value.</p>	Slide 17	
15 mins	<p>Activity: Case Study 2 [REDACTED]</p> <p>Facilitator overview</p> <ul style="list-style-type: none"> • Case study notes – refer to notes in each slide. • Operational Manual – WA2.10.1(a). • Global Process Manual – Assess viable and genuinely operating business/organisation - point 5. <p><i>Ask TA in the room to explain which checks are completed before sending a PPI or raising a risk activity as per the SOP.</i></p> <ul style="list-style-type: none"> • Outcome: Instruction met. IO's completes some open source searches like the previous examples. <p><i>Explain</i></p> <p>We are going to look at a common assessment activity you'll need to complete.</p> <p><i>Give each learner a copy of the case study and take them through the example using the slide notes.</i></p> <p><i>Explain that the group needs to:</i></p>	Case Study 2 [REDACTED] [REDACTED].pptx	

	<ul style="list-style-type: none"> • Read the Concern details • Check the Related Instructions and locate the appropriate SOP for guidance on what to do • Decide if the INZ Instruction has been met • Explain the rationale behind your decision <p>Case Study 2 Debrief</p> <ul style="list-style-type: none"> • Ask the group how many thought the instruction was met – ask them how they came to the decision and what did they do? • Ask the group, those who thought the instruction was not met, how they came to the decision and what did they do? 		
5 mins	<p>Settlement Support activities (WA2.10.5)</p> <p>Ask: What support do you think a new migrant needs in the first month of arriving in New Zealand.</p> <p>Answers to include:</p> <ul style="list-style-type: none"> • accommodation options • transportation options (including driving and public transportation) • the cost of living • how to access healthcare • Citizens Advice Bureau services • relevant community groups • how to obtain an IRD number • any industry training and qualification information/options • specific job or industry hazards. <p>Use slide 19 to reveal icons and text to summarise</p> <p>Highlight</p>	<p>Slide 18</p> <p>Standard Operating Procedure - Assess settlement activities</p> <p>Slide 19</p>	

Where an employer is applying for accreditation for the first time, these activities cannot be done since the instruction wording relies on an AEWV holder being employed. So, the form requires them to declare they will do these things.

Note – In the Immigration Online EA application form the employer needs to complete a declaration about whether they ‘intend’ to provide settlement support activities and time to complete them. If the employer declares that they don’t intend to provide settlement support, then we should PPI them. See the SOP, for more detail.

Employers declaring that they don’t intend to meet requirements is expected to be rare.

Evidence (Verification Officer role only)

Explain:

A Verification Officer may perform a post-assurance risk management activity to assess if the employer met the Settlement Support requirements. Evidence may include, but is not limited to:

- copies of the settlement information
- communications to AEWV employees with settlement information
- on-boarding or induction policies, guidelines, or plans
- confirmation of completed Employment New Zealand’s employee online modules.

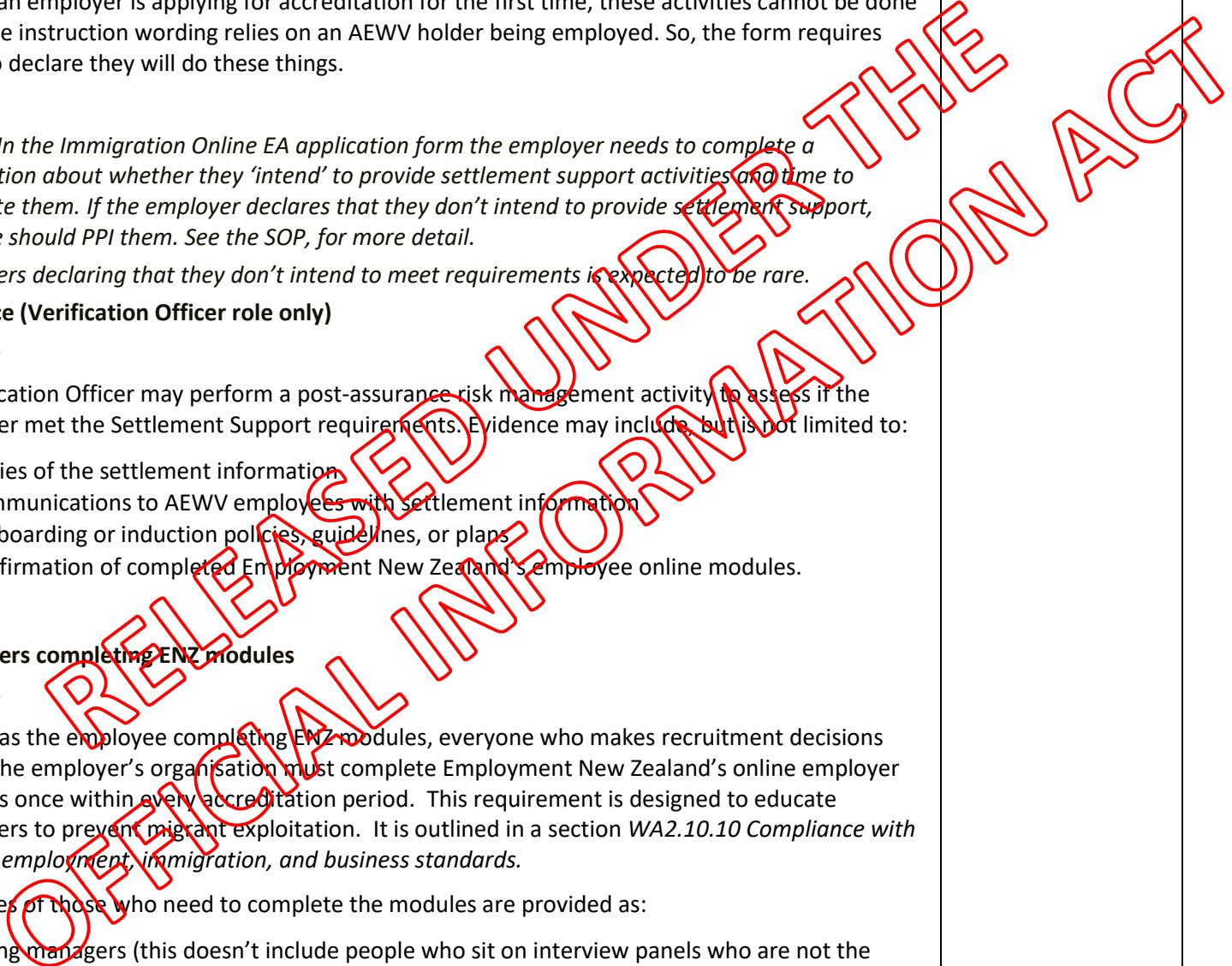
Employers completing ENZ modules

Explain:

As well as the employee completing ENZ modules, everyone who makes recruitment decisions within the employer’s organisation must complete Employment New Zealand’s online employer modules once within every accreditation period. This requirement is designed to educate employers to prevent migrant exploitation. It is outlined in a section *WA2.10.10 Compliance with specific employment, immigration, and business standards*.

Examples of those who need to complete the modules are provided as:

- hiring managers (this doesn’t include people who sit on interview panels who are not the hiring manager)
- human resource managers



	<ul style="list-style-type: none"> • sole traders, and • partners. <p>Note – Employers have asked if they need to submit evidence of the completion of modules by themselves or their employees. For this requirement, INZ have decided that we won't check this during post-decision risk management activities. However, businesses are encouraged to do the ENZ modules during the application process.</p> <p>Note -The settlement activities do not need to be completed multiple times by the employer for the same Accredited Employer work visa holder if the information initially provided has not changed.</p>		
10 mins	<p>Assess Employer Compliance</p> <p><i>Explain</i></p> <p>To be accredited, employers and any key people in their organisation must be compliant with immigration and employment standards.</p> <p><i>Ask: Who can give me an example of compliance or non-compliance.</i></p> <p>Answers to include:</p> <ul style="list-style-type: none"> • Compliance - Clean history as an employer, with no convictions or fines, etc. • Compliance - Good track record with INZ in hiring migrants in the past. • Non-Compliance - Employing a person with the wrong visa. This is an offence. • Non-Compliance - Exploiting a person by employing them knowing they don't have the correct visa to work, paying them less wages than the going rate, making them work longer hours with the threat of reporting them to INZ with the fear of being deported. This is an even bigger offence. <p><i>Explain:</i></p>	Slide 20	

RELEASED UNDER THE OFFICIAL INFORMATION ACT

	<p>You can see the importance of approving accreditation for the right employers. It's better for the migrant, the employer and ultimately reflects well on New Zealand.</p> <p>Compliance with specific standards (WA2.10.10)</p> <p>Use the paraphrased list of criteria to outline some of the main requirements.</p> <p><i>Emphasise</i></p> <p>These instructions are black and white in most cases. For example, either you are on a list/have a conviction, or you are/do not. At the next stage (Job Check), immigration officers will make a holistic assessment of any issues regarding immigration and employment law that did not result in criminal convictions/the employer being currently on a stand down list.</p> <p>Notes</p> <ul style="list-style-type: none"> • <i>Key persons are defined in the definitions at the end of the policy. Ask one of the group to find that definition, in the Definitions section of the instructions, and read it to the group.</i> • <i>The Other requirements noted on the slide are detailed in earlier or later slides/learning. Instructions W2.10.10 (l) and (m) relate to Fees and Costs, and (n) relates to the need for employers and hiring staff to complete ENZ modules every 12 months.</i> <p>Regards the history of non-compliance; IOs are unlikely to come across this during application processing. It is more likely that a VO will identify non-compliance as part of a post-decision risk management activity.</p>		
10 mins	<p>Activity – Compliance relating to offences</p> <p><i>Provide instructions on slide.</i></p> <p>Open the instructions and locate: WA2.10.10 Compliance with specific employment, immigration, and business standards</p> <p>Which section numbers relate to:</p> <ul style="list-style-type: none"> – Stand-down periods for immigration offences 	Slide 21	

	<ul style="list-style-type: none"> - Imprisonment for immigration offences - Convictions for immigration offences. <p>Answers – Compliance relating to Offences</p> <p><i>Select four pairs to read out the answers they found, for the three types, including a separate group for the Crimes Act.</i></p> <p><i>Reveal the slide and confirm the answers.</i></p> <p><i>Explain</i></p> <p>There are other parts to this section of the Operational Manual. We don't have time to cover it all today, but you can look at it when you return to your desk.</p> <p><i>Summarise</i></p> <p>Under WA2.10.10 Employers can also not:</p> <ul style="list-style-type: none"> • have previously been subject to a stand down period for an immigration offence. The issue must have been rectified and sufficient steps taken to prevent it from happening again for this criterion to be waived. • have employed someone who is not entitled, under the Immigration Act 2009, to work in the role; or • have provided false or misleading information to INZ or withheld relevant information from INZ that is prejudicial to an application or any verification, investigation, or compliance activities <p>We will use the process outlined in the SOPs, which outline what evidence is required to prove or disprove these requirements.</p>	Slide 22	
10 mins	<p>Activity – Describe the Sections</p> <p><i>Provide instructions</i></p> <p>Ask the group to pair up and take five minutes to try to find out as many titles of the sections of the two acts using legislation.govt.nz as a source.</p> <p>Note - The title is for the whole section and not the sub-sections.</p>	Slide 23 Slide 24	

10 mins	<p>Answers – Describe the Sections</p> <p><i>Present the answers and explain:</i></p> <p>Every group who got more than 8 answers can participate in a pop-quiz. (<i>Facilitator option: To provide chocolates/small prizes.</i>)</p> <p>Activity - Check the SOPs</p> <p><i>Ask the group to open the SOP and look for the following answers:</i></p> <p>How do you check if the employer is on a stand-down period for employment offences? Answer: Check this list: Stand-down list: Employers who have breached minimum employment standards. And confirm the identity of the director, or key person is the same as the Identity listed on the stand-down list. The majority of the time there will be a warning placed on the employer if they are on the stand-down list. This will result in a risk activity prompting you to address it. IOs do not generally need to check the stand-down list unless there is information held by INZ or provided with the application which indicates they are on it.</p> <p>If the employer/key person is still within their stand-down period, what should you do? Answer: PPI the employer.</p> <p>How will you know if the employer has provided false and misleading information to INZ, or withheld information? Answer: It will be triggered by alerts and warnings in ADEPT or you may identify it yourself during processing of the application.</p> <p><i>Explain</i></p> <p>There are two requirements with stand-down periods. One is the labour inspectorate list of employers who have breached employment standards, that we just discussed. The other stand-down list is created by INZ for Immigration offences that result in a fine only. Appendix 12 of the instructions relates to the Immigration offences with fine only.</p> <p>The way we deal with an employer who is on each list is different:</p>		
---------	--	--	--

OFFICIAL INFORMATION ACT

	<p>Labour inspectorate stand-down list – We check this list to see if someone is on it. If they are not on the list, we must assume the issue is resolved to the satisfaction of Employment NZ. So, the employer meets our requirement - not being on the list.</p> <p>Immigration offences with fines stand-down list – If an employer has been on this list, they need to prove they have resolved the cause of the issue/s and satisfy us it won't happen again. For example, if they have implemented new or improved policies or processes to address the issue, we may find they meet these requirements. IOs may get advice from a VO if they are unsure how to determine if these requirements have been met.</p> <p><i>Explain:</i> The SOPs will direct you on how to do other things we haven't covered in detail in this session.</p>	<p>Standard Operating Procedures - Assess Employer compliance</p>	
<p>5 mins</p>	<p>Compliance – Costs and fees - (WA2.10.10.(l)&(m))</p> <p>Fees</p> <p>The employer must not charge fees that would be unlawful in New Zealand. Examples may include:</p> <ul style="list-style-type: none"> any payment to secure/retain an employment relationship e. g. a work visa applicant who is outside of New Zealand pays their employer \$20,000 in exchange for a job offer and support of their accredited employer work visa application. unlawful bonding agreements e.g., the employer pays for an employee to attend a \$1,000 training course, and bonds the employee to the employment for 5 years. If the employee resigns at any stage within the 5 year period, a \$1000 deduction is made from their final pay. This would be unlawful because it is unreasonable. deductions that are 'unreasonable' or are not in the employment agreement, for accommodation, travel, or food. <p>Note - Deductions can be unreasonable, even if it is in the employment agreement.</p> <p>Costs</p> <p>The employer must not pass on recruitment, training, or equipment costs. Examples may include:</p> <ul style="list-style-type: none"> advertising/recruitment fees 	<p>Slide 25</p>	

	<ul style="list-style-type: none"> • employer accreditation and Job Check application fees, or immigration adviser fees • compulsory training costs • health and safety equipment or branded uniforms • trade testing costs • tools, where the employer retains the ownership. • This type of thing is unlikely to come up unless the employer declares in the application that they pass on the costs outlined above. If they declare something like this, ADEPT will create an activity for the IO to assess. We should not go looking for this type of thing unless ADEPT tells us to, or if there is a warning on the employer which indicates that WAZ 10.10(l) and (m) may apply. 		
2 mins	<p>NZ - based requirement</p> <p><i>Explain:</i></p> <p>If the employer is a sole trader, partners in a partnership or trustees in a trust, New Zealand must be the primary place of established residence for the sole trader (person), or at least one partner or trustee.</p>		
15 mins	<p>Activity - [REDACTED]</p> <p><i>Read the scenario out and ask the group to pair up and answer the following question using the ‘Assess Employer Compliance’ SOP as their reference:</i></p> <div style="border: 1px solid black; padding: 5px;"> <p>[REDACTED] needs a farm assistant. They plan to recruit from Papua New Guinea and have applied for Employer Accreditation. As part of the application, the company director, [REDACTED] declares that ‘<i>In the past 7 years one the organisations key people employed a person who was not entitled, under s344(d) of the Immigration Act 2009, to work in that role.</i>’ This triggers an ADEPT manual assessment, which is assigned to you. You search the list and can’t find [REDACTED], but [REDACTED], the ‘key person’, is listed on the Inspectorate Stand down list. What do you do?</p> </div> <p>Answer: See third example in SOPs:</p>	<p>Slide 26</p> <p>Standard Operating Procedures - Assess Employer compliance</p>	

	<ul style="list-style-type: none"> • Confirm if they are the same person listed. This would include verifying the identity of the key person based on information provided in the application form with information we hold on other INZ systems. If this can't be confirmed, then you'd raise a risk activity for our Risk and Verification team to resolve. • If you confirm the identity of the person in the application form matches the same person we have on file for an INZ offence and conviction, you should go to PPI SOP. 		
15 mins	<p>Activity: Case Study 3 [REDACTED]</p> <p>Facilitator overview – employer misrepresentation and risk of wage recycling.</p> <ul style="list-style-type: none"> • Case study notes – refer to notes in each slide. <ul style="list-style-type: none"> – There is an alert/warning on the employer, but there is no stage 1 employer accreditation specific instruction we can use to address the concern of wage recycling. There is an instruction in stage 3 work visa (WA4.10.1(f)), that would help. – Therefore, we can't decline the employer accreditation based on this alert/warning. • Operational Manual – None in relation to stage 1 employer accreditation. • Global Process Manual – No in relation to stage 1 employer accreditation. • Outcome: Treatment required = No. Reason/Outcome = Risk mitigated. Rationale = IO's the risk of wage recycling is not captured by accreditation instructions. <p><i>Explain</i></p> <p>We are going to look at a risk assessment activity you'll need to complete.</p> <p><i>Give each learner a copy of the case study and take them through the example in the below format using the slide notes.</i></p> <ul style="list-style-type: none"> • <i>Explain</i> Read the first 4 slides and pause. <i>Ask: What is the risk with [REDACTED]?</i> Answer: Premiums/wage recycling <i>Ask: Who can (tell me/have a guess at) what wage recycling is?</i> 	<p>Case Study 3 [REDACTED].pptx</p>	

Answer: When a migrant worker is promised a decent hourly wage, a pathway to residency in New Zealand and an employer to support their temporary visa application. So far so good? The trouble is, these workers are made to pay back a huge portion of their wages to their employer, all for the privilege of living in New Zealand.

- **Read slide 5**

Explain

Slide 6 has an alert/warning from one of our other INZ systems when work visas were assessed and managed differently.

- *Ask learners to have a look at the main instructions for a standard accreditation WA2.10.10 and establish which ones, if any, we could rely upon to address this risk?*

Answer: There isn't an instruction in stage 1 employer accreditation to address this risk. WA2.10.10(m)(i) doesn't apply because the warning relates to work visa holders who are already in New Zealand and recycling their wages back to their employer.

- **Slide 6 Outcome** – Remember, we have TA's and other INZ experts like Verification Officers who can support you making a quality decision.

What would you add for:

- **Treatment Required** = No
- **Comments** = The risk of wage recycling is not captured by accreditation instructions. The risk can be addressed.
- **Reason/Outcome** = Risk Mitigated

- Show **slide 7** with the answers.

- **Slide 8** How to make a quality decision

Explain how the decision was made in this example. Some parts of this will be taught on the job with your buddy.

Case Study 3 Debrief

- You don't need to know instructions for other gateways if you aren't processing them.
- You need to be able to identify whether the concern in a warning is applicable to the application type you are processing.

Slide 27

<p>7 mins</p>	<p>Activity – Cupcakes Ltd</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Cupcakes Ltd is a bakery that has applied for standard accreditation. The risk assessment in ADEPT shows there are 2 warnings on Cupcakes Ltd:</p> <ul style="list-style-type: none"> • “5 January 2022 – application number 12345678 and 12345677 were declined in January 2022 as the applicants had been working for Cupcakes Ltd in breach of their visitor visa conditions for 1 year. Please consider this for future applications” • “15 February 2022 – anonymous allegation received that Cupcakes Ltd makes staff work additional hours for no additional pay. They also do not pay time and a half on public holidays. For future applications supported by this employer please ensure they are compliant with employment law”. What would you do? </div> <p><i>Explain</i></p> <p>Prompt the group for answers as you take them through the answers using answers on slide 28</p> <p>Answer part 1: Check WA2.10.10 and SOPs ‘assess risk and general requirements for employer accreditation’ and ‘assess employer compliance’.</p> <p>Answer part 2: For the first warning, it appears that WA2.10.10(d)(i) may apply. Currently SOPs state you should review information in INZ systems. In this case that would involve:</p> <ul style="list-style-type: none"> • looking into the declined applications to confirm the extent and significance of the breaches (how long and the reasons for the breach if known) and consider the evidence we have to support that. • If you determine the information can be substantiated, you would raise a risk activity in ADEPT explaining the details of the breach, then refer to the Verification Officers who would recommend the actions you should undertake. This might involve the VO asking you to request additional documents from the employer prior to sending a PPI, such as time and wage records, RAYE records etc. <p>Things the IO can consider when deciding whether to PPI and/or decline on WA2.10.10(d)(i):</p>	<p>Slide 27</p> <p>Standard Operating Procedures - Assess risk and general requirements for Employer accreditation</p> <p>And</p> <p>Standard Operating Procedures - Assess Employer compliance</p> <p>Slide 28</p>	
---------------	---	--	--

- The surrounding circumstances of each breach/event (e.g. whether the breach is deliberate or due to a genuine misunderstanding of immigration requirements)
- The severity of the breach(es) (e.g. whether the breach was merely technical or whether it had a serious negative impact and a large number of employees were involved)
- Whether there were multiple or reoccurring breaches (i.e. whether there is a pattern of non-compliant behaviour)
- The timeframe since the non-compliance (e.g. whether the matter is historic and no further breaches have occurred since)
- The outcome of each event (e.g. did the employer remedy the non-compliance to the or are they actively engaging in a manner that shows their willingness to comply)

Answer part 3: For the second warning, it relates to possible non-compliance with employment law rather than something that resulted in the employer ending up on the stand-down list. There is no point requesting documents to see if the allegations can be substantiated because there are no instructions at WA2.10.10 that we could PPI on.

The SOP 'assess risk and general requirements for employer accreditation' states that you should consider whether the risk can be mitigated at accreditation stage, or whether it is more appropriate to address it later at stage 2 or 3. In this case, as the risk/warning can't be addressed at accreditation gateway, you would state in your rationale that the warning can be addressed at the next stage (Job Check). This would be the process for most general employment law non-compliance that does not fall under WA2.10.10. If we substantiated the concerns in the warning at gateway 2 (job check) we would be using WA3.15(k) to PPI.

2 min	<p>Employers substantially the same (WA2.10.15)</p> <p><i>Allow the group time to read the text on the slide.</i></p> <div style="border: 1px solid black; padding: 5px;"> <p>“An immigration officer may decline an application if they are satisfied that the employer is substantially the same as another organisation that does not meet the requirements for accreditation, and has been re-established as a new legal entity”.</p> </div>	Slide 29	
-------	---	----------	--

This is commonly referred to as ‘phoenixing’ – the employer has created a new legal entity like a ‘phoenix rising from the ashes’ to avoid being associated with any non-compliance issues under their old legal entity.

Whilst the instruction is rarely used, if the employer has declared ‘yes’ to the following, ADEPT will create a manual assessment activity asking you to check whether it applies.

In the last seven years has your organisation been re-established as a new legal entity which is substantially similar to the previous organisation? For example involving a lot of the same key people, and operating in the same sector providing the same goods or services.

Yes No

Provide details of the re-established business, and the reasons for re-establishment

Maximum of 500 characters. If you would like to provide further information please upload as a document.

Check the SOP number 19 under ‘assess employer compliance’ for what to do:

If you complete the checks as per the SOP and cannot find anything which suggests that the employer is substantially the same as another organisation that does not meet requirements for accreditation, you can just explain this in your rationale and move on (if there was an issue this would normally be indicated in warnings in AMS and ADEPT).

1 min	<p><i>Summarise</i></p> <p>All employers who apply for accreditation need to meet the requirements we just discussed.</p> <p>Next, we will learn about the specific additional requirements that other accreditation types need to meet, starting with those in triangular employment arrangements.</p>		
-------	---	--	--

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requirements for Triangular employment arrangements

By the end of this topic, learners can provide an overview of the policy requirements for Triangular employment arrangement clients

Resources

Employer Accreditation Policy PowerPoint

[Employer Accreditation Instructions](#)

[Employer Accreditation Standard Operating Procedures \(SOPs\)](#) – Triangular Employers

Lesson Plan

Time	Topic	Resource	Notes
10 mins	<p><i>Explain</i></p> <p>We will look at the specific requirements for Triangular employment arrangements now. They are additional to the Standard requirements for all employers.</p> <p>Requirements</p> <p><i>Introduce overarching requirements:</i></p> <ul style="list-style-type: none"> • Only place employees in businesses that meet criteria set out in WA2.20.1 • Monitor the employment conditions and safety of employees (WA2.20.5) and respond appropriately to issues (WA2.20.10) • Be placing 15% or more New Zealand Citizens or residents for 30 or more hours per week (WA2.20.15) • Have a history of employing staff (WA2.20.20) <p><i>Ask</i></p> <p>Why do you think these extra requirements are in place for Triangular employment arrangements?</p> <p><i>Answers:</i></p> <ul style="list-style-type: none"> • We want to ensure they have experience employing people 	Slide 30	

	<ul style="list-style-type: none"> • Ensure the employer remains responsible for their migrant employees while they are placed with third parties and that they will treat their employees safely and fairly (according to the law). • Because we don't want the employer to be set up solely for the purpose of employing migrants. 		
10 mins	<p>Only place employees in businesses that meet criteria set out in WA2.20.1</p> <p><i>Ask the group</i></p> <p><i>Why do you think there are special requirements for third-party organisations that employees will be 'placed' with?</i></p> <p>Answer: Because the employer, is not the person who will direct the employee on a daily basis and INZ need to ensure that the employee is being placed in a fair, safe, and legally compliant workplace.</p> <p><i>Explain</i></p> <p>You will see that many of these requirements are the same as the business 'standards' that we expect when employers directly apply for accreditation. That is, we want the employee to be working in a fair, safe, legal business, whether placed there by a labour hire firm or by the employer themself.</p> <p>Activity- Learn about WA2.20.1</p> <p><i>Provide these instructions</i></p> <p>Read the policy instructions related to the organisations an employee can be placed with and answer these questions:</p> <p><i>Ask: What are some of the key placement information that the third-party employer should have provided the employer (e.g.- labour hire)?</i></p> <p>Answers can include:</p> <ul style="list-style-type: none"> - Plan for how the employer is going to check employment and safety conditions of migrants placed with the third-party. - Starting and finishing dates, hours worked, locations of work and employment or safety issues identified. 	Slide 31	

	<ul style="list-style-type: none"> - Declarations that it (the business entity), or any of its key persons: <ul style="list-style-type: none"> o are not subject to any ineligible stand-down period for, o have not received a prison sentence for, or o have not been convicted of; <ul style="list-style-type: none"> specific offences listed under either WA2.10.10 (b), (f) or (g). <p>Note -These stand-downs, prison sentences and convictions are the same ones we learned about earlier.</p> <p><i>Ask: Does the third-party employer need to agree to site visits from INZ?</i> Answer: Yes (WA2.20.1(v))</p> <p><i>Ask: What list do we expect the third-party employer not to be on?</i> Answer: Labour Inspectorate list. Possible alternative answer is a list of stand-downs, prison sentences or convictions for certain immigration-related offences.</p>		
10 mins	<p>Monitoring employment conditions & safety (WA2.20.5)</p> <p><i>Ask the group to read the requirements in WA2.20.5 a-c.</i></p> <p><i>Explain</i></p> <ul style="list-style-type: none"> i. important to note for first time employer accreditation that some of the requirements cannot be met until an AEWV is about to be placed with a CTP. So apart from the plan the other requirements will be met by the employer declaring they intend to do these things. For them to state that they won't meet the requirements would be rare. However, if they state they won't meet the requirements a manual assessment activity will be created in ADEPT for an IO to check certain things. <p><i>Ask: What must be checked, either as part of the application process, or as part of a post-decision risk assessment?</i></p> <p>Answer: As per WA2.20.5(d), checks carried out before an Accredited Employer work visa holder is placed in a triangular employment arrangement must include, but are not limited to:</p> <ul style="list-style-type: none"> i. Plan for monitoring the working conditions and safety of migrants while they are placed with third parties ii. assessing documentation from the organisation about their: 	Slide 32	

	<ul style="list-style-type: none"> ○ processes to prevent and address workplace bullying; and ○ processes to assess and prevent risk (including a risk register); and ○ health and safety induction material; and <p>iii. providing information to the organisation about the visa conditions and employment terms and conditions of the Accredited Employer work visa holders that will be placed with them; and</p> <p>iv. acquiring declarations from the organisation that they meet the requirements set out at (a) above.</p> <p><i>Reveal the summary/answers on the slide</i></p> <p><i>Summarise</i></p> <p>These checks are specific, and an easy list to use to make sure you can say the Employer (e.g. labour hire agency) has done enough homework on the businesses that they will be placing migrant employees with.</p> <p>Note - There is currently no detail or example for what an effective 'plan' would look like, for how the employer is going to check employment and safety conditions. INZ are also working through how a plan would translate to effective actions, and whether plans provided by another party, such as a LIA would be acceptable.</p>		
5 mins	<p>Triangular Monitoring Evidence (WA2.20.5)</p> <p><i>Ask: What sort of evidence do you think you could use to prove the nature of monitoring activities for a triangular employment arrangement?</i></p> <p><i>Take answers from the group, then summarise and reveal the answer.</i></p>	Slide 33	
5 mins	<p>Responding appropriately to issues (WA2.20.10)</p> <p><i>Explain</i></p> <p>We don't only want to see that they have plans in place for good 'preventative' employment practices, such as inductions. We also want to evidence that they are prepared to be able to</p>	Slide 34	

resolve any employment issues that arise. So, we look at things like their processes for investigating employment issues, for example.

Show the summary slide and explain:

We don't have time to work through every point of the policy in this session, but after this workshop, at your desk, you can look at the detail of:

the required resolution processes (point (b)) and what happens to the employer's accreditation when an employer breaches of employment law in a significant and moderate way (point (c)).

Explain

There is distinction between what is needed for the first accreditation application and what is needed in renewal (second or subsequent) accreditation applications. That is, for the first application the only thing INZ can assess is, 'Is a complaints and disputes process (formal and informal) in place and is it appropriate?' In the renewal application, INZ may also seek examples of how an employer responded to any issues raised.

Ask the group to read through the instructions for WA2.20.10 (b) to (e).

Ask: What sort of evidence would you expect to see that would prove (or disprove) the ability of an organisation to respond appropriately to issues?

Answer: As per point (f), evidence of meeting the requirements set out at (a) to (e) above may include, but is not limited to:

- i. **documented complaints and disputes resolution processes;**
- ii. **records of issues raised in relation to Accredited Employer work visa holders,** how the issue was investigated and resolved, the outcome of issue resolution and corrective actions taken to prevent the issue recurring. This includes information directly from Accredited Employer work visa holders and the organisations they are placed with;

	<ul style="list-style-type: none"> iii. terms of business, contract or agreement documentation between the employer and the organisation where Accredited Employer work visa holders are placed; iv. records of site-specific safety inductions of Accredited Employer work visa holders; v. site visit and inspection findings; vi. safety audit compliance updates, including findings; vii. communication records between the employer and both the Accredited Employer work visa holders and the organisations they are placed with (including emails, file notes, and records of meetings and conversations). <p><i>Explain</i></p> <p>See the Triangular Accreditation SOP to learn more about the types of evidence that we need to obtain from an employer for these requirements, both for an initial application and a renewal.</p>		
5 mins	<p>Place NZ citizens and residents (WA2.20.20)</p> <p><i>Read the text on the slide.</i></p> <p>“A minimum of 15% of the employer’s employees who are placed in triangular employment arrangements must be New Zealand citizens or residents who are guaranteed at least 30 paid hours per week, unless the employer is placing no more than one employee in a triangular employment arrangement”</p> <p><i>Explain</i></p> <p>There should be no further need for explanation. The rule around one employee allows a triangular arrangement between a labour hire agency and a third-party employer to place one migrant.</p> <p>Note - <i>The question you might get asked is, ‘Is INZ actually able to check this?’ Response is: It will be declaration-based. We would take the employer’s declaration at face value unless there was any adverse information – for example a warning regarding an anonymous allegation that the employer was not telling us the truth regarding the number of NZ citizens/residents they employ.</i></p>	Slide 35	

5 mins	<p>History of employing staff (WA2.20.20)</p> <p><i>Read the following text and point to the paraphrased bullet points as you do.</i></p> <ol style="list-style-type: none"> a. The employer must have employed staff, who is not a key person, in New Zealand for the 12 months prior to the application being made. b. An employer may use another legal entity’s history of employing staff in New Zealand to meet (a) above if at least 66% of the ownership of the employer and the other entity is the same, and the employer and the other entity are in the same sector and provide the same goods and/or services. c. Evidence of meeting the requirements at (a) and (b) above may include, but is not limited to: <ol style="list-style-type: none"> i. employment records; ii. audited accounts; iii. evidence of owners of the employer (organisation) and affiliated organisation. <p>Note: Where these instructions state ‘employer,’ they refer to the employer applying for accreditation, not the organisation that Accredited Employer work visa holders are placed with.</p> <p><i>Ask: Why do you think the key persons are not allowed to be used as evidence of employment history?</i></p> <p>Answer: To demonstrate the employer has experience with employing staff. This needs to include experience of employing people who do not hold decision-making rights within the organisation. The people they place with third parties are unlikely to be ‘key’ people.</p>	Slide 36	
10 mins	<p>Activity – Compare Employer Accreditation form with Instructions WA2.20</p> <p><i>Explain</i></p> <p>It’s important to remember that we can consider a lot of the instructions are met based on the declarations made by the employer in their application form.</p> <p><i>Ask the group to:</i></p> <ul style="list-style-type: none"> • open WA2.20 Requirements for employers using triangular employment arrangements 	Handout of application form.pdf	

	<ul style="list-style-type: none">• refer to the [REDACTED] handout pages 8 – 10 and compare how the declarations match the requirements in the instructions. <p>Summarise - for triangular most things are covered by declarations in the application form.</p>		
--	--	--	--

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Requirements for Franchisee employers

By the end of this topic, learners can provide an overview of the policy requirements for Franchisee clients.

Resources

Employer Accreditation Policy PowerPoint

[Employer Accreditation Instructions](#)

[Employer Accreditation Standard Operating Procedures \(SOPs\)](#) – Franchisee Employers

Lesson Plan

Time	Topic	Resource	Notes
15 mins	<p>Requirements for franchisee employers</p> <p><i>Explain</i></p> <p>All employers applying for triangular, or franchisee accreditation will be required to upload additional evidence, as these accreditation types have additional requirements and associated risks.</p> <p><i>Outline the policy:</i></p> <ol style="list-style-type: none"> a. An employer who is a franchisee (as defined at WA2.60.20) must meet the following requirements: <ol style="list-style-type: none"> i. The employer must have been operating (trading or carrying out business) in New Zealand, as a franchisee, for at least 12 months prior to the application being made (see (b) below); and ii. a minimum of 15% of the employer’s employees must be New Zealand citizens or residents who are guaranteed at least 30 paid hours per week unless the employer has no more than one employee. b. An employer may use another legal entity’s history of operating as a franchisee to meet (a)(i) above if at least 66% of the ownership of the employer and the other entity is the same, and the employer and the other entity are in the same sector and provide the same goods and/or services. 	Slide 37	

Ask: What sort of evidence would you expect to see to prove that they have been operating for 12 months or more and employ 15% or greater of NZ staff?

Answer: It is shown in point c). Evidence of meeting the requirements set out at (a) and (b) above may include, but is not limited to:

- i. certificates of occupancy or lease agreements for business premises or space;
- ii. evidence of bank transactions;
- iii. tax records;
- iv. stock lists/orders;
- v. evidence of owners of the employer (organisation) and affiliated organisation.

Note - *The requirement to employ 15% or greater of NZ staff is declaration-based. It is most likely that evidence for this set of requirements would be needed as part of post-decision risk management activities completed by R&V.*

Provide instructions.

Go to the Standard Operating Procedure *Assess Franchisee employer requirements.*

Identify what to do if:

- the employer and the other entity are **not** in the same sector and provide the same goods and services
- less than 66% of the ownership of the employer and the other entity is the same.

Answer: For both situations, you should PPI, based on the instructions under Step 2.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Overview of Accredited Employer Risk Management and Review (AERMR)

By the end of this topic, learners can explain what post-decision AERMR is and why it's important.

Resources

Employer Accreditation Policy PowerPoint

Lesson Plan

Time	Topic	Resource	Notes
5 mins	<p>What is AERMR?</p> <p><i>Explain</i></p> <p>The Accredited Employer Risk Monitoring and Review (AERMR) programme has been created to provide risk management of the Accredited Employer Work Visa system. With the new Accredited Employer work visa policy, the first 12 months of the programme will focus on managing risk after a decision has been made. This is because our visa processing system (ADEPT) is new too. Because ADEPT does not hold much data about employers yet, INZ are prepared to take on more risks when the first Accreditation application is received and approve the application with no/limited verification being carried out. We are able to take on this risk because we will be doing 'post decision verification' after the application has been approved. This might look like an impromptu visit from INZ to establish if employers are acting as they declared after we granted them an accreditation.</p> <p>As years go by and more applications will be received and processed in ADEPT. ADEPT will gather more data on employers and applicants. ADEPT will use this data to identify which applications warrant further verification, and as time goes on, we will start doing more verification when applications are received, and request further evidence that instructions are met, rather than mostly relying on the information in the application form.</p>	Slide 38	

Live activity with TA

Topic outcomes

By the end of this topic, learners will be able to apply the end-to-end process when assessing an Employer Accreditation activity.

Topic resources

- Facilitator computer and projector
- Participant computers
- Live activities

Lesson plan

Time	Topic	Resource	Your notes
1 hr	<p>This session could also be run as a demonstration by the TA, showing the group live activities in ADEPT.</p> <p>Technical Advisor to allocate ADEPT activities.</p> <p>Explain that learners can raise their hand at any time to ask questions of the TA or the facilitator.</p> <p>Explain that each time learners get to a point of wanting to make a determination in ADEPT they are to stop and seek approval from the TA before proceeding. Explain that this is crucial as the learners do not yet have the authority to make such decisions.</p> <p>If learners get to a point that they have determined that further information is required, write a bullet list of required information, and show it to the TA. Once approved the TA explain the next steps. Provide the learners with a new activity to work on.</p>	Live assessment activities	

Close

By the end of this topic, learners reflect on what they've learnt and ask final questions.

Resources

Employer Accreditation Policy PowerPoint

Lesson Plan

Time	Topic	Resource	Notes
10 mins	Session close Answer any final questions.	Slide 39	
	Reflect <i>Use a reflection activity from your facilitation toolkit that is different from the activity you used in the previous workshop. For e.g. You may choose one of the following activities, or merge two activities.</i> Small groups, different to those they've been working in during the course, share their key takeaways. Small groups write 1-2 of the hardest questions they have about the topic – Other groups then answer those questions. Sit learners in a circle - have them ask a question they have that is unanswered. They then throw a ball to another learner – the learner who catches the ball answers the question. Put key topic words on cards and put them in a bag/hat - have the learners draw a card and talk about the topic for 30 seconds. After the small group activity, ask the group to show 1-5 fingers in response to the question, "How confident are you in completing the tasks you learned in this session?"		



Accredited Employer Work Visa Employer Accreditation Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT





**NEW ZEALAND
IMMIGRATION**

Topics

About Employer Accreditation, including how to apply

Requirements for all employers

Requirements for triangular employment arrangements

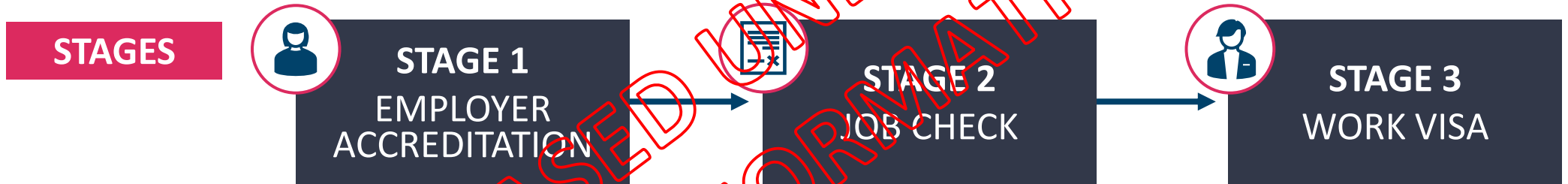
Requirements for franchisee employers

Accredited Employer Risk Management and Review (AERMR)

Close

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

The Accredited Employer Work Visa policy



RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Open the Operational Manual

- Go to Te Taura > INZkit > [Operational Manual](#)
- On the left-hand side click “**Temporary entry class visa**”
- Click “**Work visas**”
- Click on **WA Accredited Employer Instructions**

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Objective of Employer Accreditation instructions (WA1.1)

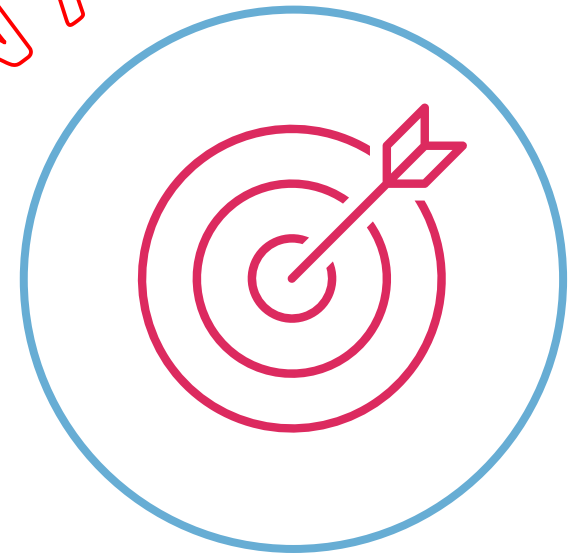
The Accredited Employer policy contributes to the *Reconnecting New Zealand* strategy. The EA instructions:

Incentivise employment of New Zealanders

Promote migrant recruitment for genuine skill shortages

Reduce migrant exploitation risks

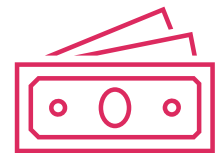
Ensure employers comply with employment & immigration standards



RELEASED UNDER THE OFFICIAL INFORMATION ACT

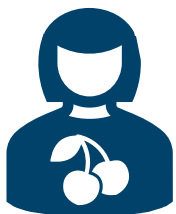
Applying for an Employer Accreditation (WA2)

- The employer must use the Immigration Online form.
- The employer must have a New Zealand Business Number, unless they are a foreign diplomatic or consular mission.
- Evidence must demonstrate the employer meets requirements.
- To apply, or upgrade from Standard to High Volume Accreditation, a set fee must be paid.



Accreditation scenario

Standard



Employer



Migrant employee



High Volume



Employer



Migrant employees **6+**



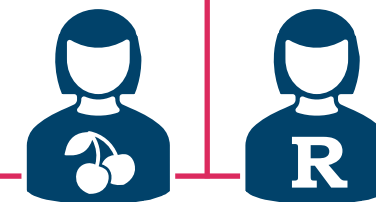
Triangular



Employer (e.g. Labour hire)



Migrant employees



Third party organisations

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Accreditation scenario continued...

Franchisee

RHIANNON'S
MCDONALDS LTD



Rhiannon's Franchise



Migrant employees



Triangular franchisee



Smile Dentistry Ltd
owns many dental practices



Migrant employees



Smile Dentistry franchises

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Accreditation type overview

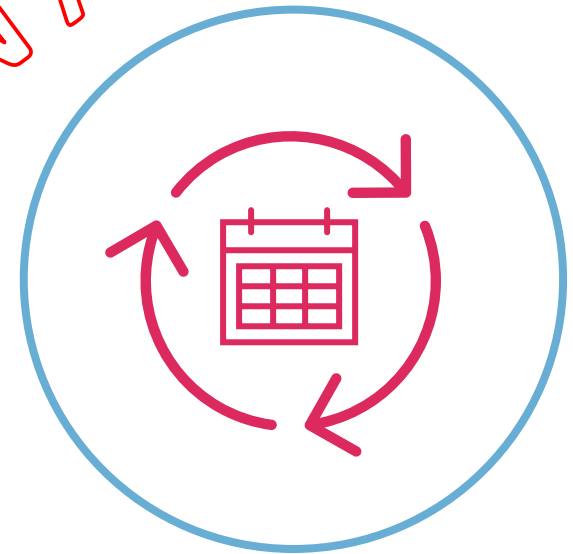
	Standard	High Volume	Triangular	Franchisee	Triangular Franchisee
Diagram	<p>Employer Migrant</p>	<p>Employer Migrants 6+</p>	<p>Employer (e.g. Labour hire) Migrants Third party organisation</p>	<p>Franchisee Migrants</p>	<p>Smile Dentistry Ltd owns many dental practices Migrants Third party Franchises</p>
Requirements	Standard	Standard	Standard + Triangular	Standard + Franchisee	Standard + Triangular + Franchisee
Fees	Standard	Higher fee for more post-decision risk management activities	Higher fee for more post-decision risk management activities (e.g. site visits). These types always require manual assessment due to some of these employers being higher risk.		

Upgrades

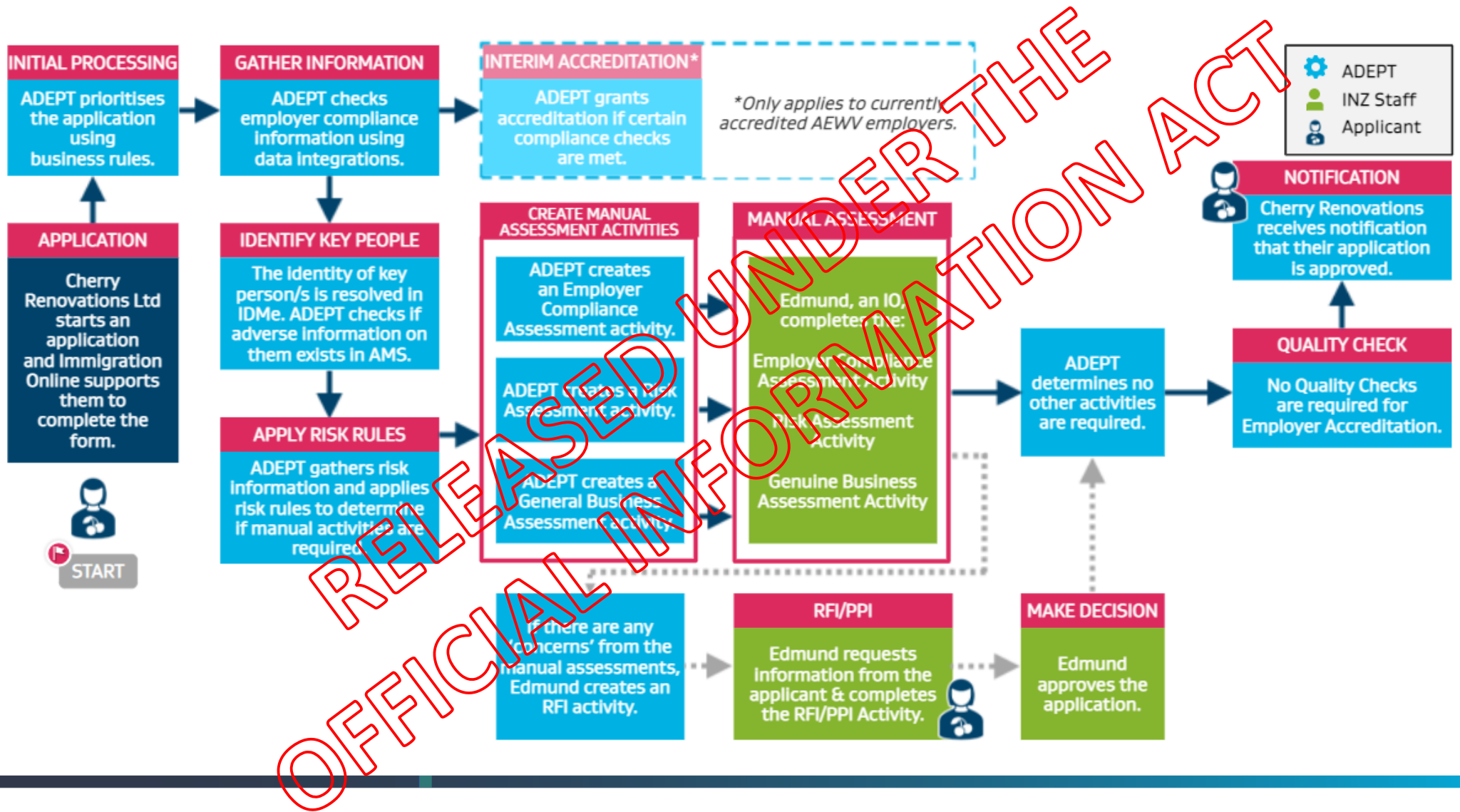
At some stage, applications will be able to be submitted for upgrades from Standard accreditation to High-volume. Upgrade fees will apply.

Accreditation terms and renewing accreditation

- An employer could get an accreditation in advance of the need.
- **Standard and High Volume** – Approved for 12 months initially, with 24 month renewal.
- **All other types** – Approved for 12 months with 12 month renewal.
- Renewals have the same fee as first-time applications.
- The way an accreditation application is processed in ADEPT is mostly the same for first year applications and renewals.



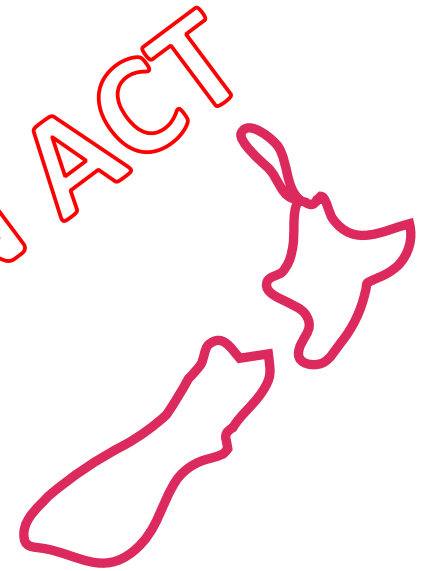
What happens in the background



INZ Tools - Global Process Manual (SOPs)

- Go to Te Taura > INZkit > Processing applications
- Under Global Process Manual click **“View”**
- Click on **“Accredited Employer”**
- Click on **“Employer Accreditation”**
- Click on **“Assess Employer Accreditation”**
- Click on **“Assess risk and general requirements for Employer accreditation”**

'Standard' Requirements for all employers (WA2.10)



VIABLE &
GENUINE

SETTLEMENT
SUPPORT

COMPLIANT

NZ-BASED

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

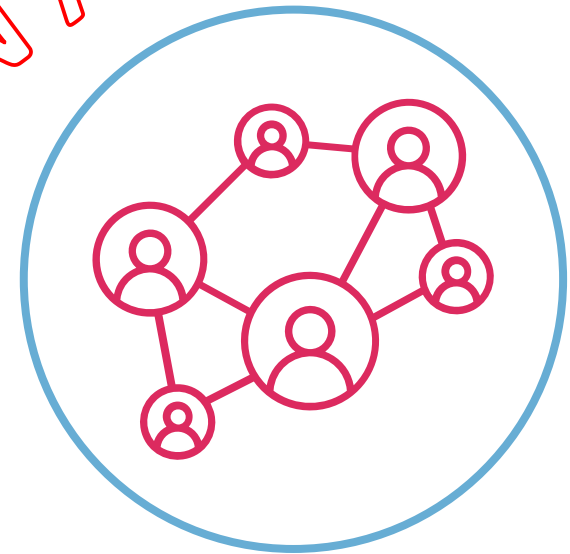
Viable and genuine business (WA2.10.1)

The employer must:

- be a **registered employer with IRD**; *and*
- have no sole traders or general partners who are **bankrupt or subject to a No Asset Procedure**.

And they must:

- have **not made a loss**; *or*
- have a **positive cash flow**; *or*
- have **sufficient capital and/or external investment**; *or*
- have a **credible, minimum two-year plan**



Milk Ltd



- Googled the business and it does not bring up any results besides that the business was registered in 2014
- Visited the business address on Google Street View and note it is a house in the middle of a large paddock
- Checked the client contacts report in AMS and note we have issued 15+ work visas for this employer in the past.

Based on these checks, would you request any additional evidence from Milk Ltd to be satisfied that they are viable and genuinely operating?

Hammer and Nails Ltd



- Googled the business and get several hits indicating they are a registered company
- Visited them on Google Street View and note that the business address is a residential address in an Auckland suburb
- Checked the client contacts report in AMS and notice that we have not received visa applications in the past based on job offers from Hammer and Nails Ltd.

Based on these checks, would you request any additional evidence from Hammer and Nails Ltd to be satisfied that they are viable and genuinely operating?

Pies Ltd



- Googled the business. Whilst they do not have a website, they do have a number of recent positive google reviews.
- Visited them on Google Street View and can see signage for the business.
- Checked the client contacts report in AMS and note we have never received visa applications in the past based on job offers from Pies Ltd.

Based on these checks, would you request any additional evidence from Pies Ltd to be satisfied that they are viable and genuinely operating?

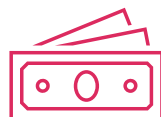
Settling into Kiwi Life – What would help?



RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Settlement Support activities (WA2.10.5)

In the employee's first month, the employer must provide settlement information...



...and sufficient time during paid work hours to complete all of Employment New Zealand's online employee modules.

Compliance with specific standards (WA2.10.10)

Paraphrased (see section WA2.10.10)

The employer and any of its key persons* must not:

- **be on a list of non-compliant employers** maintained by the Labour Inspectorate
- **be subject to a stand-down period** for specific immigration offences
- **have previously been subject to a stand-down for, or convicted and fined for, an immigration offence** without rectifying it and taking preventative measures
- **have employed someone who is not entitled to work** under the Immigration Act 2009
- **have provided false or misleading information or withheld relevant prejudicial information** from INZ
- **Be acting as the employer's key person in New Zealand without a valid visa or in breach of the conditions of their New Zealand visa.**
- **have received a prison sentence** for a specific immigration offence
- **have been convicted** at any time of a specific offence from the Immigration Act or Crimes Act
- **have a history of immigration non-compliance** in other organisations they were key people in
- **be prohibited from being a director, promotor or manager** of a company or unincorporated body, within New Zealand or overseas
- **have been convicted in the last five years of any offences listed in the Companies Act s382**
- **be under current investigation or in a prosecution process for any non-compliance.**
- **Plus other requirements**

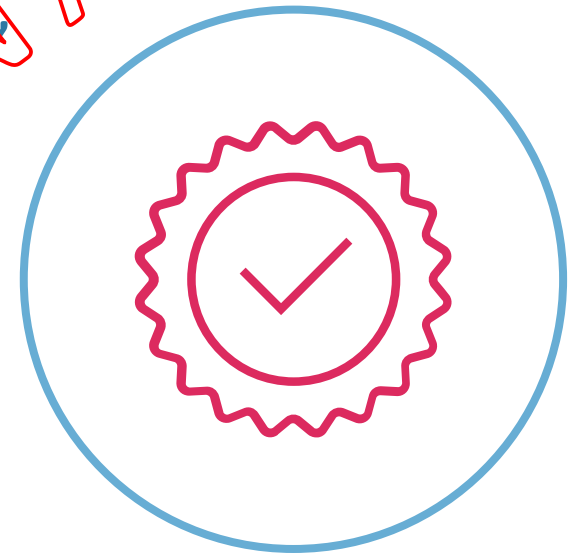
Activity – Compliance relating to offences

Open the instructions and locate

WA2.10.10 Compliance with specific employment, immigration and business standards

Which section numbers relate to:

- **Stand-down periods** for offences
- **Imprisonment** for offences
- **Convictions** for offences.



Answers – Compliance relating to Offences

IMMIGRATION ACT 2009

STAND-DOWN (FINE ONLY)

Sections

342(1)(a)

343(1)(d)

344(d)

347

350(1)(a)



PRISON SENTENCES

Sections

343(1)(d)

344(d)



CONVICTIONS

Sections

342(1)(b), 343(1)(a),

345, 348,

351 *or*

CRIMES ACT 1961

Sections

98, 98C or 98D



Activity – Describe the Sections

IMMIGRATION ACT 2009

STAND-DOWN FOR FINE

342

343

344

347

350

PRISON SENTENCES

CONVICTIONS

345

348

351

CRIMES ACT 1961

CONVICTIONS

98

98C

98D

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Answers – Describe the Sections

IMMIGRATION ACT 2009

STAND-DOWN FOR FINE

342	343	344	347	350
Provision of false or misleading information	Aiding and abetting	Obstruction or failing to meet requirements	Publishing false or misleading information	Offences by employer

PRISON SENTENCES

CONVICTIONS

345	348	351
Improper dealings with immigration or identity documents	Alteration of forms	Exploitation of unlawful employees and temporary workers

CRIMES ACT 1961

CONVICTIONS

98	98C	98D
Dealing in slaves	Smuggling migrants	Trafficking in persons

Compliance – Costs and fees - (WA2.10.10.(l)&(m))

Costs

The employer must **not** pass on recruitment, training or equipment costs to the employee.

Fees

The employer must **not** charge fees that would be unlawful in New Zealand.

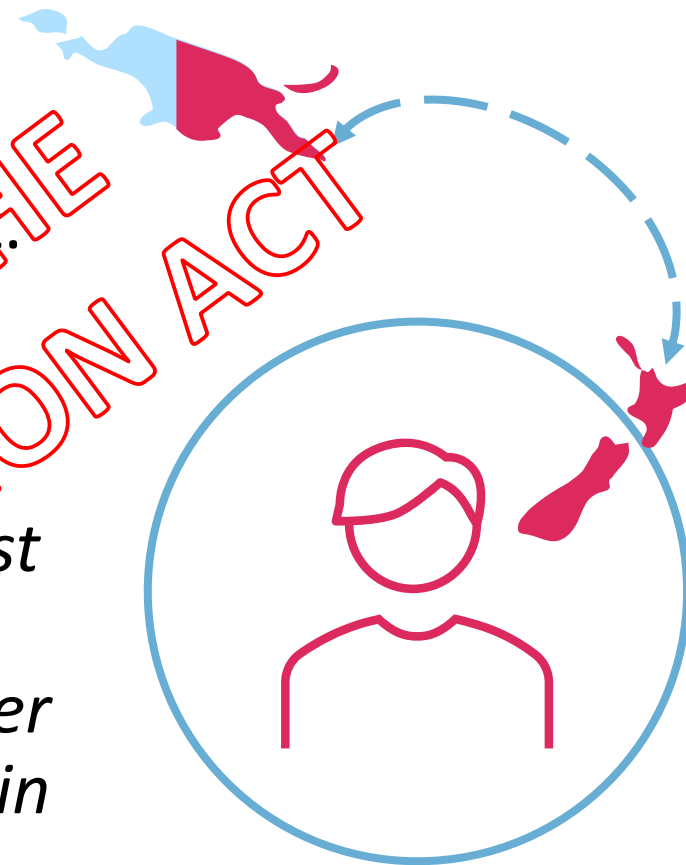


RELEASED UNDER THE OFFICIAL INFORMATION ACT

Activity - [REDACTED]

[REDACTED] needs a farm assistant. They plan to recruit from Papua New Guinea and have applied for Employer Accreditation. As part of the application, the company director, [REDACTED] declares that *'In the past 7 years one the organisations key people employed a person who was not entitled, under s344(d) of the Immigration Act 2009, to work in that role.'* This triggers an ADEPT manual assessment, which is assigned to you.

What do you do?



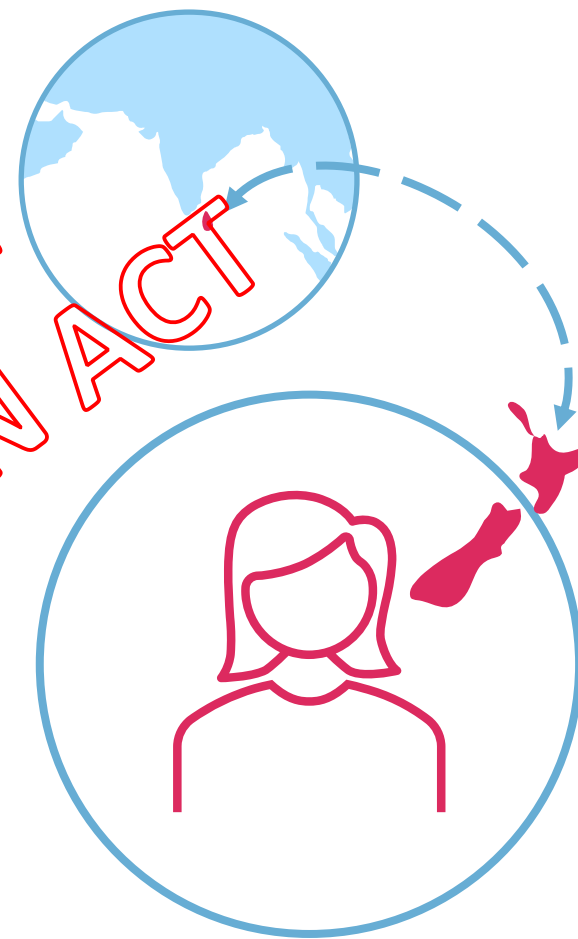
OFFICIAL INFORMATION ACT

Activity – Cupcakes Ltd

Cupcakes Ltd is a bakery that has applied for standard accreditation. The risk assessment in ADEPT shows there are 2 warnings on Cupcakes Ltd:

- “5 January 2022 – application number 12345678 and 12345677 were declined in January 2022 as the applicants had been working for Cupcakes Ltd in breach of their visitor visa conditions for 1 year. Please consider this for future applications”
- “15 February 2022 – anonymous allegation received that Cupcakes Ltd makes staff work additional hours for no additional pay. They also do not pay time and a half on public holidays. For future applications supported by this employer please ensure they are compliant with employment law”.
What would you do?

What would you do?



Answers – Cupcakes Ltd

Part 1 – Instructions and SOPs

- Instruction [WA2.10.10](#)
- SOPs
 - ‘assess risk and general requirements for employer accreditation’
 - ‘assess employer compliance’

Part 2 – First warning – employing people with wrong visa for working

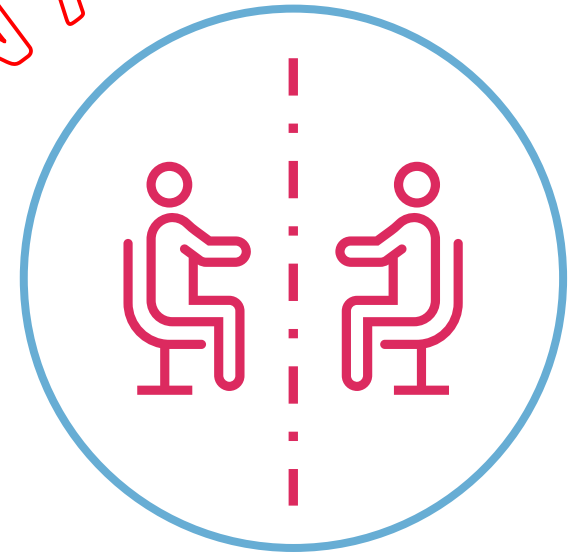
- Instruction [WA2.10.10\(d\)\(i\)](#) may apply
- Check why Cupcakes Ltd previous applications were declined

Part 3 – Second warning for non-compliance

- No instructions in Stage 1 [WA2.10.10](#) that we can PPI applicant
- SOP ‘assess risk and general requirements for employer accreditation’ consider how to mitigate the risk at stage 1 of AEWV.
- Stage 2 Job Check – if our concerns can be confirmed, we may be able to PPI the applicant based on [WA3.15\(k\)](#)

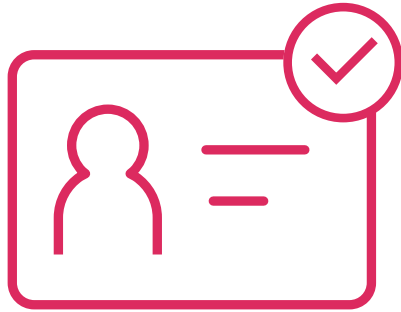
Employers substantially the same (WA2.10.15)

“An immigration officer may decline an application if they are satisfied that the employer is substantially the same as another organisation that does not meet the requirements for accreditation, and has been re-established as a new legal entity”.



RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Triangular employment requirements (WA2.20)



ONLY PLACE
EMPLOYEES IN
BUSINESSES
THAT MEET
CRITERIA
(WA2.20.1)

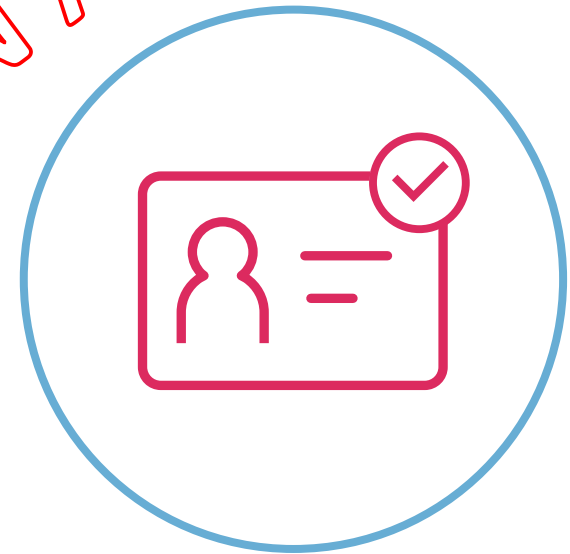
MONITOR &
RESPOND
(WA2.20.5 &
WA2.20.10)

EMPLOY 15%+
NZ CITIZENS
OR RESIDENTS
FOR 30 HRS +
(WA2.20.15)

HAVE A
HISTORY OF
EMPLOYING
STAFF
(WA2.20.20)

Where employees can be placed (WA2.20.1)

- Why do you think there are special requirements for third-party organisations that employees will be 'placed' with?
- What are some of the key placement information that the third-party employer should have provided the employer (e.g. labour hire agency)?
- Does the third-party employer need to agree to site visits from INZ?
- What list must the third-party employer not to be on?



Monitoring employment conditions & safety (WA2.20.5)

The employer must provide:

- a plan for how they will monitor employment and safety conditions of migrants
- workplace bullying prevention processes
- risk assessment and prevention processes, including the Risk Register
- health and safety induction material
- visa conditions and placement terms
- declarations that support the above.



Triangular Monitoring Evidence (WA2.20.5)

Evidence may include, but is not limited to:

- Plan for how third parties will be monitored
- contracts
- workplace policies, processes and guidelines
- health and safety induction material
- records of communications
- terms of business between the employer & third-party
- placement details, including start & finish dates
- wage and time records
- information obtained from site visits
- information from the employee
- independent third-party audit findings.



RELEASED UNDER THE OFFICIAL INFORMATION ACT

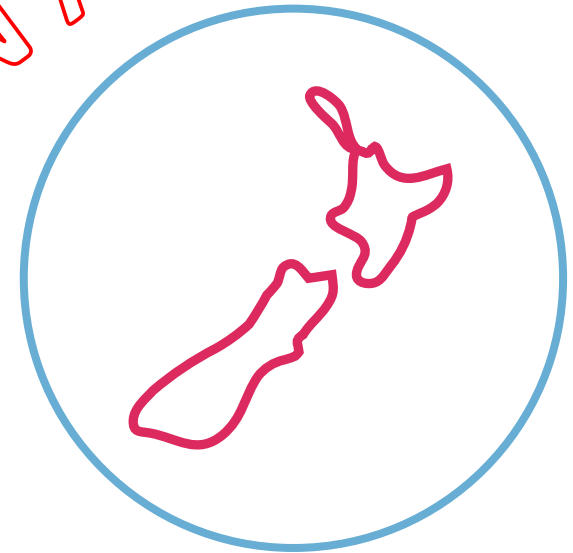
Responding appropriately to issues (WA2.20.10)

- The employer must have informal and formal disputes and complaints resolution processes
- These processes must include certain elements - See policy (b)
- There are results for 'significant' and 'moderate' breaches in these requirements – See policy (c and d)
- Where non-compliance affects more than one employee, those employees must be removed as per the policy (e)



Place NZ citizens and residents (WA2.20.20)

“A minimum of 15% of the employer’s employees who are placed in triangular employment arrangements must be New Zealand citizens or residents who are guaranteed at least 30 paid hours per week, unless the employer is placing no more than one employee in a triangular employment arrangement”

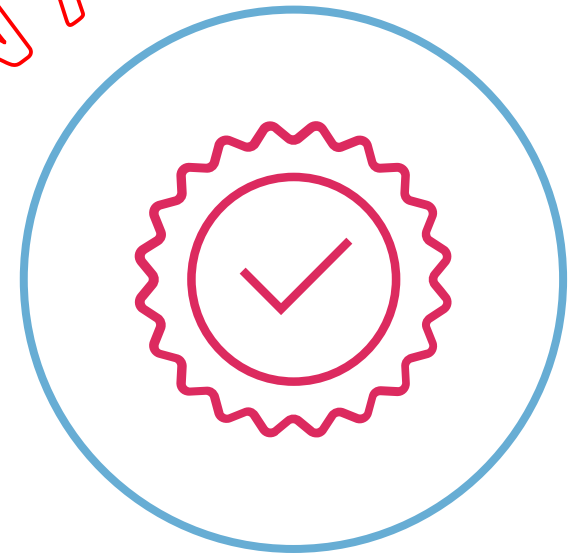


RELEASED UNDER THE OFFICIAL INFORMATION ACT

History of employing staff (WA2.20.20)

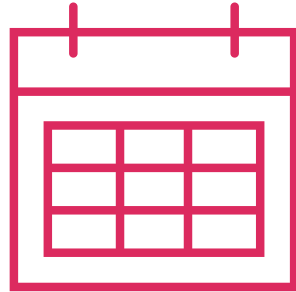
Paraphrased

- The employer must have employed staff (**not the key person in NZ**) for the previous 12 months
- If another entity is used to evidence employment history, the entity needs to be in the same sector and have 66% or more of the same owner/s.



RELEASED UNDER THE OFFICIAL INFORMATION ACT

Requirements for franchisee employers (WA2.25)



TRADING FOR
12 MONTHS
PRIOR AS A
FRANCHISEE

EMPLOY 15%+
NZ CITIZENS
OR RESIDENTS
FOR 30 HRS +

Risk management and review

	AEWV Gateways			Post-Decision
Immigration Risks	Employer Accreditation	Job Check	Migrant Check	AERMR
Migrant Exploitation	Y	Y		Y
Sustainability of Employment	Y			Y
Employer Phoenixing (obscuring previous non-compliance)	Y			Y
Non-compliance with Immigration Law	Y	Y		Y
Role Inflation		Y		Y
Salary Inflation		Y		Y
Non-genuine job offers		Y		Y
Non-genuine advertising		Y		Y
National Security			Y	Y
Character			Y	Y
Identity			Y	Y
Payments of premiums for employment			Y	Y
Non-genuine work experience			Y	Y



Close

Key take-outs?

Questions?

RELEASED UNDER THE
OFFICIAL INFORMATION ACT