MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

MEMO

DATE	31 March 2023
TO	Risk Monitoring and Review Governance Group
PREPARED BY	Privacy of natural persons – Risk & Verification Manager AERMR Development Team
APPROVED BY	Risk and Verification Tasking Group Privacy of natural persons , Manager Risk and Verification Onshore, V&C Geoff Scott, National Manager Risk and Verification, V&C Richard Owen, General Manager, V&C

SUBJECT	**OPTIONS ANALYSIS FOR AERMR INTERNAL REFERRAL**

PURPOSE

This memo analyses the potential options for delivering a capability for staff within the Ministry of Business, Innovation and Employment (MBIE) to refer an accredited employer for post-decision checks via the Risk Monitoring and Review (AERMR) process.

RECOMMENDATIONS

It is recommended that you:

a) **Note** the business need for an internal referral process for AERMR.

Noted

b) **Note** the array of options available to deliver an internal referral capability.

Noted

c) **Approve** design progression of the recommended Option Three

Approved/Discuss

d) **Note** that a review of the internal referral process will take place six month after implementation to ensure the processes and authorization levels are fit for purpose, the outcome of which will be reported back to RMRGG.

Noted

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Privacy of natural persons

Date: _____   Date: _____18 -4- 2023._____

_____   _____
Richard Owen   **Stephanie Greathead**
GM Verification and Compliance   Chair RMRGG
Immigration New Zealand – MBIE   Immigration New Zealand - MBIE

Date: _____   Date: _____

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BACKGROUND

1. Accredited Employer Risk Monitoring and Review (AERMR) is a risk-based prioritisation process for monitoring Employers who are accredited under the Employer Accreditation process. It helps INZ to ensure that businesses that employ migrants continue to meet accreditation requirements. This was developed because pre-decision risk and verification activities are limited under the Accredited Employer gateway. It is enabled by a new legislative framework and the new ADEPT ICT platform.

2. Currently, the decision over which employers are monitored via AERMR each month is undertaken via a three-channel approach:

   I. Referral Targeted (10%) – where credible allegations of exploitation or malpractice have been received against particular employers from an *external* source, e.g. from CrimeStoppers.

   II. System Targeted (70%) – a set of risk-rules which selects certain employers for AERMR based on known high risk attributes

   III. System Health (20%) – a randomised selection of assumed low or unknown risk employers.

3. AERMR is currently coordinated and tasked by the National Prioritisation Process (NPP), and the AERMR tasks, comprising of desk-based assessments sometimes accompanied by a site-visit to the Employer, are executed by Risk & Verification (R&V).

4. Further information may be found on the MBIE intranet here News.

BUSINESS PROBLEM

5. A number of observations and complaints have been received from MBIE staff in relation to AERMR, which may be defined into two related business problems:

a. MBIE staff sometimes observe concerns with an employer which has already been granted accreditation, and wish to ensure the employer is appropriately scrutinised to ensure they are compliant with the agreed accreditation requirements, and

b. MBIE staff responsible for assessing Accredited Employer applications sometimes notice concerns with an employer which due to unresolvable (at the time) information gaps are unable to be robustly addressed at the time of application for accreditation, but would merit scrutiny at a point in the near-future. Examples include:
   - Employer is very new and has little financial background.
   - Employer has active warnings featuring unsubstantiated information, but have not sponsored migrant workers previously.

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- Employer poses concerns however still technically meets Immigration Instructions.

6. While there is a process for a member of the public or another government agency to lodge a complaint against an employer which may result in it being checked under AERMR via the Referral targeted process, there is no equivalent process for an internal staff member of the Ministry administering the Employer Accreditation policy. This problem would become more significant if the period of employer accreditation was extended to two years (as there would be no means of checking them during that period without AERMR).

7. The requested new business functionality is therefore a means by which appropriately authorised MBIE staff may raise a request for an AERMR check to be conducted on an employer of concern, now or at a scheduled point in the future. The new process shall be called an *Internal Referral*.

HOW SIGNIFICANT IS THE PROBLEM?

It negatively affects…	By…
Compliance with instructions/ legislation	Compromising oversight over whether employers are compliant with specific employment, immigration and business standards (WA1.1(d), WA2.10.10) [WA Accredited Employer Instructions](url)
Risk to the integrity of the immigration system	Inhibiting MBIE staff from being able to formally raise concerns about employers which, through the course of their duties, are identified as potentially breaching (or at significant risk of breaching) their Employer Accreditation obligations.
Quality of decision-making	Providing no middle-ground between approving or declining an Employer Accreditation application, where concerns are noted but which are, at that point in time, unverifiable or unprovable.

KEY CONSIDERATIONS

8. Consultation held with MBIE representatives highlighted the following key considerations:

   I. The process should ensure that Internal Referrals are subject to the same deconfliction process[1] as the other three AERMR types.

   II. There needs to be a means of "flagging" in the ADEPT system that:

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[1] A process managed by the National Prioritisation Process (NPP) with Allocation and Support (A&S) designed to ensure that AERMR does not compromise any active investigation, and other relevant business units are informed where required.

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- an Internal Referral AERMR has been requested on a Accredited Employer (AE), and
- that an AERMR task is Internal Referral, i.e. differentiated from the other AERMR types.

III.   The appropriate authorised users of the Internal Referral process were suggested to be:
- Immigration Contact Centre (ICC) staff
- INZ Visa Operations processing AE applications – authorized roles:
    i.   Practice Lead,
    ii. Immigration Manager,
    iii. Visa Operations Manager and
    iv. Head of Operations
- V&C staff
- Customer, Engagement and Education (CEE) staff involved with AE

It is recommended that use of Internal Referral be restricted to the above business units only, in order to retain reliability of referral and ensure standard pre-decision risk management is used instead of AERMR wherever practical.[2]

IV.   The process needs safeguards (either SOP-based or technical) to prevent its potential misuse (accidental or deliberate):
    a.   By MBIE staff who do not have any genuine business purpose to raise an Internal Referral, or
    b.   By INZ staff processing AE applications not using pre-decision risk management at the time of application, in circumstances when that would be the most appropriate risk treatment to use.

V.   There will need to be guidelines communicated to the staff expected to make the most often use of the Internal Referral process, to both highlight its availability and also the "conditional triggers" under which it should be used (or not used).

OPTIONS ANALYSIS

Option	Pros	Cons
Option 1 Do nothing	• Easiest to implement • Eliminates risk of exposure to allegations of bias (of MBIE staff towards certain employers)	• Does not address the complaints from INZ and MBIE staff regarding lack of any capability to initate

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[2] As highlighted in P2, it is recognised that in some cases, the risk cannot be accurately assessed at the point of AE application, and can only be assessed post-decision after workers have begun work at the Employer. These situations may warrant AERMR referrals.

Option	Pros	Cons
		AERMR when concerns are noted with an employer. • Public can initiate AERMR, however MBIE staff cannot. • Concerns will continue to be raised in ad-hoc emails
Option 2 Utilise Referral Targeted process via NPP	• Fast and easy to implement, as process already in place	• Mixes internal and external allegations together (reporting implications) • Process runs outside of ADEPT, and is therefore harder to monitor and report on
Option 3 [RECOMMENDED] Raise Potential Risk function in ADEPT	• Seamless activation within ADEPT • Easy to track • How ADEPT was designed	• Risk of deprioritisation if Change Request (CR) needed • CR may be expensive in time and effort • Some aspects of this function are not yet operational
Option 4 New "Internal Referral" email-initiated process via NPP	• Keeps internal allegations and concerns separated from external allegations • Identical deconfliction process as Referral Targeted • Cost-effective	• Change to previously agreed model • Does not leverage ADEPT processes (monitoring and reporting implications)
Option 5 Enable authorised INZers to raise AERMR task in system	• Fast and easy to implement • Empowers front-line staff	• Incompatible with current system (A&S led) • Quality control challenging • Self-assignation of AERMR brings ethical and other risks • No deconfliction process

RATIONALE FOR SELECTION

9. <u>Option Three</u> - *Raise Potential Risk function in ADEPT* – is assessed as the best option, because:

a. It leverages INZ's new capital ICT replacement system, ADEPT, which was designed to have risk-related processes done internally within it.

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b. All new employer records are now stored in ADEPT, as are all AERMR tasks done via the existing three processes (System Targeted/Health and Referral Targeted), therefore undertaking the fourth new process also in ADEPT is logical.

c. The ADEPT dashboard can be adapted to include Unassigned and Assigned Raise Potential Risk (RPR) requests, each indicating a request for Internal Referral AERMR.**3**

d. Reporting on AERMR tasks can be done via ADEPT's reporting tools and Insights reporting on AERMR can be drawn from data held in one place.

e. It avoids unnecessary use of email, reduces the administrative burden and reduces the risk of referrals being lost.

10. The risks and constraints with Option Three include:

a. As the Raise Potential Risk function has not yet been used in the Production system, there is a risk of unexpected bugs or constraints emerging during its use.

b. If technical restrictions on roles allowed to use Internal Referral AERMR are not used (i.e. "manage by SOP"), unauthorised staff may send referrals, resulting in inefficiency.

c. If volumes are too significant (above around 150 Internal Referrals per year) this will impact on NPP and A&S. In this circumstance, either more resource would need to be provided, or the volume would need to be throttled via restrictions made to the Internal Referral SOP.

11. The assessment of the Development Team is that the risks for Option Three are not significant.

12. Option Four – *New "Internal Referral" email-initiated process via NPP* – is assessed as a suitable reserve option in case of failure of Option Three. Whilst not optimal, it would allow INZ to initiate the fourth AERMR type in a relatively simple way, as it is not significantly different from the existing Referral Targeted AERMR type and utilises a process all staff already have (MBIE email).

13. This option could be selected and used while longer-term parallel activity is undertaken to make Option Three ready.

HIGH LEVEL PROCESS FOR OPTION THREE

14. The following sections outline the high level process for option three.

a. An MBIE staff member authorised to raise Internal Referral AERMR initiates a RPR function in ADEPT on an employer of concern (using developed guidelines to determine when this may be appropriate) , stating in the Notes the justification for this, and flagging it in Notes as an AERMR Internal Referral.
   o [LONGER TERM CHANGE – REQUIRES CHANGE REQUESTS]

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[3] Because currently RPR is not used for any other business process by INZ.

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- The Requestor ticks a "AERMR Internal Referral" box (Boolean Field) in the RPR screen to flag this RPR task as relating to AERMR.[4]
- Add a new view on employer records in ADEPT to show any RPR (and therefore AERMR) raised on that employer.

b. The RPR request lands in the Potential Risk work queue, where it is viewable via the Potential Risk tab on the left side of the ADEPT screen or via a dashboard.

c. NPP takes the RPR request from the Potential Risk work queue, assess against existing Referral Targeted conditional triggers along with the National Prioritisation Matrix.

d. NPP undertakes usual process as if it was a Referral Targeted case; for example assessment against conditional triggers and source and information credibility assessment.

e. If RPR request for Internal Referral AERMR is sent to A&S.

f. A&S assess case against Tasking & Coordination rules, the INZ Immigration Act and deconflict where necessary, if appropriate raise AERMR in ADEPT as they would if it was Referral Targeted, utilizing the Reason for Risk Monitoring as "TARGETED COHORT (PROACTIVE RISK MONITORING) - IDENTIFIED BY A&S PROCESS"[5].

g. R&V then process the AERMR case as normal.

h. If request is not accepted by A&S, RPR is closed and notes updated with reason why.

REQUIRED DELIVERABLES IF OPTION THREE IS AGREED

Number	Deliverable	Comment
1	SOP	To include: conditional triggers, authorised roles, guide on which Risk Area/Specific Risk to select, text to include in Comment field
2	New ADEPT Dashboard	For NPP to receive RPR referrals.
3	Communication Plan	For all staff.
4	"AERMR" Boolean field in RPR page New view on Employer record in ADEPT to surface RPRs raised on that Employer	Requires (minor) change requests. Desirable longer term – not required for initial launch

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[4] In the short term this is unnecessary as RPR will only be used for Internal Referral AERMR, however this is desirable for the long-term as the RPR function is likely to be used more widely, for risks outside of AERMR.
[5] Suggested as this is an existing, as-yet unused data field which suits Internal Referral AERMR

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| 5 | Reporting plan | Reporting should be incorporated into existing AERMR reporting. |
| 6 | Review | Review of the procedures and authorisation level after six months to ensure the process is operating as intended. |

"Conditional trigger" guidelines would need to be developed to guide authorised MBIE staff about in which situations it is appropriate to use Internal Referral AERMR.

APPENDIX A – Consultation Group

The AERMR Development Team were consulted during the development and review of this memo:

Name	Role/Background
Privacy of natural persons	R&V (Team Lead)
	Assist BA
	Assist BA
	ADEPT SME
	Reg. Intel SME
	Data Scientist
	Allocation & Support
	Assurance
	Risk Rule SME
	CEE
	BVO
	BVO
	Investigations
	Compliance
	Insights
	Op Policy
	Policy

In addition the following persons were also included in the consultation:

- Privacy of natural persons Manager, NPP

- Privacy of natural persons Support Manager, NPP

- Privacy of natural persons AERMR Operations Team Lead, R&V

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APPENDIX B – Indicative high level process for Option Three

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