

## **Work Permit Holder Welfare Review Panel**

### **Review of Work Permit Holder Welfare**

#### **Background**

In the lead up to Brexit, the JFU met with the Home Affairs Minister to discuss access to non-EU workers as there were concerns about whether new EU seasonal workers would want to come to Jersey after December 2020. A Ministerial Decision was signed by the HA Minister in November 2018 granting the agriculture industry up to 130 work permits for non-EU nationals for the years 2019 and 2020. The cap in numbers fell away after Brexit.

The JFU set about finding a reliable labour source and was introduced to an agency that could bring in workers from the Philippines. The majority of our industry's seasonal workers therefore come from the Philippines.

Philippine Labour laws are very strict with regards to their workers going overseas to find work to ensure that these workers are treated fairly. The Labour Attaché came to Jersey with the Agent in October 2019 to inspect the accommodation and reassure herself that workers from her country would be treated well in Jersey. Prior to deployment, the Agency has a (Philippines) legal responsibility to organise briefing and induction for workers and pre-departure orientation.

The Union has had to complete various items of paperwork with the Agency (which is registered with the Philippines authorities) and these papers were sent for ratification by the Labour Attaché at the Philippines Embassy in London:

- Recruitment agreement
- Manpower request
- Master employment contract
- Letter of Undertaking re worker welfare

The Union therefore recruits Filipino workers on behalf of its members, who use the master employment contract, which complies with Jersey Law.

The JCIS Work Permit Policy (WPP) initially stated that only the JFU and Jersey Royal could apply for a work permit for seasonal agricultural workers. This requirement was removed in April 2022. However, the Union continues to provide the service of undertaking work permit applications for its members. We hope that this is helpful to JCIS as it provides consistency and a single point of contact for JCIS. It helps our members as many of the businesses do not have admin support. JCIS Officers are always very helpful when we have a query and like us, they will have seen an increased workload for permit applications.

## JFU Comments on the Terms of Reference

1. **To examine and consider the process of obtaining a Jersey work permit, to include;**
  - a. **the relationship between Jersey work permits and UK visas; and**
    - i. It is the employer (or the JFU on behalf of the employer) who makes the WP application and pays for the WP.
    - ii. A worker will need a Jersey WP before they can apply for a UK visa.
    - iii. EU workers (and some other nationalities eg Brazilian workers) who come to Jersey on a 6 month Jersey WP, do not need to obtain a UK visa to come to work in Jersey. If an EU worker has a 9 month WP, then they do need a UK visa. Since 2020, whilst work permit applications have increased each year, the JFU has only done 1 x 9 month WP application for a EU passport holder. It is too onerous for an EU worker to go to their capital city to the visa office to apply for a UK visa.
    - iv. JCIS currently turn around a WP application in about a week. Once granted the WP is sent to the agent or the worker to use for their UK visa application. JCIS include helpful instructions for the visa application when granting each WP.
    - v. The granting of a UK visa can take anything from 3 weeks upwards. Following the invasion of Ukraine in 2022, there was a delay in the processing of visas. This seems to have settled down but there are still times when 3 work permits are sent to the agency at the same time and visas are granted for 2 workers and there can be several weeks delay before the 3<sup>rd</sup> visa comes through. There is no mechanism to find out why this is or to ask for an update.
    - vi. In some instances, an incorrect UK visa has been issued. JCIS have been very helpful in resolving any queries relating to these matters.
  - b. **the information provided to applicants during the application process;**
    - vii. As set out above, JCIS send out information about how to apply for a UK visa when granting a work permit.
    - viii. The WPP has been updated recently as has the online application requirements and extra information now has to be included in the online WP application eg hourly rate of pay, deductions from salary, copy of employment contract.
  - c. **the funding requirements of the Jersey work permit application process.**
    - ix. The employer pays for the Work Permit for each of their workers. When attending on a previous Scrutiny Panel to talk about seasonal workers, we asked whether it would be possible to have a reduced fee for a returning worker.
2. **To examine Jersey's Work Permit Policy and determine its effectiveness in:**
  - a. **ensuring the welfare of work permit holders;**
    - x. We note that there are sections of the updated WPP document which now relate to worker welfare ie no zero hours contracts, adequate accommodation that meets minimum standards. We know that JCIS officers query any contract that does not adhere to the min 40 hours work per week and will not grant a WP if a contract has a zero hours clause.
    - xi. All dairy farmers and growers who export to UK supermarkets have LEAF accreditation. As part of the audit process, conditions for workers are monitored.

The majority of potato growers also have a GRASP audit [What is GRASP \(globalgap.org\)](https://www.globalgap.org), which is a Risk Assessment on social practice relating to employment.

**b. protecting work permit holders from exploitation and ‘Modern Day Slavery’;**

- xii. All agriculture seasonal permit workers are required by JCIS to have a background or experience of working in agriculture so they are prepared for and understand the physical nature of the work. A WP will not be granted if they do not have this background.
- xiii. Appendix 5 of the WP Policy sets out guidelines for part time work which is helpful for both the employer and the employee. Independent farm audits have an “anti-slavery” component.

**c. providing guidance in relation to work supplementary employment, variation of employment contracts, termination of employment, accommodation and employment disputes.**

- xiv. Appendix 7 has been added to the WPP which sets out workers’ rights and FAQs. All employers should already be complying with the Employment (Jersey) Law 2003. We would be happy for the JFU to be added to the list of Independent organisations offering help and advice.

**3. To identify and assess the welfare obligations placed on employers of work permit holders and to examine:**

**a. any relevant guidance or support provided by the Government;**

- xv. The WPP requires employees to be adequately accommodated. All agricultural seasonal permit holders are housed on farms in fully equipped accommodation and there is a maximum accommodation offset charge of £115 per week. They are therefore not having to pay the much higher local market rents. The JFU has written to the Social Security Minister to ask that the accommodation offset charge should only be increased at the same time as a change in the minimum wage and not at a different time.
- xvi. As new workers are only able to access healthcare apart from emergency hospital treatment for the first 6 months, JFU employers of new 1<sup>st</sup> time Filipino workers co-fund health insurance for each new worker.

**b. any relevant legislation;**

- xvii. The Employment (Jersey) Law 2003 and Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 is in place and should protect workers.

**c. how fulfilment of the obligations is reviewed.**

- xviii. By independent farm audits. The revised Rural Support Scheme gives credits to businesses that are LEAF accredited to encourage them to join the scheme.

**4. To identify and assess:**

**a. the financial obligations that employers and work permit holders have to the Government; and**

- xix. The cost of the work permit should not increase. This cost should remain with the employer.

- xx. Registration cards have to be re-applied for on the return of a worker from their 3 month mandatory absence. In our industry, the employer makes the application for their workers, costing time.
  - xxi. ITIS – most employers help their workers to deal with Tax Office queries. There are frequently problems with workers' tax matters due to the fact that they are only in the island for 6 or 9 months. We understand that the Comptroller will be putting forward simplified tax systems for seasonal workers but don't yet have details of this.
- b. any Government services or benefits available or not available to temporary work permit holders.**
- xxii. Healthcare – these people are not health tourists, they are here to work to earn money to send home to support their families. It is noted that workers can access healthcare after 6 months and can now also access healthcare when they return from Day 1 as long as they have been here for 6 months previously.
  - xxiii. Workers are charged for Long Term Care on their Income Tax assessment but are never going to benefit from this. They do not claim income support and most will not receive a pension. Temporary seasonal agricultural workers cannot bring their dependents with them and so are not a burden on the education system or the social housing system in the island.
  - xxiv. The Union was pleased that seasonal workers in the island were eligible for Covid vaccinations in 2021 and 2022.

**5. To identify and consider temporary work permit holder protection practices in other relevant jurisdictions.**

- xxv. In relation to agriculture, the UK has the Seasonal Worker Scheme but this is only available certain sectors of the agriculture industry, despite the widespread labour shortages that are now being reported. There is a cap on numbers which is too low for the requirements of the industry. The UK Seasonal Worker visa scheme only allows a worker to go to the UK for 6 months. Our 9 month permit is better for both businesses and workers.

[Farm labour in the UK \(exeter.ac.uk\)](http://exeter.ac.uk)

[Labour shortages in the food and farming sector \(parliament.uk\)](http://parliament.uk)