

# Review of Work Permit Holder Welfare

Work Permit Holder Welfare  
Review Panel

12th October 2023

S.R.2/2023



**Arrivals**



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## Chair's Foreword

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The Work Permit Holder Welfare Review Panel was initially set up to look at serious work-related issues reported by some work permit holders whilst living and working in Jersey. Those concerns were not only being raised by work permit holders themselves, but also by stakeholders trying to support work permit holders, who became aware that there is a lack of centralised support for work permit holders in the Island that effectively deals with work permit related employment disputes.

Throughout the review, the Panel were made aware of the ongoing and sometimes distressing circumstances faced by some work permit holders through written submissions provided to the Panel, however, I believe that one bad experience is too many. The purpose of the review has been to shine a light and find evidence of the true extent of the situation faced by some work permit holders.

While undertaking this review, I have been made aware of cases where work permit holders have reported abuses of power and discrimination by employers in the work environment. I supported some of the work permit holders with their employment claims, outside my role as Panel Chair. I found this to be emotionally challenging and frustrating, particularly as the Work Permit Policy lacks specificity in relation to the protection of work permit holders from Modern Slavery and exploitation. As a Deputy, I have found myself experiencing the same levels of frustration reported by some stakeholders, while trying to support work permit holders, because presently Jersey does not have a fit for purpose advisory service. Having said that, it is important to stress that the feedback we have had is that the experience of most work permit holders in Jersey, has been a positive one.

The number of work permits issued by the Jersey Customs and Immigration Service has increased by approximately 800% since 2019, reflecting workforce shortages across a number of key sectors in the Island. Throughout the review, the Panel considered the various rules governing work permit holders under the Work Permit Policy, however, there seems to be a reliance on goodwill and trust placed on the employers. Whilst this works in most cases, when employment issues arise it quickly becomes evident that Jersey fails to provide the necessary support for work permit holders. Work permit holders are guests in Jersey. The contribution they bring to the Island plays an important part in the development of our economy.

As a review panel we have learned that the Work Permit Policy affects work permit holders in many aspects of their lives whilst working in Jersey. It affects their working and living environment, protection against bad employers, support with employment disputes, options in finding extra employment and extra sources of income and restricts work permit holders' movement between employers. In addition, the Panel have learned that other policies and legislation also impact on work permit holders, including on areas such as access to healthcare and benefits. Their work experience has a direct impact on their wellbeing. Moving forward, the Panel truly believe that centralised support and information should be the government's responsibility. Now that the review has been completed, I hope that the government acts on our recommendations to improve the Work Permit Policy and to make sure that the right support and overall working and living conditions are in place.

Finally, I would like to thank all those who contributed to the Panel's review, in particular the work permit holders and stakeholders, who shared their experiences which were sometimes distressing in nature. I would also like to thank all members of the Panel and Officers for their work and for producing this report, in the time scale provided, without their support this review would not have been possible.

A handwritten signature in black ink, consisting of a large, sweeping horizontal stroke above the name "Beatriz" written in a cursive, lowercase font.

**Deputy Beatriz Porée**

**Chair, Work Permit Holder Welfare Review Panel**

# Executive Summary

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Following concerns brought to the attention of the Panel about the treatment of some work permit holders in Jersey, a key driver and focus of this review has been the extent to which the welfare of work permit holders living and working in Jersey is upheld, and how issues faced by work permit holders are addressed.

It was important that the Panel maintained its focus on the terms of reference for its review (please see Appendix 1), and therefore the central component of this scrutiny review is assessing the effectiveness of the Work Permit Policy ('WPP') in upholding work permit holder welfare. During the course of the review, the Panel received submissions that told of the distressing circumstances faced by some work permit holders in Jersey.

The Panel built a picture of the impact of the WPP, by reviewing the background and ministerial responsibility for the WPP, how readable and accessible the WPP is to its primary users and official data provided by the Jersey Customs and Immigration Service about the number and demographics of work permit holders.

Through evidence received during its review, the Panel also considered the information available for work permit holders, as well as employment, conditions and support, modern slavery and exploitation, accommodation, and healthcare.

## **Living and Working in Jersey: Information for work permit holders**

This section focuses on a key theme which is touched on throughout this report, that some work permit holders have struggled to find accurate information and guidance about living and working in Jersey. The Panel considered what information is available to work permit holders prior to their arrival on-Island and the importance of having this information to make informed decisions about living and working in Jersey. Finally, the Panel looked at cross-departmental working within Government and recommends that the information and guidance that is relevant to work permit holders is made available through a centralised portal to access prior to their arrival in Jersey.

## **Employment, Conditions and Support**

The aim of the review was to establish the mechanisms in place to ensure a good standard for working conditions and what level of support was available when things went wrong. There were recurrent themes in the evidence provided, including the restrictions on movement between employers and a lack of clear signposting for support. The general finding of the Panel was that more could be done to provide clarity to both employers and employees on what was expected of them and that an enhanced compliance regime would help to ensure that the welfare of employees was not being taken on trust and goodwill.

## **Modern Slavery and Exploitation**

As part of the review terms of reference, the Panel addressed the extent to which the WPP fulfilled its stated purpose to *"To protect employees from 'Modern Day Slavery' and ensure their welfare is maintained"*. The Panel looked at the definitions and sources of data about Modern Day Slavery. The Panel heard concerns from stakeholders representing work permit holders that the WPP did not protect work permit holders from Modern Day Slavery. The Panel also found that the WPP lacked specificity regarding the protections for work permit holders from Modern Slavery and exploitation. It also became apparent during its review that Jersey does not have Modern Slavery legislation in place. As such the Panel recommends

that the Minister for Home Affairs consult on the introduction of Modern Slavery legislation for Jersey. The Panel also considered the role of the employer licensing scheme operated by the UK Gangmasters and Labour Abuse Authority and recommends that the Minister introduce a similar scheme in Jersey.

### **Accommodation**

In keeping with its findings elsewhere in the review, the Panel would like to see more centralised guidance provided in relation to the provision of accommodation. The policy does not seek to establish a minimum standard for accommodation but rather outlines the expectation of the Minister that it supports the health and wellbeing of the work permit holders. It was unclear how an individual in sub-standard accommodation would easily find information about how to make a complaint and to do so in a way which would have a positive impact on their circumstances – especially if they felt ‘tied’ to the accommodation by their employment.

### **Healthcare**

The Panel received evidence during its review that indicated some concern amongst work permit holders and stakeholders about access to healthcare in Jersey. The Panel found that most work permit holders were not aware of how the healthcare system operates in Jersey prior to their arrival, and that information about the operation of the healthcare system in Jersey, or links to this information, was not available in the WPP. The Panel also recommends that all work permit holders are covered by a suitable travel insurance policy prior to their arrival on-Island.

Finally, the Panel wishes to highlight that feedback from work permit holders about living and working in Jersey is generally very positive. The Panel believes that this reflects the many good employers on-Island, however, the Panel also believes that there is room to improve the protections in place for work permit holders, and in particular address the gaps in the communication of key information and guidance about living, working and accessing support in Jersey. Furthermore, the Panel believe it is important that there are no gaps in the Work Permit Policy, that enable or facilitate some of the bad practice which has been submitted to the Panel in evidence.

# Findings and Recommendations

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## Key Findings: Work Permit Holder Statistics

**KEY FINDING 1:** The number of work permits issued by the Jersey Customs and Immigration Service has increased by approximately 800% since 2019, and the drivers for this include Brexit, the outbreak of COVID-19, changing migration patterns, the cost of living and salary considerations. Furthermore, data from the Jersey Customs and Immigration Service indicates that:

- Almost 39% of work permits granted in 2022 were granted to Kenyan and Filipino nationals.
- More than 50% of the work permits issued in 2022 were issued to work permit holders in the seasonal hospitality sector.

**KEY FINDING 2:** Work permit holders are not provided with guidance on the Work Permit Policy, the process of applying for a work permit, and are not involved in the work permit application process.

**KEY FINDING 3:** The survey results indicated positive feedback from most work permit holders about their experiences of living and working in Jersey.

## Key Findings: Information for Work Permit Holders

**KEY FINDING 4:** Details about the information provided to work permit holders prior to their arrival in Jersey, highlights inconsistencies in the experiences of different work permit holders and stakeholders.

**KEY FINDING 5:** The data available to work permit holders on the Moving to Jersey webpages about the cost of living in Jersey is limited.

**KEY FINDING 6:** The Minister for Treasury and Resources highlighted that information about income tax, social security contributions and Long-Term Care contributions should be provided to work permit holders in time to inform their decisions about working in Jersey.

**KEY FINDING 7:** Appendix 7 of the Work Permit Policy is not explicit that deductions (other than those for food and accommodation for minimum wage earners) should be supplied prior to signing a contract.

**KEY FINDING 8:** The Work Permit Policy does not point to the consequences for employers who do not provide information about deductions prior to the signing of a contract.



**KEY FINDING 9:** The Employer Standards Oversight Board was established to look at the standard of treatment of all employees in Jersey and is a cross-departmental group led by the Minister for Home Affairs.

**KEY FINDING 10:** In addition to the Employer Standards Oversight Board, the Government established the Population and Skills Ministerial Group and the Labour Shortage Taskforce are examples of cross-departmental working within Government.

### **Key Findings: Employment, Conditions and Support**

**KEY FINDING 11:** There is no clear, single and reliable pathway for support offered to people arriving in Jersey on a work permit.

**KEY FINDING 12:** The 'requirement' to leave within 7 days of the end/breakdown of a contract makes it less likely that a work permit holder will raise an issue about their employer, especially work permit holders that rely on their employer to provide accommodation.

**KEY FINDING 13:** The Work Permit Policy has taken compliance with the policy on trust or relied on reporting by individuals or their representatives.

**KEY FINDING 14:** The Common Population Policy Annual Report indicates that 2 officers have been recruited to 'encourage compliance' with the Work Permit Policy.

**KEY FINDING 15:** There is some confusion about the function of immigration officers and whether they provide an 'advisory service'.

**KEY FINDING 16:** Employment tribunal judgements are a matter of public record and are published on the Jersey Law Information Board website.

**KEY FINDING 17:** The 12-month restriction preventing work permit holders from moving between employers places more power with employers than work permit holders.

**KEY FINDING 18:** The experience of some work permit holders does not match the expectation that they will be provided with a minimum 40-hour working week.

**KEY FINDING 19:** The 9-month work permit with the requirement for the work permit holder to leave for 3 months between each permit incurs additional travel expenses for returning work permit holders and employers.

**KEY FINDING 20:** Neither Appendix 7 to the Work Permit Policy nor the Moving to Jersey section of the Government website provide comprehensive advice or guidance regarding work-related support.

**KEY FINDING 21:** There is a need for a coherent, comprehensive and clearly signposted central hub for information which is provided physically and online.

### **Key Findings: Modern Slavery and Exploitation**

**KEY FINDING 22:** The Work Permit Policy lacks specificity in relation to the protection of work permit holders from Modern Slavery and exploitation.

**KEY FINDING 23:** Modern Slavery legislation can be an effective tool in raising awareness of the existence of Modern Slavery and lead to an increase in reported cases of Modern Slavery and exploitation.

**KEY FINDING 24:** The United Kingdom Gangmasters and Labour Abuse Authority operates a licencing scheme which assesses labour providers against licencing standards established by the Gangmasters and Labour Abuse Authority.

### **Key Findings: Accommodation**

**KEY FINDING 25:** The Work Permit Policy sets out a broad Ministerial expectation for a standard of accommodation that supports health and wellbeing but does not provide a definition of this standard of accommodation or for enforcement or checks to accommodation.

**KEY FINDING 26:** It is not immediately clear to employers what their responsibility is in relation to the standard of accommodation where it is chosen and leased privately by the employee.

**KEY FINDING 27:** the high cost and shortage of suitable accommodation is a contributory factor to the cost of that accommodation.

### **Key Findings: Healthcare**

**KEY FINDING 28:** The Work Permit Policy and Appendices to the Work Permit Policy, does not include information about access to healthcare in Jersey, or links to information about healthcare in Jersey.

**KEY FINDING 29:** The Work Permit Holder Survey indicated that most work permit holders had not been made aware of how the Jersey healthcare system operates prior to their arrival on-Island.

**KEY FINDING 30:** Returning work permit holders are no longer required to re-complete the 6-month qualification period before being eligible for access to non-emergency health care provided that person returns to Jersey within three years.

### **Recommendations: The Work Permit Policy**

**Recommendation 1:** The Minister for Home Affairs should ensure that the language of the Work Permit Policy clearly communicates employer obligations under each category of work permit, regarding work permit holder recruitment and employment.

### **Recommendations: Information for Work Permit Holders**

**Recommendation 2:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should undertake a process of consultation with key stakeholders from community groups and industry representatives to identify gaps in the information provided to work permit holders.

**Recommendation 3:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should introduce specific guidance to work permit holders about the potential costs of travelling to Jersey and the potential costs incurred from meeting the requirements of their United Kingdom visa and Jersey work permit, as well as agreeing the responsibility for these costs.

**Recommendation 4:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should consult with Government departments to provide more detailed information about the cost of living in Jersey for work permit holders.

**Recommendation 5:** The Minister for Home Affairs should introduce a requirement that the Seasonal and Temporary Workers Guide is provided to work permit holders prior to signing a contract of employment to undertake employment in Jersey.

**Recommendation 6:** The Minister for Social Security should introduce a mechanism to refund the employee paid pensionable component of social security contributions for work permit holders who do not transition to a Skilled Work permit or remain in Jersey for at least five years to qualify for a pension.

**Recommendation 7:** The Minister for Social Security should introduce a mechanism to refund the employer paid pensionable component of social security contributions to employers of work permit holders, whose employees who do not transition to a Skilled Work permit or remain in Jersey for at least five years to qualify for a pension.

**Recommendation 8:** The Minister for Home Affairs should ensure that the Work Permit Policy is updated by no later than 31 December 2023 to make it clear to work permit holders and employers that information about any deductions should have been provided prior to

signing a contract and should make it clear what the consequences are for employers who do not do so.

**Recommendation 9:** The Minister for Home Affairs should consolidate guidance about the type and nature of salary deductions that may apply to work permit holders, into a breakdown of deductions, prior to signing a contract of employment to undertake employment in Jersey.

**Recommendation 10:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should undertake a process of consultation with key stakeholders from community groups and industry representatives to establish a centralised portal of information for work permit holders to access prior to signing a contract of employment to undertake employment in Jersey.

### **Recommendations: Employment, Conditions and Support**

**Recommendation 11:** The Minister for Home Affairs should consider additional support should be available, especially for small employers, to ensure compliance with the Work Permit Policy.

**Recommendation 12:** The Minister for Home Affairs should review the 12-month restriction in place preventing work permit holders to switch between employers consulting with both employer representatives and support groups. This review should consider human rights legislation and modern slavery legislation.

**Recommendation 13:** The Minister for Home Affairs should consider ways in which the Work Permit Policy can be strengthened with a temporary stay for work permit holders who are pursuing a dispute or grievance.

**Recommendation 14:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should consult with industry and trade unions to ensure that work permit holders have access to trade union representation and support.

**Recommendation 15:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should commit to a regular review of the permit lengths which should be conducted in close consultation with industry bodies and support agencies to ensure that both employer needs and the rights of individuals are met.

**Recommendation 16:** The Minister for Home Affairs should work with the Minister for Economic Development, Tourism, Sport and Culture, the International Cultural Centre Steering Group and the Minister for Social Security to determine where a physical support

resource should be located and provide detail of the information which will be provided. This should be reported back to the Panel by no later than 31 December 2023.

**Recommendation 17:** The Minister for Home Affairs should work with the Minister for Economic Development, Tourism, Sport and Culture, the International Cultural Centre Steering Group and the Minister for Social Security to ensure that the physical support resource includes independent and confidential support for work permit holders on matters related to employment disputes. This should be reported back to the Panel by no later than 31 December 2023

**Recommendation 18:** The Minister for Home Affairs and the Economic Development, Tourism, Sport and Culture should ensure that the information provided to work permit holders is inclusive for people who speak different languages.

### **Recommendations: Modern Slavery and Exploitation**

**Recommendation 19:** The Minister for Home Affairs should amend the Work Permit Policy to improve the specific protections from Modern-Slavery and exploitation.

**Recommendation 20:** The Minister for Home Affairs should consider the introduction of a Jersey employer licensing scheme and licensing standards, with clear sanctions for non-compliance, for local labour providers.

**Recommendation 21:** The Minister for Home Affairs should undertake a process of consultation with key stakeholders from community groups and industry representatives on the introduction of Modern Slavery legislation for Jersey.

### **Recommendations: Accommodation**

**Recommendation 22:** The Minister for Home Affairs and the Minister for Housing and Communities should introduce guidance to employers and work permit holders about the definition of accommodation that supports health and wellbeing and set out the enforcement mechanisms in place to ensure that work permit holders are 'suitably accommodated'.

### **Recommendations: Healthcare**

**Recommendation 23:** The Ministers for Social Security and Health and Social Services should introduce specific guidance to work permit holders that includes information about their rights to healthcare in Jersey.

**Recommendation 24:** The Minister for Home Affairs should introduce a requirement to the Work Permit Policy to ensure that all work permit holders are covered by an appropriate travel insurance policy during the first six months of living and working in Jersey, and that the costs associated with this travel insurance requirement are met by the employer.

**Recommendation 25:** The Minister for Health and Social Services and the Minister for External Relations should work with the Minister for Economic Development, Tourism, Sport and Culture to ensure that reciprocal health agreements are made with countries where formal arrangements have been established by the Government of Jersey regarding the employment of work permit holders in Jersey.

# Introduction

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## The Panel's Review

On 9<sup>th</sup> February 2023 the Work Permit Holder Welfare Review Panel began its Review of Work Permit Holder Welfare. The establishment of the Panel and the review followed concerns that had been brought to the attention of the Panel Members about the welfare of some employees living and working in Jersey on a work permit.

As the focus of the concern was on work permit holders, the Panel focused its work on the [Work Permit Policy](#) ('WPP') and the protection and treatment of work permit holders under the policy. The Panel noted that one of the stated purposes of the WPP was to "*protect employees from 'Modern Day Slavery' and ensure their welfare is maintained.*"<sup>1</sup> It identified the following key issues at the outset of the review, to consider in relation to the WPP and the welfare of work permit holders more generally:

- Jersey Employment Law and best practice: Whether Jersey Employment Law and best practice were being applied to work permit holders, and whether there were instances in which work permit holders were being treated unfairly.
- Variation of Employment Contracts: Whether employment best practice, guidance and law were being applied in relation to variations of employment contracts, and whether unagreed changes had taken place.
- Terms and Conditions of Accommodation: The extent to which work permit holders were being provided with suitable accommodation and whether agreed salary deductions for rent contributions were being honoured by employers.
- Work Permit Holder Grievances and Disputes: Whether work permit holders felt hesitant to raise issues or signpost concerns related to their employment.
- Modern Slavery and Exploitation: The extent to which the WPP fulfilled its stated purpose to protect work permit holders from Modern Slavery, and whether there is enough detail about the measures in place to protect work permit holders from Modern Slavery and exploitation.
- Work Permit Holder Access to Healthcare and Social Security Benefits: The requirement that work permit holders must pay social security contributions during the period whilst they are not entitled to any healthcare or welfare benefits (beyond emergency healthcare for the first six months of working in Jersey).
- Information and Documentation provided to Work Permit Holders and Employers: Whether a sufficient level of information and documentation is provided to work permit holders.

## Methodology

The Panel launched its review with a general call for evidence targeted at work permit holders and employers, to understand more about the challenges of living and working in Jersey on a work permit, and the challenges associated with the WPP.

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<sup>1</sup> [The Work Permit Policy](#)

Due to the sensitive nature of the topic and to help inform the evidence gathering for its review, the Panel held a number of private meetings and briefings with key stakeholders. These included private briefings with the Jersey Customs and Immigration Service, Ministers for Treasury and Resources and Social Security and Government Officers from the Treasury and Exchequer and Customer and Local Services departments. The Panel held private meetings with community groups and employee representatives such as Friends of Africa, the Kenyan Jersey Committee, the Jersey Filipino Tambayan Group, the Jersey Advisory and Conciliation Service (JACS), a Senior Unite the Union representative and a member of the public with experience providing community support.

The Panel also held private meetings with employers in a number of sectors, including care and hospitality, and employer representatives including the Jersey Farmers' Union and GR8 Recruitment. It also undertook a site visit to Meleches Farms, a local Jersey Royal potato grower. Some of these groups also chose to make submissions to the review which can be found as an appendix to this report and on the review webpage.

The Panel reviewed official statistics about the numbers and demographics of work permit holders in Jersey and found that a significant proportion of African and Caribbean work permit holders were employed on-Island. The Panel held Public Hearings with the Friends of Africa and the Kenyan Jersey Committee, to discuss the challenges faced by African and Caribbean work permit holder communities in Jersey.

Public Hearings were held with employers and employer representatives that employ work permit holders and included the Jersey Farmers' Union and the Jersey Hospitality Association, to understand more about the challenges associated with the WPP and the recruitment and employment of work permit holders in Jersey.

The Panel's final Public Hearing with the Minister for Home Affairs discussed the evidence that the Panel received in relation to its review. This included key themes related to engagement with stakeholders, information, support and advice provided to work permit holders, working conditions and supplementary employment, accommodation, WPP and Immigration Rules, Government of Jersey information about work permit holders and Modern Slavery and exploitation.

The Panel also wanted to hear directly from work permit holders and launched a survey which ran from 11<sup>th</sup> May to 19<sup>th</sup> June 2023. It asked targeted questions about work permits, work permit holder welfare, healthcare and access to benefits and the overall experience of living and working in Jersey. The Work Permit Holder Survey and its results are discussed in more detail in the section of this report titled 'Jersey Work Permit Holders: Statistics' and the full results of this survey are contained in Appendix 1 of this report.

Throughout the review, the Panel also maintained written correspondence with key stakeholders, including the JACS, the Ministers for Infrastructure, Social Security, Treasury and Resources, Health and Social Services, Economic Development, Tourism, Sport and Culture and Home Affairs.



# The Work Permit Policy

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## Background

A work permit is a type of permission that an employer must obtain for any prospective employee who is coming to Jersey from outside the United Kingdom ('UK'), the Crown Dependencies (Jersey, Guernsey, and Isle of Man) and Ireland, collectively known as the Common Travel Area ('CTA').<sup>2</sup>

The CTA is an arrangement between member countries and jurisdictions, that affords a variety of rights to citizens in those countries. These rights include freedom of movement, access to social benefits, healthcare and social housing supports as well as the right to vote in certain elections.<sup>3</sup>

It is a legal requirement under the [Immigration \(Work Permits\) \(Jersey\) Rules 1995](#), that employers must apply for a work permit for individuals who require immigration permission to enter or remain in Jersey for work. In addition, as part of the work permit process, employers are expected to comply with the requirements of the [Control of Housing and Work \(Jersey\) Law 2012](#).

The rules and criteria for issuing work permits in Jersey are governed by the [Work Permit Policy \('WPP'\)](#). According to Government guidance on work permit applications, the *"maintenance of a strict work permit policy will maintain and strengthen Jersey's position within the CTA. Allowing the continued free movement of persons within the CTA, whilst retaining a robust external border."*<sup>4</sup>

The WPP is currently maintained by the Jersey Customs and Immigration Service ('JCIS'), and its purpose is to *"...set out the main routes available to employers to employ individuals from overseas."*<sup>5</sup>

The main sections of the WPP provide guidance on the nine-Month Temporary Work Permit routes for the agricultural, construction, hospitality and fishing sectors, the one-Year Temporary Work Permit routes for the construction and hospitality and fishing sectors, Skilled Work Permit Employment and work permit categories for students enrolled on full time degree courses, as well as a section on General Agreement on Trade in Services.

The WPP also contains ancillary information related to issues and disputes with work permit holders, matters affecting work permit applications and appendices setting out job roles covered by the categories of work permit available, language requirements, guidance on submission of business cases for employing work permit holders and the rights afforded to work permit holders employed in Jersey.

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<sup>2</sup> [A brief explanation of Jersey work permits – Viberts](#)

<sup>3</sup> [Common Travel Area between Ireland and the UK – Citizens Information \(Ireland\)](#)

<sup>4</sup> [Work permits: make an application – gov.je](#)

<sup>5</sup> [The Work Permit Policy – April 2023](#)

In April 2023, the JCIS published an updated WPP. During a Public Hearing with the Minister for Home Affairs on 7<sup>th</sup> June 2023, the Panel learned that the main changes in the updated WPP included the addition of a three-year Temporary Work Permit route for the construction sector, with a one-year extension, and additional flexibility to the nine-month Temporary Work Permit route for the hospitality sector:

**Senior Manager, Jersey Customs and Immigration Service:**

*“The one, yes, temporary route, the construction route was amended to a maximum of 3 years, plus a one-year extension. There was flexibility added in the 9-month temporary hospitality route to allow those— that was quite complex— on valid work permits issued prior to 1<sup>st</sup> April 2023 to switching to one-year temporary. The students on U.K. tier 4, in the U.K. were allowed to come and work without the need of a work permit.”<sup>6</sup>*

However, following the public hearing the JCIS submitted corrections to the statements made in relation to the 2023 updates to the WPP, that included:

- No changes were made to the construction or agricultural work permit routes in 2023.
- Changes made to the WPP in 2023 related to the introduction of a 12-month renewable work permit for a maximum period of three years, followed by an absence equal to the amount of time spent on-Island.
- A temporary relaxation of the WPP to enable employers to switch employees to the new 12-month work permit route.
- Time already spent on-Island would contribute to the maximum three-year period.
- Additional routes have been included for students.

## **Ministerial Responsibility**

The Panel understands that the Minister for Home Affairs (‘Minister’) has ministerial responsibility for the WPP. This was confirmed during a Public Hearing between the Panel and the Minister on 7<sup>th</sup> June 2023, where the Panel was informed that the Minister had ‘sign off’ on all immigration matters in Jersey:

**Deputy L.V. Feltham:**

*“So who signs off on the policy?”*

**Senior Manager, Jersey Customs and Immigration Service:**

*“Ultimately it is up to the Minister for Home Affairs who signs off on all immigration matters.”<sup>7</sup>*

The recommendations that follow in this report in relation to the welfare of work permit holders, are therefore made to the Minister for Home Affairs.

However, during its review, the Panel also learned about cross-government working and shared ministerial responsibility for the Employer Standards Oversight Board, the Population and Skills Ministerial Group and the Labour Shortage Taskforce which relate to the welfare of work permit holders and will be discussed in more detail, in the section of this report titled

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<sup>6</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

<sup>7</sup> [Ibid](#)

'Cross-Departmental Working'. Therefore, some recommendations have been made to Ministers with responsibility for each of the related portfolios.

### **Readability and Accessibility**

The WPP is a public document but the primary users of the WPP are Jersey employers seeking to employ individuals from overseas. The WPP, as updated in April 2023, states that:

*"The purpose of this policy is to set out the main routes available to employers to employ individuals from overseas."*<sup>8</sup>

It is important that the WPP (and all policy documents) is presented in such a way that it is understood by its primary users and is in line with the following guidance:

*"...it's important we do not lose necessary detail and complexity, but it's equally vital that we provide clear, concise and useful information."*<sup>9</sup>

The Panel also notes the following in published guidance on the 'style and tone of voice' for policy documents:

*"The traditional language of policy and strategy can be overly complex, jargon-heavy and non-specific. This makes these documents confusing, hard for non-experts to understand and open to misinterpretation."*<sup>10</sup>

Throughout the course of its review, the Panel has found evidence that employers are not clear about some of the expectations and requirements set down by the WPP in relation to work permit holder recruitment and employment.

In a submission to the Panel dated 24<sup>th</sup> May 2023, the Chamber of Commerce highlighted examples from the WPP where it believed clarification was required for employers of work permit holders. In one example, the Chamber of Commerce cited the WPP requirement that an employer *"must pay no less than the 'going rate' for the full-time role based on an employee working 40-hours per week and must do so for the validity of the work permit"*.<sup>11</sup>

The Chamber of Commerce then question whether there is a requirement that an employer must provide a minimum of 40 working hours per week, or whether this was simply a guide for calculating the employee 'going rate':

#### **Submission – Chamber of Commerce – 24<sup>th</sup> May 2023:**

*"It would be helpful to clearly stipulate whether or not the employee must work 40 hours per week, or if this is just a guide for calculating the "going rate". Can they work less or more and therefore be paid less or more? This is not clear, and this comment applies to each type of permit."*<sup>12</sup>

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<sup>8</sup> [Introduction – The Work Permit Policy](#)

<sup>9</sup> [Buckinghamshire Council – Style and tone of voice for policies or strategies](#)

<sup>10</sup> [Ibid](#)

<sup>11</sup> [The Work Permit Policy](#)

<sup>12</sup> [Submission – Chamber of Commerce – 24<sup>th</sup> May 2023](#)

However, in a Public Hearing between the Panel and the Minister for Home Affairs on 7<sup>th</sup> June 2023, the Minister stated that there was a requirement that employers would provide work permit holders with at least 40 hours of paid work per week:

**Deputy Helen Miles, Minister for Home Affairs:**

*“It has to be the 40 hours a week.”*

**Head, Jersey Customs and Immigration Service:**

*“That is what the contract must say, at least.”*

**Deputy L.V. Feltham:**

*“Payment for 40 hours each and every week.”*

**Deputy Helen Miles, Minister for Home Affairs:**

*“Payment for 40 hours each week, each and every week, yes.”<sup>13</sup>*

### **Immigration permissions: Passport stamps and vignettes**

During its review, the Panel received evidence that some work permit holders had encountered difficulties whilst travelling to and from Jersey due to variations in how work permit holder passport and travel documentation is endorsed in other jurisdictions.

In particular, the Panel found evidence that the use of wet ink stamps by the Jersey Customs and Immigration Service (‘JCIS’), instead of passport vignettes to grant leave to remain in the Island, had caused issues for some work permit holders passing through ports of entry in other jurisdictions, which did not recognise the wet ink stamp provided by the JCIS:

**Submission-- Anonymous 4 – 29<sup>th</sup> March 2023:**

*“...a vignette visa is not issued but rather a stamp is given in the passport and this causes issues between immigration in different countries as the customarily recognized UK and other visas are in Vignette form.”<sup>14</sup>*

In another submission provided to the Panel, the issues experienced by some work permit holders included denial of boarding by airlines, delays in airports due to additional passport checks carried out by immigration authorities and issues entering other jurisdictions:

**Submission-- Anonymous 5 – 22<sup>nd</sup> March 2023:**

*“The lack of issue of a vignette visa sticker for work permit holders in Jersey, upon renewal of the initial work permit (which is a UK vignette visa sticker) has greatly affected the quality of life of work permit holders on the island and has in several circumstances deterred work permit holders from remaining on the island after the expiry of the initial work permit.*

- (i) *denial of boarding by airlines who are not conversant with the stamp and only conversant with vignette sticker visa for the UK which is the main entry point for Jersey,*

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<sup>13</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

<sup>14</sup> [Submission – Anonymous 4 – 29<sup>th</sup> March 2023](#)

- (ii) *delayed waiting time at immigration in other countries who have to flag the stamp to supervisors for upgraded checks*
  
- (iii) *setbacks on entry into countries who grant entry in the presence of a UK visa which the stamp does not reflect<sup>15</sup>*

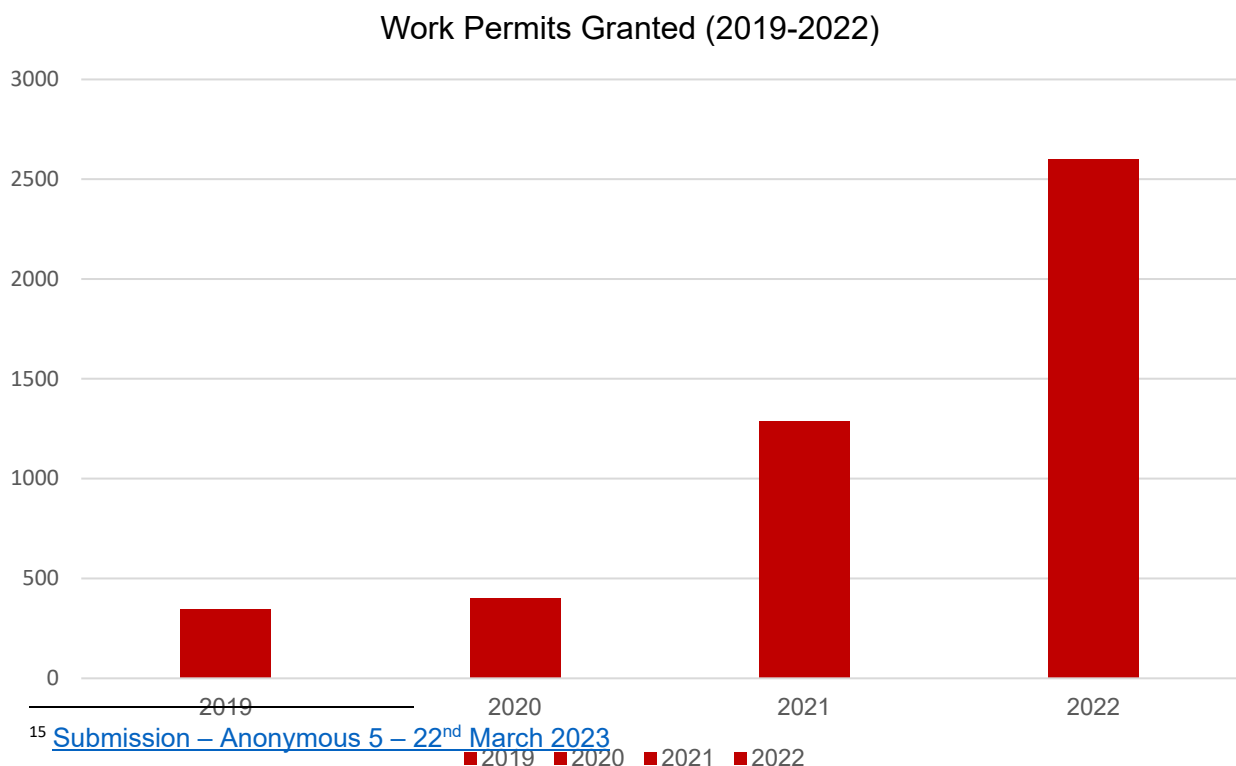
**Recommendation 1:** The Minister for Home Affairs should ensure that the language of the Work Permit Policy clearly communicates employer obligations under each category of work permit, regarding work permit holder recruitment and employment.

## Jersey Work Permit Holders: Statistics

### Number of work permits granted

During the early stages of evidence gathering for its review, the Panel decided that it was important to understand the scale of the impact of the [Work Permit Policy \('WPP'\)](#) on work permit holders, from data about the number of work permits granted by the Jersey Customs and Immigration Service ('JCIS') in recent years.

On 2<sup>nd</sup> March 2023, the Panel was provided with information about work permits issued by the JCIS, and data about the demographics of work permit holders. The Panel found that there has been a significant increase in the number of work permits issued under the WPP over the past four years. The data illustrates a significant increase in work permits granted in the year following the UK's withdrawal from the European Union:



This increase in the number of work permits granted by the JCIS was also highlighted by the Minister for Home Affairs ('Minister') during a Public Hearing with the Panel on 7<sup>th</sup> June 2023, where the Minister stated that Jersey had seen "...an 800 per cent increase in work permits..."<sup>17</sup>. During the Public Hearing, the Minister further highlighted that the number of work permits that were likely to be issued by year-end 2023, was approximately 10 times the number of work permits issued in 2019:

**Deputy Helen Miles, Minister for Home Affairs:**

*"...if you look back to 2019 we were issuing something like 300 work permits. If you extrapolate that to the end of the 2023 we will probably have issued something in the region of 3,000 work permits. That is a massive increase."*<sup>18</sup>

Some of the main drivers for the increases in work permits issued by the JCIS in recent years include changes to global employment trends. The Panel noted that some of these drivers include Brexit, the outbreak of COVID-19 in 2020, changing migration patterns, the cost of living and salary considerations:

**Head, Jersey Customs and Immigration Service:**

*"One of the reasons that has been provided is that is because of Brexit and I think that is true to a certain extent. I think it is quite complex because of the drive from COVID, changing migration patterns, cost of living, wages. There is all sorts of considerations which have presented quite a complex picture but it has resulted in quite a change in demographic definitely."*<sup>19</sup>

### **Work Permit Holder Demographics**

The Panel also received data about the demographics of work permit holders from the JCIS, which included information about work permit holder nationalities, and employment of work permit holders by sector. The Panel decided to request this information to learn more about the extent to which the impact of the WPP, is affected by the demography of work permit holders.

The Panel learned that the JCIS had issued work permits across 48 different nationalities in 2022. The Panel found that almost 39% of the 2,598 work permits granted by the JCIS in 2022, were granted to Kenyan (550) and Filipino (450) nationals:

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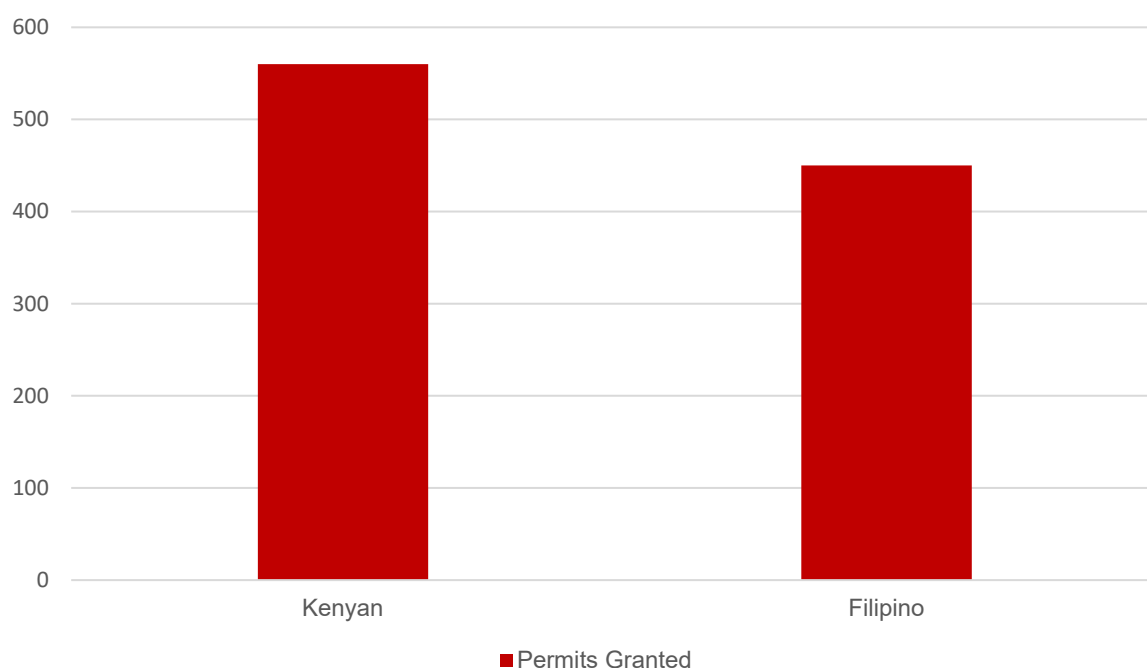
<sup>16</sup> Work Permit Holder Data – Jersey Customs and Immigration Service – March 2023

<sup>17</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

<sup>18</sup> [Ibid](#)

<sup>19</sup> [Ibid](#)

Work Permits Granted to Kenyan and Filipino Nationals (2022)



<sup>20</sup>The Panel also learned that more than 50% of the work permits issued in 2022, were issued to work permit holders in the seasonal hospitality sector.

**KEY FINDING 1:** The number of work permits issued by the Jersey Customs and Immigration Service has increased by approximately 800% since 2019, and the drivers for this include Brexit, the outbreak of COVID-19, changing migration patterns, the cost of living and salary considerations. Furthermore, data from the Jersey Customs and Immigration Service indicates that:

- Almost 39% of work permits granted in 2022 were granted to Kenyan and Filipino nationals.
- More than 50% of the work permits issued in 2022 were issued to work permit holders in the seasonal hospitality sector.

### Work Permit Holder Survey: Results

During the process of scoping its review, the Panel agreed that one of its review objectives would be to launch a survey aimed at work permit holders which, *“provides the opportunity for work permit holders to anonymously feedback about their welfare and how their welfare is impacted by their work permit”*.<sup>21</sup>

The Panel developed the Work Permit Holder Survey (‘Survey’) with support and advice from Statistics Jersey in relation to key areas of questioning and data collection.

<sup>20</sup> Work Permit Holder Data – Jersey Customs and Immigration Service – March 2023

<sup>21</sup> Work Permit Holder Welfare Review – Scoping Document

The goal was to collect more information about the demographics of work permit holders, as well as the experiences of work permit holders living and working in Jersey. The Survey was structured as follows:

- General section:
  - This included information about travel arrangements, how welcome work permit holders were made to feel, the overall experience of living and working in Jersey, relationships with employers, ethnic backgrounds to understand whether a correlation between treatment and ethnicity exists, country of residence and a question about disabilities.
- Work Permit section:
  - This included questioning related to current employment, type of work permit, employment sector, employment opportunities in Jersey and the work permit application process.
- Welfare section:
  - This included questioning related to employer obligations related to welfare, employment and accommodation terms and conditions, work permit holder satisfaction with working conditions, hours and accommodation standards, whether work permit holders retained possession of their passport to understand whether these had been withheld, disputes and grievances with employers and support provided to work permit holders.
- Healthcare and access to benefits section:
  - This included questioning related to the operation of the healthcare system in Jersey, access to healthcare, health insurance, employer deductions and Government benefits and financial support.
- Any further comments:
  - This provided an opportunity for work permit holders to submit free text responses to the Panel's request for views about the experience of being a work permit holder in Jersey.

To maximise the reach of the Survey, the Panel translated the English language version into Tagalog (Filipino), Portuguese, Polish, Romanian and Swahili. The surveys opened during the week commencing 8<sup>th</sup> May 2023 and concluded on Monday 19<sup>th</sup> June 2023.

Following the publication of the Survey, the Panel received feedback from the JCIS about the nature of the questions asked. It was submitted to the Panel that the United Kingdom ('UK') Border Force was not the relevant authority responsible for processing UK visa applications, and that this was the responsibility of UK Visas and Immigration.

The Panel was also told that work permit holders are not provided with guidance on the WPP, the WPP process or involvement in the work permit application process, and that work permit holders would be provided with Jersey specific guidance on how to apply for a UK visa.<sup>22</sup>

In total, the survey received 209 responses. 177 responses were provided in English, 19 in Tagalog (Filipino), five in Polish, four in Portuguese, two in Romanian and two in Swahili.

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<sup>22</sup> Email correspondence with the Jersey Customs and Immigration Service



The 209 responses to the Survey represent approximately 8% of the total number of work permits granted in 2022 (2,598). Of the 209 responses, a significant majority of respondents were from the African and Caribbean community (136), followed by the Filipino community (34). The Panel found that this somewhat correlated with the data provided by the JCIS, which showed more than 550 work permits were granted by the JCIS to Kenyan nationals alone in 2022, followed by approximately 450 work permits granted to Filipino nationals in 2022.

Overall, the survey results indicated positive feedback from most work permit holders about their experiences of living and working in Jersey. This positive feedback was shown across a range of important metrics which include satisfaction with the terms and conditions of employment, employee-employer relationships, working conditions, working hours, standard of accommodation, how welcome work permit holders were made to feel and the overall experience of living and working in Jersey.

The results also indicated areas where improvements could be made to enhance the welfare of work permit holders in Jersey. These results are discussed, where relevant, in more detail throughout various sections of this report.

The full results of the Work Permit Holder Survey can be found in Appendix 3 of this report.

**KEY FINDING 2:** Work permit holders are not provided with guidance on the Work Permit Policy, the process of applying for a work permit, and are not involved in the work permit application process.

**KEY FINDING 3:** The survey results indicated positive feedback from most work permit holders about their experiences of living and working in Jersey.

## Living and working in Jersey: Information for work permit holders

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A key theme emerging from the Panel's review are issues related to the information provided to work permit holders about living and working in Jersey. This is because the Panel has received evidence that some work permit holders have experienced problems related to information about the costs of travelling to Jersey and living in Jersey, payment of income tax and social security contributions and the deductions made from work permit holder pay.

The focus of this section is on the information provided to work permit holders prior to their arrival in Jersey. This section will provide some background and context as to how

information about job opportunities in Jersey are made available to prospective work permit holders, as well as their recruitment. This section will also analyse how information about living and working in Jersey is communicated, through evidence gathered from work permit holders and key stakeholders throughout the review.

The issues related to communication more generally is a theme touched on throughout this report.

### **Recruitment of work permit holders and information and descriptions about life in Jersey**

It is important to understand how work permit holders find out about employment opportunities in Jersey and what information they have to make a decision about moving to the Island to live and work for a fixed term period.

The Panel found that most work permit holders received information and descriptions about jobs through recruitment agencies. The Jersey Farmers' Union ('JFU') described their process during a public hearing held on 10<sup>th</sup> May 2023:

**Deputy B.B. de S.DV.M Porée:**

*What proportion of full permit holders employed by the Jersey Farmers' Union are recruited via an external recruitment agency?*

**Executive Secretary, Jersey Farmers' Union:**

*We recruit for most farmers and growers, apart from Jersey Royal who do their own recruitment. We recruit from various different countries. Most of our workers come from the Philippines and the proportion is probably, I would say, about four-fifths of our workers come through the Philippine agency that we use.<sup>23</sup>*

The Panel found that some employers and recruitment agencies had recruited directly in the country of origin, such as GR8 Recruitment which has undertaken direct recruitment of work permit holders from Kenya. In a Jersey Evening Post article from January 2022, it was reported that GR8 Recruitment had recruited "more than 100 residents from Kenya to the Channel Islands to work in the hospitality industry" in 2021.<sup>24</sup>

The use of recruitment agencies as the primary means of engaging work permit holders was also highlighted during Public Hearings with the Jersey Hospitality Association ('JHA') and the Kenyan Jersey Committee:

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023: Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*"I would say that the mass majority of our members will use recruitment agencies based on Island."<sup>25</sup>*

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<sup>23</sup> [Public Hearing – Jersey Farmers' Union – 10<sup>th</sup> May 2023](#)

<sup>24</sup> 'Recruitment crisis can be solved by Kenya and other non-EU countries' – Jersey Evening Post – 20<sup>th</sup> January 2022

<sup>25</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

The KJC further indicated that it believed that all work permit holders were recruited via local recruitment agencies:

**Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023: Deputy B. Porée:**

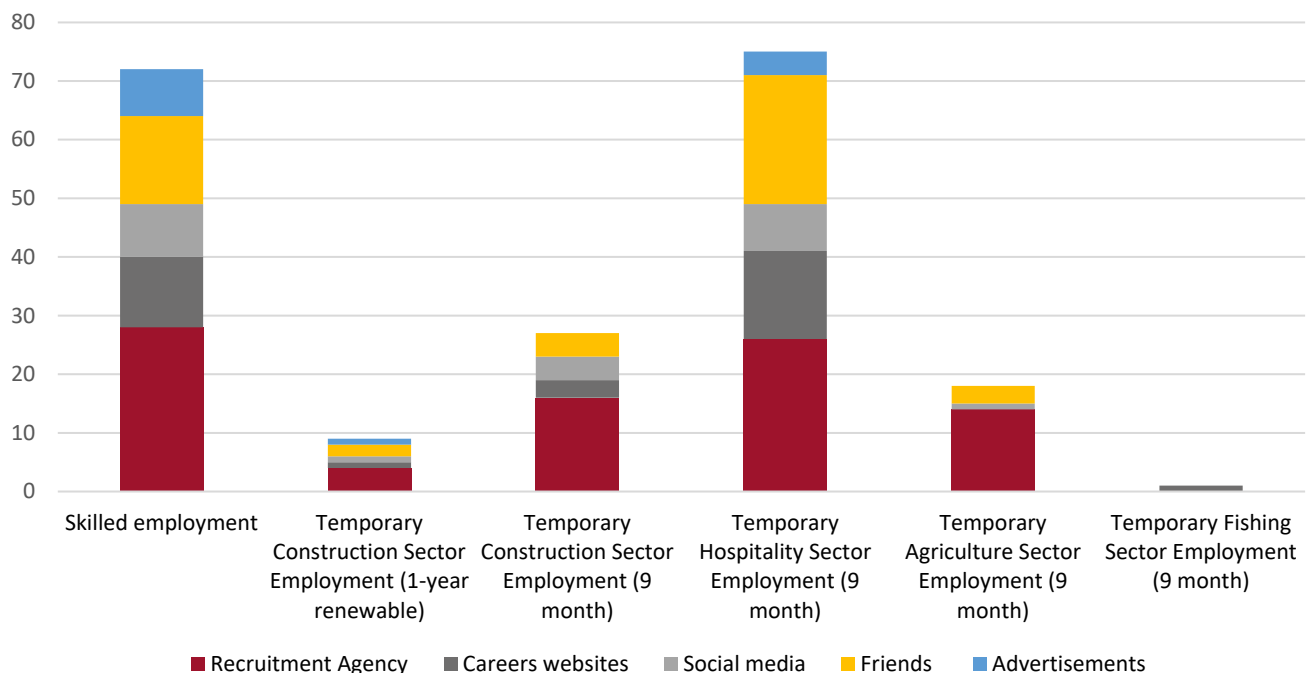
*“Are they agencies based in Kenya who find those workers, do you know, or if they are Jersey local-based agencies who make those recruitments?”*

**Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023: Mr. J. Muchiri:**

*“They will all be local and I only know of one agency because obviously the business for the need is here in Jersey or the people requiring that service are in Jersey, so it makes sense for the agency to be based here.”<sup>26</sup>*

Work permit holders also indicated that agencies were a popular method for finding out about employment opportunities in Jersey, with 88 out of 209 respondents to the Panel’s Work Permit Holder Survey highlighting that they found out about employment opportunities in Jersey through a recruitment agency:

**How did you find out about employment opportunities in Jersey?**



However, some stakeholders submitted to the Panel that work permit holders were not well informed about Island life prior to arriving in Jersey, and that this could be improved through the way jobs are advertised in the country of origin. During a Public Hearing, Friends of Africa informed the Panel that it believed employers should provide information or guidance created by the Government of Jersey, about the cost of living, rent, taxation, social security, Long-Term Care and potential deductions to work permit holders prior to their arrival on-Island:

**Deputy B.B. de S.DV.M Porée:**

<sup>26</sup> [Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023](#)

*“Do you feel that work permit holders who are new to the Island are well-informed about life in Jersey prior to their arrival?”*

**Chair, Friends of Africa Jersey C.I.:**

*“No.”*

**Deputy B.B. de S.DV.M Porée:**

*“...what suggestions would you have to improve the information provided to work permit holders? How would you like to see that happen?”*

**Volunteer, Friends of Africa Jersey C.I.:**

*“I think it should start with the way the jobs are advertised in the place of a region. As soon as they have a job, the potential employer should probably send a link, which will probably be States designed with all the information for them from cost of living, cost of rent, average tax, social security, long-term care, every deduction mentioned in clear writing. As well, as these people are not bringing their family, a rough guide of the social economic cost of Jersey is very high and if they calculate that in comparison with their pay it would help a potential work permit holder to make the right decision.”<sup>27</sup>*

In contrast, other stakeholders indicated to the Panel that work permit holders were provided with information about Jersey prior to their arrival. During its Public Hearing with the JFU, it was stated that prospective employees were provided with an ‘induction briefing’ by the recruitment agency responsible for sourcing employees for the JFU in the Philippines, and that this information was provided before work permit holders committed to undertaking an employment opportunity in Jersey:

**Deputy B.B. de S.DV.M Porée – Public Hearing – 10<sup>th</sup> May 2023:**

*“What information is provided upfront to prospective work permit holders about the travel and the administrative fees that must be paid back?”*

**Executive Secretary, Jersey Farmers’ Union – Public Hearing – 10<sup>th</sup> May 2023:**

*“Our Philippine agent does give the workers a sort of briefing before they come to Jersey. They are told about ... it is like an induction briefing so that they are told about things like communication barriers. We have just got a list they have sent to me: finances, things like climate here, discrimination, appropriate/inappropriate behaviour, the different lifestyle here, the different work environment.”*

[...]

**Deputy B.B. de S.DV.M Porée – Public Hearing – 10<sup>th</sup> May 2023:**

*“They get that information when they are still in their country of origin?”*

**President, Jersey Farmers’ Union – Public Hearing – 10<sup>th</sup> May 2023:**

*“Before they sign the contract.”<sup>28</sup>*

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<sup>27</sup> [Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023](#)

<sup>28</sup> [Public Hearing – Jersey Farmers’ Union – 10<sup>th</sup> May 2023](#)

However, the Kenyan Jersey Committee submitted to the Panel that they did not think individuals were well informed about life in Jersey prior to their arrival, and that a lack of information provided to work permit holders had encouraged them to arrange social gatherings to provide this information:

**Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023: Deputy B. Porée:**

*“I appreciate that. Thank you. Do you feel that work permit holders who are new to the Island are well informed about their lives prior to arriving here?”*

**Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023: Mr. J. Muchiri:**

*“I do not feel that they are at all, judging from the questions and grievances that they direct to us. There is a lack of information and that is what has encouraged us to do these social gatherings to be able to give this information to them.”<sup>29</sup>*

In its Public Hearing with the JHA, it was suggested that Government should develop a ‘gold standard’ for the treatment of work permit holders, and that most of the problems faced by work permit holders related to communication issues between the employer and employee:

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023: Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*“...But we again said to them that we would like to create a golden standard. We were informed that it is our Government’s decision at this stage that there is no need for a golden standard and that the law is sufficient. We made it publicly clear at that meeting that we still, as an Association, will strive for a golden standard because we believe that things can be done better. The majority of which all stems around communication. Just clarity and having clear easy communication for employer and employee will iron out 95 per cent of any problems that have been happening.”<sup>30</sup>*

During its Public Hearing with the Minister for Home Affairs (‘Minister’), the Minister informed the Panel that the expectation was that employers would provide work permit holders with information about their contract of employment to include the rates of pay and non-statutory deductions from their pay, prior to signing their contract of employment:

**Deputy L.V. Feltham:**

*“...What would you expect employers to provide employees maybe even prior to signing that work contract?”*

**The Minister for Home Affairs:**

*“I think you would expect them to have provided the contract and quite specifically in the contract, including what the rates of pay would be, what the non-statutory deductions would be so that people are making an informed choice as to whether they will be signing that contract.”<sup>31</sup>*

The evidence received about the information provided to work permit holders prior to their arrival in Jersey, highlights inconsistencies in the experience of different work permit holders and stakeholders. The Panel is concerned that these inconsistencies and information gaps

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<sup>29</sup> [Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023](#)

<sup>30</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

<sup>31</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

could mean that some work permit holders were not able to make an informed decision about whether to undertake employment in Jersey.

**KEY FINDING 4:** Details about the information provided to work permit holders prior to their arrival in Jersey, highlights inconsistencies in the experiences of different work permit holders and stakeholders.

**Recommendation 2:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should undertake a process of consultation with key stakeholders from community groups and industry representatives to identify gaps in the information provided to work permit holders.

### The cost of travelling to Jersey

It is important that work permit holders know about the costs of travelling to and from Jersey to live and work and where the responsibility lies for meeting these costs.

A significant proportion of Jersey work permit holders have travelled to the Island from African and Asian countries, consequently the cost of a return airline ticket is a considerable expense. There are also variations in cost depending on the distance and demand for particular routes.<sup>32</sup>

During its Public Hearing with the Jersey Farmers' Union, the Panel was informed about the potential cost of airline travel incurred by Jersey employers as required under Philippine Law, for work permit holders travelling from the Philippines to Jersey and back, "*...just before COVID, the price of an airfare was roughly about £800 return, Jersey/Manila or Manila/Jersey. Today it is anything around £1,300 to £1,400.*"<sup>33</sup>

The Kenyan Jersey Committee also told the Panel that for some work permit holders, the cost associated with travel to and from Jersey was problematic and highlighted that, as a result, some people were accruing debts prior to arrival.

#### **Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023-- Mr. J. Muchiri:**

*"That is a really big one because it makes it a bit economically unviable for them considering they come here with a debt of perhaps £2,500 in their travel and they are here on minimum wage."*

#### **Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023-- Deputy B. Porée:**

*"From the moment they arrive in Jersey, are you saying that they may arrive before even their first salary owing £2,000?"*<sup>34</sup>

#### **Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023-- Mr. J. Muchiri:**

*"Yes, by the time you incorporate the flight and all the relocation costs, this, that and the other, of which sometimes the employer pays for those costs."*

<sup>32</sup> [Skyscanner – How does airline pricing work?](#)

<sup>33</sup> [Public Hearing – Jersey Farmers' Union – 10<sup>th</sup> May 2023](#)

<sup>34</sup> [Public Hearing – Kenyan Jersey Committee – 10<sup>th</sup> May 2023](#)

The Panel also found that some businesses operating in the hospitality sector had been impacted by the cost of work permit holder travel expenses. The Jersey Hospitality Association highlighted that a Memorandum of Understanding between the Government of Jersey and the Government of Antigua and Barbuda required employers to cover all travel and housing costs incurred by work permit holders:

**Deputy L.V. Feltham – Public Hearing – 10<sup>th</sup> May 2023:**

*“You mentioned about the additional, I suppose, costs of the people having to return back for a 3-month period. What kind of costs are incurred by both yourselves and the employees?”*

**Co-Chief Executive Officer, Jersey Hospitality Association (1):**

*“For example, the M.O.U. that is in place with Antigua and Barbuda states that the employer has to cover all the costs involved with the transport and housing and everything else involved. The further afield the employees are obviously the more expense would be on the employer side.”<sup>35</sup>*

Responsibility for the payment of work permit holder travel expenses can vary by employer and industry and can be dependent on the agreement made between the employer and the employee. The Frequently Asked Questions section under Appendix 7 of the Work Permit Policy (‘WPP’), advises work permit holders to agree the cost of travel to and from the Island in writing with a potential employer, prior to booking tickets to Jersey:

**The Work Permit Policy – Appendix 7:**

*“Q. How much money can my employer take for travel to and/or from Jersey?”*

*A. It is up to you to agree with your employer about the costs of travel to and from Jersey. You should agree this in writing with your potential employer before you book tickets or travel to Jersey.”<sup>36</sup>*

The cost implications of travelling to and from Jersey can therefore have significant impact on both employees and employers, and the responsibility for meeting travel costs can depend on the nature of the agreements between individual employers and employees.

Whilst some guidance to work permit holders about agreeing travel costs with an employer in advance of booking travel is stated in Appendix 7 of the WPP, information about the additional costs involved in travelling to Jersey to live and work, is not clearly defined or set out in the Appendix 7 guidance. For example, work permit holder costs can include additional expenses such as the costs of applying for a visa and the Jersey work permit, medical checks including checks for tuberculosis, criminal record checks and fees to agencies in the country of origin to undertake the necessary checks:

**President, Jersey Farmers’ Union – Public Hearing – 10<sup>th</sup> May 2023:**

*“...The grower pays the Jersey work permit and we pay a fee to the agent. The employee has to pay for their own visa. Again presumably that is some legal requirement they have to pay for their visa and apply for it. They pay the agent a fee as well.”*

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<sup>35</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

<sup>36</sup> [The Work Permit Policy](#)

**Recommendation 3:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should introduce specific guidance to work permit holders about the potential costs of travelling to Jersey and the potential costs incurred from meeting the requirements of their United Kingdom visa and Jersey work permit, as well as agreeing the responsibility for these costs.

## The cost of living in Jersey

The cost of living in Jersey can be high compared to other countries. The Government of Jersey has published information in the Moving to Jersey<sup>37</sup> section of its website aimed at new or prospective arrivals to the Island. It has outlined information about living in Jersey, including in relation to taxes and social security contributions, accommodation, food, travel around and off the Island, utilities, childcare and nurseries and education.<sup>38</sup>

During its Public Hearing with the Minister for Home Affairs, the Minister referred to the website as a source of information for new arrivals to the Island in relation to life in Jersey, including the cost of living:

### Deputy L.V. Feltham:

*“What about information such as what it is like to live in Jersey, cost of living and that type of information?”*

### The Minister for Home Affairs:

*“I do not think that will be part of any contractual relationship between the employer and the employee; that is going to be over employment matters. But, again, I think this is where the Community Compass and International Cultural Centre are going to come in. We have certainly done a piece of work around cost of living, as you will know, for social workers and teachers coming to Jersey. Again, that sort of information is available on the website.”<sup>39</sup>*

The data available to work permit holders on Moving to Jersey webpages about the cost of living on-Island is limited. For example, under the Cost of food heading, the information only highlights that Jersey has a range of supermarket and farm produce offerings, restaurants, cafes, pubs and bars with links to the Visit Jersey website. The section does not provide publicly available information about the average cost of food in Jersey.<sup>40</sup> A recent Groceries Market Study undertaken by the Jersey Competition and Regulatory Authority and reported on by the Jersey Evening Post in June 2023, highlighted that Islanders spent an average of £112 per week on groceries.<sup>41</sup>

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<sup>37</sup> [Moving to Jersey: Cost of living \(gov.je\)](#)

<sup>38</sup> [Ibid](#)

<sup>39</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

<sup>40</sup> [Ibid](#)

<sup>41</sup> [Groceries cost 33% more for Islanders than in budget UK stores – Jersey Evening Post – 7<sup>th</sup> June 2023](#)



Some indication of average rental prices can be found by following the Moving to Jersey: accommodation link, other cost data about travel, utilities, childcare and nurseries and education is not readily available on the Moving to Jersey: Cost of living webpage.

The Panel received evidence that indicated some work permit holders had only discovered that their contracted period of employment was not cost effective upon arrival in Jersey. Friends of Africa, for instance, submitted to the Panel that it was difficult for some work permit holders to make comparisons with the cost of living in Jersey and their country of origin, and that the information provided about the cost of living in Jersey should differ for work permit holders from that currently provided.

**Volunteer, Friends of Africa Jersey C.I.:**

*“We find a lot of people once they get into Jersey and they realise that it is not cost effective, they are caught between a rock and a hard place. Going home is not an option anymore because they have invested”*

**Chair, Friends of Africa Jersey C.I.:**

*“It is comparative to London in terms of cost of living” does not mean anything to somebody who is coming from India or Zimbabwe or the Caribbean. They cannot make the comparator. Somebody living in the U.K. they can make the comparator, so I think the information even just online, has to be different for those areas as well.”<sup>42</sup>*

**KEY FINDING 5:** The data available to work permit holders on the Moving to Jersey webpages about the cost of living in Jersey is limited.

**Recommendation 4:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should consult with Government departments to provide more detailed information about the cost of living in Jersey for work permit holders.

## **Income Tax and Social Security Contributions**

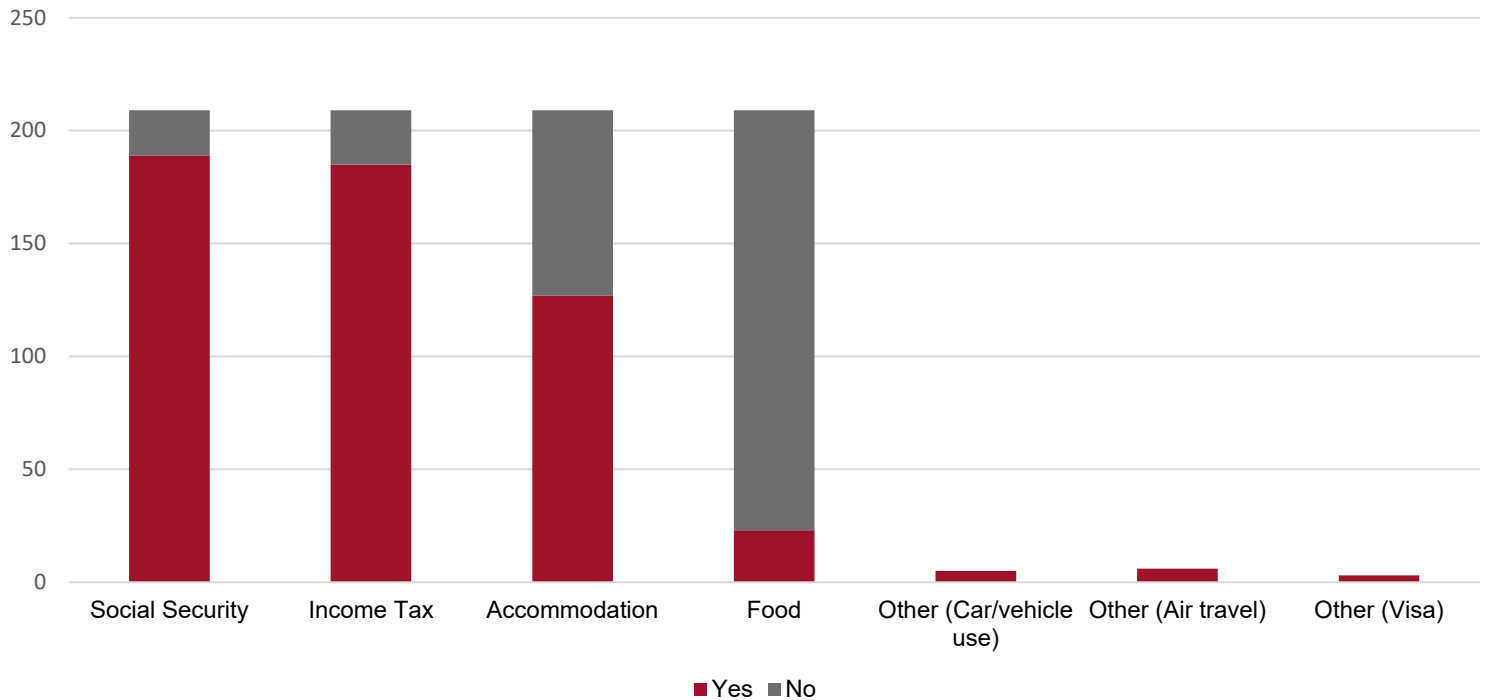
A common theme of the evidence provided throughout this review indicated problems or information gaps related to the rate of income tax applied to work permit holder earnings and work permit holder access to Government benefits and services from payment of social security contributions.

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<sup>42</sup> [Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023](#)

As part of its Work Permit Holder Survey, the Panel asked about employer deductions from work permit holder earnings, and found that more than 180 of the 209 respondents indicated that they had paid both social security contributions and income tax, during their time living and working in Jersey:

**Did your employer pay for or deduct an amount from your earnings for any of the following?**



In correspondence with the Minister for Treasury and Resources dated 19<sup>th</sup> April 2023, the Minister confirmed that it was unlikely that a work permit holder would not pay any income tax.

**Letter – Minister for Treasury and Resources – 19<sup>th</sup> April 2023:**

*“First of all, I should say that it is highly unlikely that a temporary/seasonal worker in Jersey would not pay some income tax.”<sup>43</sup>*

It is important that work permit holders subject to income tax understand how the rates are calculated and applied to their earnings. Traditionally, a large amount of Government information related to income tax has been available to all Jersey taxpayers through the Income Tax section<sup>44</sup> of the Government website. In relation to individual tax information, Jersey taxpayers can, for example, find information about allowances, reliefs and deductions for income tax, how income tax is affected by individual circumstances, payment of income tax, pensions, types of taxable income, income tax returns and personal tax assessments.

During its review, the Panel was made aware of a new source of information about income tax, Long-Term Care and social security contributions, specifically designed for work permit holders. In correspondence with the Minister dated 19<sup>th</sup> April 2023, the Panel learned that

<sup>43</sup> [Letter – Minister for Treasury and Resources to Panel – 19<sup>th</sup> April 2023](#)

<sup>44</sup> [Income tax \(gov.je\)](#)

the Seasonal & Temporary Workers Guide<sup>45</sup> had been produced to provide information about tax and social security contributions in Jersey:

**Letter – Minister for Treasury and Resources – 19<sup>th</sup> April 2023:**

*“The Guide provides information about tax and social-security contributions in Jersey as they affect seasonal workers.”<sup>46</sup>*

The Guide provides a summary of information about social security contributions, personal income tax, Long-Term Care contributions, calculation of income tax and indicative figures about the level of income tax that work permit holders might pay based on a range of weekly salary bands.

It also provides an overview of six key steps to be taken by work permit holders in relation to income tax including:

1. The information work permit holders must provide when registering to pay Jersey tax.
2. Providing the effective rate notice to their employer.
3. Checking wage slips against the salary information originally provided to Revenue Jersey.
4. Providing updates to Revenue Jersey if a work permit holders circumstances have changed.
5. Informing Revenue Jersey when a work permit holder leaves the Island.
6. Confirmation of income for the year through completion of an income tax return.

Finally, the Guide provides information about filing a tax return online using the YOTI and JerseyMe digital services and filing a paper tax return.

Whilst information about the payment of Jersey income tax has been streamlined into guidance targeted specifically at work permit holders, the Panel received evidence which indicated that some stakeholders were not aware of this Guide, or information about the operation of the basic income tax allowance.<sup>47</sup>

During a Public Hearing with the Kenyan Jersey Committee (‘KJC’) on 30<sup>th</sup> May 2023, the Panel heard that some work permit holders had been overtaxed, and that the full year basic income tax allowance available to all Jersey tax payers had not been applied:

**Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023-- Mr. J. Muchiri:**

*“The other thing that has come to light to us quite recently is that the Tax Office is also overtaxing these work permit workers. These are people on minimum wage and I have an example with me here of somebody who has just got a response from their tax return. They arrived in Jersey in June of 2022 and from June to December the taxman is recognising here that their taxable income is £16,537. The taxman also acknowledges here that the exemption threshold is £16,550. So that would indicate that the actual taxable income is £37 for the whole year. Now, this employee had an*

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<sup>45</sup> [ID-Seasonal-workers-leaflet-2023.pdf \(jerseyhospitality.com\)](#)

<sup>46</sup> [Letter – Minister for Treasury and Resources to Work Permit Holder Welfare Review Panel re Tax Matters – 19<sup>th</sup> April 2023](#)

<sup>47</sup> [Seasonal & Temporary Workers Guide](#)

*11 per cent tax rate for the whole year of last year, which resulted in them paying £1,700 in tax for earning £37.”<sup>48</sup>*

However, the Panel understands that this assessment of the basic income tax allowance is not correct. The Guide stipulates that the basic tax allowance is pro-rated depending on how many nights a work permit holder spends in Jersey, and that a work permit holder will receive 1/365<sup>th</sup> of the allowance(s) for each night spent on-Island. The Panel believes that this also highlights the issue of the accessibility of information available to work permit holders:

**Seasonal and Temporary Workers Guide:**

*“It’s important to understand we estimate the allowances you’ll get and tax you’ll need to pay, based on how many nights you are in Jersey. (You get 1/365<sup>th</sup> of the allowance/s for each night you are in Jersey.)”<sup>49</sup>*

Furthermore, the Minister in correspondence with the Panel provided an example to demonstrate the operation of the basic tax allowance and a tax liability on income earned during a period of six months employment in Jersey:

**Letter – Minister for Treasury and Resources – 19<sup>th</sup> April 2023:**

*Even on the assumption that, say an individual (with no dependent children) worked for six months, 40 hours a week at the National-Minimum-Wage rate of £10.50 per hour, his/her income would amount to £10,920 against which we would give an allowance of £9,275 leaving £1,645 to be taxed at 26% (£427.70). Seasonal workers with dependent children would be entitled to receive allowances in respect of those children (pro-rated for the duration of temporary residence).”<sup>50</sup>*

However, Friends of Africa submitted to the Panel that whilst the information available about income tax in Jersey was accessible to people arriving from the UK and other western countries, the information available to work permit holders arriving from African, Caribbean, and Asian countries should be different:

**Public Hearing – Friends of Africa-- Public Hearing – 30<sup>th</sup> May 2023-- Chair:**

*“Just to add to that in terms of even the government website in itself, absolutely it has information around tax but when you are ... and I think it was designed for a certain market which, was potentially the U.K. (United Kingdom) and comparative western countries. The Island is resorting to go further afield in regards to who they are employing in terms of Africa and the Caribbean and probably in India and Asia. So the information available should definitely be different for those cohorts.”<sup>51</sup>*

The Panel also received evidence from employers that indicated that discrepancies in effective tax rates had been problematic for some work permit holders:

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023-- Co-Chief Executive Officer (1):**

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<sup>48</sup> [Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023](#)

<sup>49</sup> [Seasonal and Temporary Workers Guide](#)

<sup>50</sup> [Letter – Minister for Treasury and Resources to Panel – 19<sup>th</sup> April 2023](#)

<sup>51</sup> [Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023](#)

*“Well, overall, when we were talking previously about complaints, what sort of feedback and complaints we have had from employees through their process of being on work permits, that is definitely up there, up to the top, is the huge variances of the tax rates of individuals when they come and register on to the Island. Just for an example, one of the Antigua and Barbuda delegates has arrived. They went to register. Their tax rate is 27 per cent. So they have said: “I cannot stay on this scheme. I have to pay 27 per cent I.T.I.S. plus 6 per cent plus a deduction of my monthly housing. I will not be able to stay on this scheme. It does not make any financial sense for me.” So there are huge discrepancies. We have had members come to us and say: “How is it 2 employees, same job, same job title, same employer, same salary, get completely 2 different rates?” They are not just by a couple of percentages, they are huge discrepancies in percentages. Those are the sort of things that, again, will provide issues with employees.”<sup>52</sup>*

The JHA also highlighted that it believed that high tax rates applied to work permit holder earnings were caused by a mistake, possibly during the process of registering for income tax or completing a tax return, and that these issues reflected a communication challenge for new arrivals into Jersey, and that accessing support for work permit holders in relation to tax matters was difficult.

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023-- Co-Chief Executive Officer (2):**

*“Clearly, those percentages and the individual with the incredibly high percentage is as a result of a mistake. So somewhere in the online process or the filling in they have ticked a box that they should not have ticked because there is no way that ... the salary levels of these individuals coming in are not going to, in general, be in the high teens, 20 per cent. They are coming in from scratch. So, again, it is a communication thing. These things are too complicated and use terminology that is misunderstood by people who are coming, maybe not multilingual options on website, et cetera, so these mistakes are made. Then I do not think that they realise that you can debate it or question it. To get in contact with somebody again has been incredibly difficult. It is not like you could just walk in there anymore and stand in a line and wait. It is not an easy, accessible, hospitable process. It is very difficult.”<sup>53</sup>*

The Panel acknowledges that information about Jersey income tax, Long-Term Care and social security contributions is publicly available. However, the Panel is also concerned that accurate information about income tax and other Government deductions, is not reaching all work permit holders and stakeholders representing work permit holders, to help inform decision making about living and working in Jersey.

In correspondence between the Panel and the Minister for Treasury and Resources dated 27<sup>th</sup> July, the Minister highlighted that information about income tax, social security contributions and Long-Term Care contributions should be provided to work permit holders in time to inform their decisions about working in Jersey:

**Letter – Minister for Treasury and Resources – 27<sup>th</sup> July 2023:**

*“When we met with the Panel on the 7th of July, we all agreed that this information ought to be in the hands of prospective workers in time to inform their decisions*

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<sup>52</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

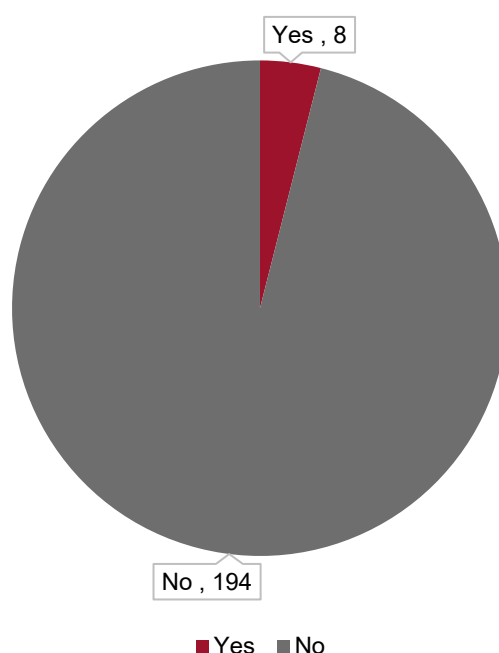
<sup>53</sup> [Ibid](#)

*about working in Jersey. The information is available on our website and employers and employment agencies are able to reference that or access hard copies.”<sup>54</sup>*

The Panel is supportive of providing income tax, social security contributions and Long-Term Care information to work permit holders as soon as possible to help inform their decisions about undertaking employment in Jersey.

In relation to social security contributions, whilst information about the 6% rate of social security contributions is available in the Guide, information about work permit holder entitlements to Government benefits and services is not included. The Panel understands that the 6% rate of social security contributions paid by work permit holders includes a contribution towards a pension. However, the Panel is unclear as to how work permit holders who do not transition to a Skilled Employment work permit or stay on the Island for at least five years to qualify for a pension, benefit from the pensionable component of social security contributions. Furthermore, the Panel is also unclear as to whether employers can be refunded the pensionable component of social security contributions that must be made by employers, for work permit holders who are not employed on a Skilled Employment work permit or remain on-Island for at least five years.

#### **Did you apply for any financial support or benefits from Government of Jersey departments?**



The Panel found that most work permit holders that responded to the Work Permit Holder Survey did not apply for any financial support or benefits from Government of Jersey departments.

However, of the respondents that answered ‘Yes’, two respondents indicated that they had experienced illness or injury which prevented them working, but also experienced problems accessing Government benefits.

<sup>54</sup> [Letter – Minister for Treasury and Resources to Panel – 27<sup>th</sup> July 2023](#)

Four of the survey respondents indicated that the payment of social security contributions without access to Government benefits or healthcare was problematic. During its review, access to healthcare was highlighted as a key concern by work permit holders and stakeholders. The impact of social security contributions on work permit holder access to healthcare is discussed in the 'Healthcare' section of this report.

**KEY FINDING 6:** The Minister for Treasury and Resources highlighted that information about income tax, social security contributions and Long-Term Care contributions should be provided to work permit holders in time to inform their decisions about working in Jersey.

**Recommendation 5:** The Minister for Home Affairs should introduce a requirement that the Seasonal and Temporary Workers Guide is provided to work permit holders prior to signing a contract of employment to undertake employment in Jersey.

**Recommendation 6:** The Minister for Social Security should introduce a mechanism to refund the employee paid pensionable component of social security contributions for work permit holders who do not transition to a Skilled Work permit or remain in Jersey for at least five years to qualify for a pension.

**Recommendation 7:** The Minister for Social Security should introduce a mechanism to refund the employer paid pensionable component of social security contributions to employers of work permit holders, whose employees who do not transition to a Skilled Work permit or remain in Jersey for at least five years to qualify for a pension.

## Pay deductions

A decision to take a job on a work permit in Jersey is based largely on pay. Gross pay typically refers to the full payment awarded to an employee before any mandatory deductions such as income tax are applied. The net payment is the amount awarded to an employee after all contributions and taxes are deducted from gross pay.<sup>55</sup>

The mandatory pay deductions applied to work permit holder earnings include income tax, Long-Term Care contributions and social security contributions.

The WPP neither includes information about these Government deductions, nor includes links or references to the Seasonal and Temporary Workers Guide which provides information about these deductions.

However, under Appendix 7 of the WPP, information is provided about statutory deductions which employers are entitled to make for the provision of employee accommodation and food. Under the Employment (Minimum Wage) (Jersey) Regulations 2004, employers are entitled to deduct a maximum of £115 per week from employee pay where accommodation is provided to an employee, and a maximum of £153.28 a week from employee pay where both accommodation and food is provided.

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<sup>55</sup> [Gross Pay vs. Net Pay: Definitions and Examples – Indeed.com](#)

During a Public Hearing with the Jersey Hospitality Association ('JHA'), the Panel asked about the type of pay deductions typically incurred by work permit holders in Jersey. The JHA responded that this varied between employer and the location of the accommodation:

**Deputy B.B. de S.DV.M. Porée:**

*"...So, in addition to the tax and social security contributions that you know employees have to pay, are you aware of any other responsibilities or wage deductions that employees do suffer?"*

**Co-Chief Executive Officer, Jersey Hospitality Association (1):**

*"There are different levels of accommodation, obviously. Again, that is going to be varied between employer to employer and location to location, depending on ..."*<sup>56</sup>

The JHA further responded that the variation in work permit holder pay deductions included factors such as whether an employer owned the accommodation provided to work permit holders, and what arrangements an employer and work permit holder had made about meeting the costs of travel and the visa and work permit application costs.

**Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*"Employers that own their own accommodation are in a different situation from employers that will have to go out and find somewhere that qualifies for them. I think in general the things that we see being taken out of people's pay are housing and then the question of if your travel and your application process is being deducted over a period of time during your employment. But those are the only things that I think we have seen being taken out."*<sup>57</sup>

The JHA informed the Panel that some employers owned properties outright that were used to accommodate work permit holders, and sometimes provided this accommodation without making any deductions from work permit holder pay. The JHA further informed the Panel that employers in the hospitality sector often provided a 'total package' for accommodation and food:

**Co-Chief Executive Officer, Jersey Hospitality Association (1):**

*"We have heard of some members that are able and have the capacity to have zero deductions because they own the properties, they have potentially no mortgages on those properties, whatever. That is part of the total package. Our industry does very much revolve around a total package as well. So it is not just about accommodation that our employers are able to offer but it is meals. That is never deducted really that we know of..."*<sup>58</sup>

The Panel's Work Permit Holder Survey also confirmed that social security contributions, income tax, accommodation and food were the deductions most frequently applied to work permit holder pay. However, the responses to the survey also highlighted deductions that included funds deducted for use of car or other vehicle, air travel and the cost of the work permit holder's visa.

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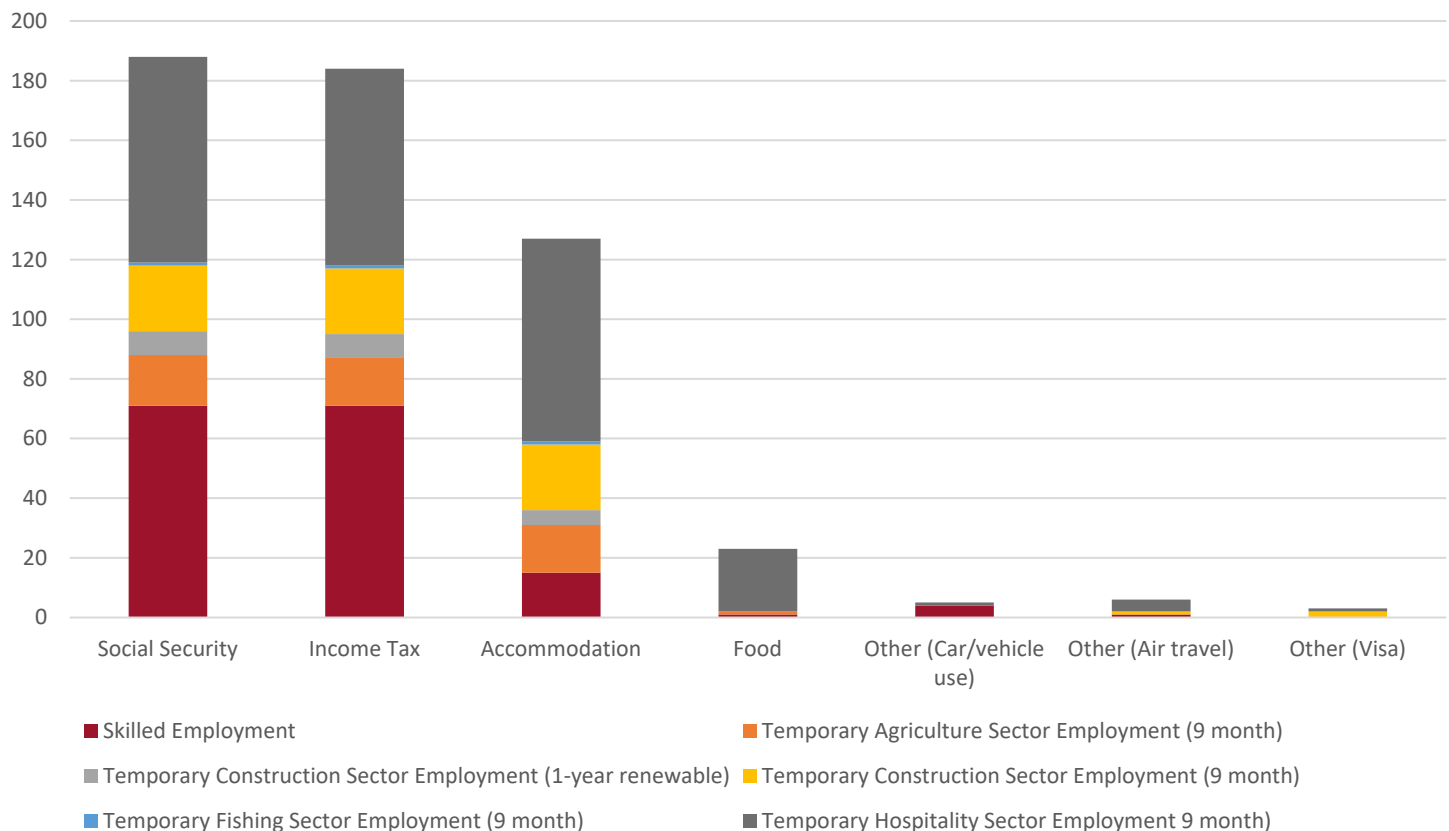
<sup>56</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

<sup>57</sup> [Ibid](#)

<sup>58</sup> [Ibid](#)



## Respondents whose employer deducted amounts from their earnings, by permit type:



However, information and guidance about further deductions in the WPP is limited. As previously stated in this report, Appendix 7 of the WPP includes 'Frequently Asked Questions' which advise work permit holders to agree deductions for travel expenses in writing with their employer prior to booking tickets and travel to Jersey.

The WPP makes the following statement in relation to deductions:

*"The employer must manage the expectations of their employees and ensure that they understand the work permit route they are on; whether any deductions will be made from their salary; and what these deductions relate to – see Appendix 7."<sup>59</sup>*

Appendix 7 refers to deductions for accommodation and food for those on minimum wage. It does not provide employer or employee information on other deductions. The Panel would like it to be explicit in the information in Appendix 7, and any other information provided to work permit holders, that deductions are set out in full for work permit holders prior to signing a contract. It must also be clear to employers what, if any, the consequences are of not doing so.

**KEY FINDING 7:** Appendix 7 of the Work Permit Policy is not explicit that deductions (other than those for food and accommodation for minimum wage earners) should be supplied prior to signing a contract.

**KEY FINDING 8:** The Work Permit Policy does not point to the consequences for employers who do not provide information about deductions prior to the signing of a contract.

<sup>59</sup> [Work Permit Policy & Procedures \(gov.je\)](#) – p73

**Recommendation 8:** The Minister for Home Affairs should ensure that the Work Permit Policy is updated by no later than 31 December 2023 to make it clear to work permit holders and employers that information about any deductions should have been provided prior to signing a contract and should make it clear what the consequences are for employers who do not do so.

**Recommendation 9:** The Minister for Home Affairs should consolidate guidance about the type and nature of salary deductions that may apply to work permit holders, into a breakdown of deductions, prior to signing a contract of employment to undertake employment in Jersey.

### **Cross-Departmental Working**

As previously stated in this report, the Minister for Home Affairs ('Minister') has ministerial responsibility for the Work Permit Policy ('WPP') and immigration matters affecting work permit holders.

However, during the review other areas affecting work permit holders that extend beyond the remit of the Minister and the Jersey Customs and Immigration Service became apparent, and the Panel decided to analyse how cross-departmental working within Government affected the welfare of work permit holders.

During its Public Hearing with the Jersey Hospitality Association ('JHA'), in response to questions about the information provided to work permit holders, the Panel was made aware that Government had established an Employer Standards Oversight Board.

**Deputy B.B. de S.DV.M. Porée:**

"What is your understanding of the induction information which is provided by your members to work permit holders prior to and upon arrival in Jersey?"

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023: Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*"It is changing. We were invited to the first meeting of a government group last week of stakeholders to look at employee welfare on permits."*

**Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023: Co-Chief Executive Officer, Jersey Hospitality Association (1):**

*"Called the Employer Standards Oversight Board that was established."<sup>60</sup>*

The Minister confirmed the establishment of the Board during a Public Hearing, and that the Board was set up to look at the standard of treatment of all employees in Jersey:

**The Minister for Home Affairs:**

*"The latest thing that we have set up is an Employee Standards Oversight Board. As you will know, we have got a ministerial group called the Population Skills Ministerial*

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<sup>60</sup> [Microsoft Word - 2023.05.11 Jersey Hospitality Association transcript \(gov.je\)](#)

*Group and right at the beginning when we were looking more broadly across the Island and workforce it was very clear that we needed a group to oversee employee standards, and that is not just for people on work permits. It is for generally all employees. They do monitor the treatment of work permit employees and they encourage compliance by employers and that includes government employers because the Government is an employer.”<sup>61</sup>*

The Minister then described how the Board had engaged with industry and employee representatives, and that the Board first met on 2<sup>nd</sup> May 2023:

**The Minister for Home Affairs:** *“Then also they would engage with business, so Jersey Business and employee support organisations, potentially the unions. The very first time that group met was 2<sup>nd</sup> May and they will continue to meet bimonthly. That is a really good flow of information. It is a really good engagement process for us to get information but also for us to debunk some of the myths that there appear to be around the work permit process and the immigration law in general”.*<sup>62</sup>

However, during Public Hearings with Friends of Africa and the Kenyan Jersey Committee, the Panel learned that both groups appeared not to have been made aware of the Board prior to the Public Hearing with the JHA on 11<sup>th</sup> May.

#### **Kenyan Jersey Committee:**

##### **Deputy B.B. de S.DV.M. Porée:**

*“...has the Kenyan Jersey community been made aware of the employers standard oversight board?”*

##### **Mr. A. Nyatta:**

*“We know from the past sitting with the J.H.A. they talked of introducing a gold standard for employers and that is as much as we know.”*<sup>63</sup>

#### **Friends of Africa:**

##### **Deputy B.B. de S.DV.M Porée:**

*“...has Friends of Africa been made aware of the Employers Standards Oversight board?”*

##### **Chair, Friends of Africa Jersey C.I.:**

*“No”*<sup>64</sup>

During further questioning with the Minister, the Panel learned that the Board was a cross-departmental group, with the Minister as the lead Minister of the Board, sharing responsibility with the Minister’s for Economic Development, Tourism, Sport and Culture, Social Security and External Relations and Financial Services:

##### **Deputy B.B. de S.DV.M. Porée:**

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<sup>61</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#)

<sup>62</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#)

<sup>63</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](#)

<sup>64</sup> [Microsoft Word - Jersey - WPHW Review with Friends for Africa 30.05.2023 \(gov.je\)](#)

*“...the panel has been made aware of the establishment of an Employee Standards Oversight Board to look at the work permit or the welfare. Does your department have responsibility for these boards?”*

**The Minister for Home Affairs:**

*“I am the lead Minister for that but I share that responsibility with the Minister for Economic Development, Tourism, Sport and Culture, the Minister for Social Security and the Minister for External Relations and Financial Services. It is a cross-departmental group, if you like, to make sure that all of us are moving forward and pulling in the same direction, rather than the opposite direction.”*

During questioning about the establishment of other Government bodies and groups, the Panel was told that in addition to the Board, the Government had established the Population and Skills Ministerial Group and the Labour Shortage Taskforce:

**Head, Jersey Customs and Immigration Service:**

*“...so there is the Population and Skills Ministerial Group, the Employee Standards Oversight Group, which is focused on work permit issues in particular and there is also the Labour Shortage Taskforce, which is looking at the shortage of labour, including British nationals as well.”<sup>65</sup>*

Whilst the Panel is supportive of cross-departmental working to improve the welfare of work permit holders in Jersey, the Panel remains unclear about how the roles and responsibilities of these different Government bodies, as well as the different information and welcome packs, interact to provide a coordinated approach to oversee and improve the welfare of work permit holders.

However, there is a clear desire amongst groups representing work permit holders and employers, that work permit holders need all the key information about living and working in Jersey in one centralised format:

**Jersey Hospitality Association:**

**Co-Chief Executive Officer (2):**

*“There could very easily be one document that says: “Welcome to Jersey” that explains the police, the healthcare system, how you file for your taxes, your rights under a permit or your rights under a visa. This is not rocket science. This just needs the right departments to come together.”<sup>66</sup>*

**Kenyan Jersey Committee:**

**Deputy B. Porée:**

*“So moving forward maybe that is the way. You are suggesting that should be a centre of the information to support those looking for guidance with their issues?”*

**Mr. J. Muchiri:**

*“Yes. We think that is what it is supposed to do.”<sup>67</sup>*

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<sup>65</sup> [Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023](#)

<sup>66</sup> [Public Hearing – Jersey Hospitality Association – 11<sup>th</sup> May 2023](#)

<sup>67</sup> [Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023](#)

## Friends of Africa:

### Volunteer:

*“There is not a centralised place where a work permit holder can go and seek the right information and get the right advice because their visa supersedes ... the visa legislation supersedes everything.”<sup>68</sup>*

The Panel is supportive of the feedback received from stakeholders that key information and guidance about living and working in Jersey, that’s relevant to work permit holders, should be centralised and accessible through one location.

**KEY FINDING 9:** The Employer Standards Oversight Board was established to look at the standard of treatment of all employees in Jersey and is a cross-departmental group led by the Minister for Home Affairs.

**KEY FINDING 10:** In addition to the Employer Standards Oversight Board, the Government established the Population and Skills Ministerial Group and the Labour Shortage Taskforce which are examples of cross-departmental working within Government.

**Recommendation 10:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should undertake a process of consultation with key stakeholders from community groups and industry representatives to establish a centralised portal of information for work permit holders to access prior to signing a contract of employment to undertake employment in Jersey.

## Employment, Conditions and Support

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Central to the purpose of this review was the examination of the Work Permit Policy’s effectiveness in ensuring the welfare of work permit holders and in providing guidance on all matters related to their employment in Jersey (see Terms of Reference at Appendix 1 of this report).

The Panel sought to establish how easy it was for work permit holders and their employers to access helpful and accurate information and what support and signposting to support agencies was available to them when they did so.

### Workplace conditions

The evidence collected by the Panel on working conditions varied.

#### Volunteer, Friends of Africa Jersey C.I.:

*“You do find very good employers who, even when their workers are going back home, if they have other locals who are here, they will collect clothes, they will make sure that their return ticket is bought before they have left. Those are the good ones, especially*

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<sup>68</sup> [Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023](#)

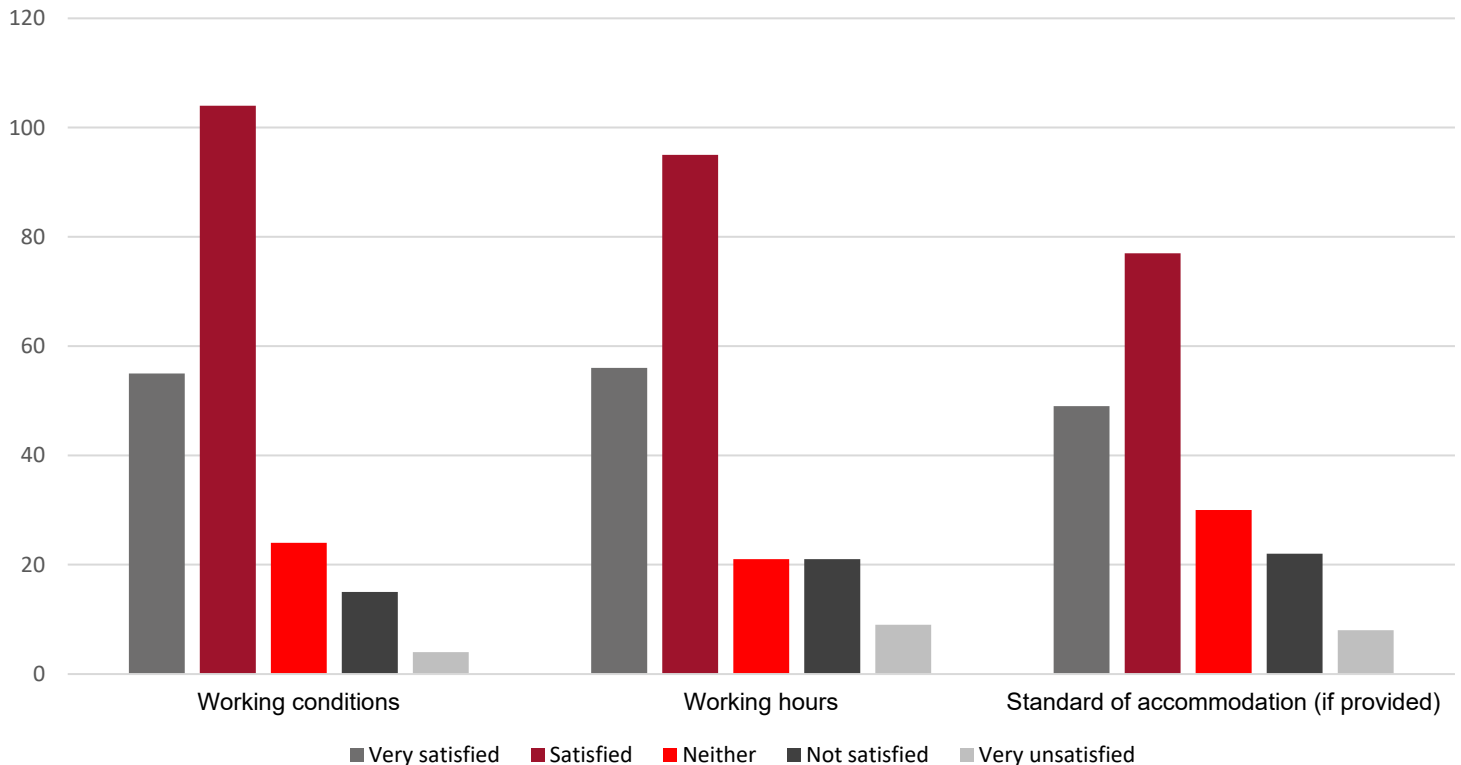
*the old school ones. They are really good. They have employers who have been coming back to them for 15, 16, 20 years. However that is a very small fraction. The bigger fraction is we are now more geared to a lot of turnover in the hotels themselves. Even in finance there is a very high turnover in finance.<sup>69</sup>*

It was made aware of instances of challenging and poor working conditions but also that many individuals had a positive experience of working in Jersey. The Panel wanted to establish:

- What mechanism was in place to ensure a good standard for working conditions.
- What support was available when things went wrong.

The majority (154 of 209) of those who responded to the Panel’s survey (full results at appendix 3) reported that they were satisfied with their working conditions.

### Were you satisfied that your employer considered your welfare in the following areas:



Those who were not satisfied were invited to provide additional comments. These included:

- ‘There is no way can be heard or input considered. It is non-negotiable. You are already here – take it leave it – but to go where?’

<sup>69</sup> [Transcript – Public Hearing with the Friends of Africa Jersey – 30 May 2023](#) p16

- ‘No sexual harassment and bullying policy; lack of cultural intelligence practice; no equality, diversity and inclusion in the workplace; modern slavery and exploitation and a lack of mental health support for staff.’
- ‘I was only presented with the terms and conditions after arrival I was not given the choice of accepting the terms. When I got here it was too late neither to accept or decline.’
- ‘Employer switched contract on arrival.’
- ‘Because the employer doesn’t adhere to the terms as per the contract. Negligence on the staff. Equally treatment. Contract variation among the staff working.’

During the course of the review, the Panel received anonymous submissions which have outlined cases involving bullying and, in one case, sexual assault and harassment.<sup>70</sup> Racism and discriminatory behaviour have also been described to the Panel.<sup>71</sup>

In instances of criminal behaviour or breaches of specific laws related to employment and/or discrimination, individuals would need help and support which is not in the remit of the JCIS, however, as addressed later in this section, beyond the information provided in Appendix 7, there does not seem to be a clear, single and reliable pathway of support and information offered to people arriving in Jersey on a work permit.

The Panel also understand that some work permit holders had been served notice to leave Jersey within 7 days following the termination of their contract of employment. The Panel believe this makes it less likely that a work permit holder will raise an issue about their employer, especially work permit holders that rely on their employer to provide accommodation:

**Mr. J. Muchiri:**

*“It is 7 days. If you are unemployed, if you are released by your employer, you have 7 days to leave the Island.”*

**Deputy B. Porée:**

*“Including weekends?”*

**Ms. M. Turner:**

*“Including weekends, including bank holidays.”<sup>72</sup>*

It was also the stated belief of Friends of Africa that there were not adequate processes in place to ensure that work permit holders are treated equally under Jersey’s employment and discrimination laws.<sup>73</sup>

In keeping with a theme which runs throughout this review, one of the conclusions drawn by the Panel is that compliance with the policy on the part of the employer is taken on trust to a large degree and that it has also relied, historically, on reporting by individuals or people representing them rather than a systematic inspection process.

During its public hearing in June, the Minister was asked how the department ensured compliance with the policy.

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<sup>70</sup> [Submission – Anonymous 2 – 6 March 2023](#)

<sup>71</sup> [Submission – Anonymous – 5 March 2023](#)

<sup>72</sup> [Public Hearing – Kenyan Jersey Committee – 30<sup>th</sup> May 2023](#)

<sup>73</sup> [Transcript – Public Hearing with the Friends of Africa Jersey – 30 May 2023](#) – p18

### **The Minister for Home Affairs:**

*“The first thing to say is that employers are signing a document when they apply for the permit to say that they will abide by those conditions, so you have that kind of contractual obligation at the end, at the beginning of the process. We are not, as I have explained, actively going out at the moment to check for bad practice. As soon as we hear about bad practice, however that might happen, we investigate all complaints of poor practice and I could give you examples but I am sure that you have heard of them in your previous hearing. If it is found that the employment situation is not satisfactory, the permit will be withdrawn from that employer and at that point the person who was holding the permit will be offered the opportunity to change employers and go and work elsewhere”.<sup>74</sup>*

The Minister added that instances in which a permit had been withdrawn were very few. The Head of Jersey Customs and Immigration then added that the department were intending to be more proactive in investigating issues.

### **Head, Jersey Customs and Immigration Service:**

*“It is probably a few. I think the one thing to emphasise is we are transitioning now from a reactive element, so certainly every instance that comes to our attention is looked into and investigated but, as the Minister said before, additional resources are going in very shortly. We are moving to a more proactive element in looking actively for instances and that also involves developing the intelligence around it.”*

The Panel is encouraged by this statement. It is understood that these are the posts referred to in the Common Population Policy Annual Report (which will be referred to again below).<sup>75</sup> The Panel also welcomed the addition to the Work Permit Policy (made in April 2023 shortly after the launch of this review) for workplace inspections:

*“By applying for a work permit the employer agrees that access will be granted to work premises to JCIS Officers by appointment to conduct checks to ensure compliance with the work permit policy”<sup>76</sup>*

The Panel would suggest that a spot check system – perhaps using a similar risk rating employed by the Environmental Health team in relation to rental accommodation<sup>77</sup> – would provide a more accurate picture of daily conditions and adherence to the conditions of the policy.

In addition, the Panel would seek the assurance of the Minister that the capability and workload of officers continues to be closely monitored to ensure that the resource remains sufficient in the light of growing numbers of work permit holders and to ensure that officers are suitably trained to carry out this role. The Panel recognises the assurance of the Minister during the public hearing that resourcing was being addressed and also that the extension of the ‘immigration team compliance capability’ was referenced in the Common Population Policy Annual Report.<sup>78</sup>

*“Immigration team compliance capability*

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<sup>74</sup> [Transcript – Public Hearing with the Minister for Home Affairs – 7 June 2023](#) p8

<sup>75</sup> [Common Population Policy Annual Report 2023.pdf \(gov.je\)](#)

<sup>76</sup> [Work Permit Policy & Procedures \(gov.je\)](#) - p6+ others

<sup>77</sup> See page xx on Accommodation

<sup>78</sup> [Common Population Policy Annual Report 2023.pdf \(gov.je\)](#)



*Recruit additional Immigration officers to support increased workload and to encourage compliance of the appropriate treatment of work permit employees. 2 officers recruited. Training to be completed July 2023.*

*Immigration team compliance capability*

*Recruit additional Immigration officers to support increased workload and to encourage compliance of the appropriate treatment of work permit employees.*

*2 officers recruited. Training to be completed July 2023.”*

The Minister and the JCIS may also need to consider whether there is an additional support mechanism needed for smaller employers who may need more assistance to ensure full compliance.

It is the Panel's belief that there is an inherent conflict between the role of an enforcement agency tasked with ensuring that people stay only as long as their visa or other entitlement allows and that of a team to support people to come to the Island to live and work.

In a letter sent to the Panel by the Minister for Home Affairs on 9<sup>th</sup> August 2023, the Minister also suggests that there is a disparity in the expectation by work permit holders of an advisory function at the JCIS and the role of the service. The letter states:

*“Accessibility of immigration: I have noted some comments about the accessibility of immigration officers, both by businesses and members of the public.*

*It should be noted that JCIS are not an immigration advisory service – their role is to grant immigration permissions and enforce immigration legislation. JCIS do not have a public office but do deal with enquiries daily from those attending Maritime House seeking immigration advice.<sup>79</sup>”*

In the Panel's view, this a vital piece of information and one which is central to many of its findings and recommendations. That being that there is currently no central, reliable source of centralised support and information for work permit holders. Instead, individuals need to know which policy or law their query would fall under or approach one of the community groups which are currently trying to fill this gap.

It is also clear from the Minister's comments above and the evidence provided to the Panel by both employers and work permit holders that both 'businesses and members of the public' are displaying a level of confusion about the role of immigration officers.

**KEY FINDING 11:** There is no clear, single and reliable pathway for support offered to people arriving in Jersey on a work permit.

**KEY FINDING 12:** The 'requirement' to leave within 7 days of the end/breakdown of a contract makes it less likely that a work permit holder will raise an issue about their employer, especially work permit holders that rely on their employer to provide accommodation.

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<sup>79</sup> [letter - minister for home affairs to work permit holder welfare review panel re work permit clarifications - 9 august 2023.pdf \(gov.je\)](#)

**KEY FINDING 13:** The Work Permit Policy has taken compliance with the policy on trust or relied on reporting by individuals or their representatives.

**KEY FINDING 14:** The Common Population Policy Annual Report indicates that 2 officers have been recruited to 'encourage compliance' with the Work Permit Policy.

**KEY FINDING 15:** There is some confusion about the function of immigration officers and whether they provide an 'advisory service'.

**Recommendation 11:** The Minister for Home Affairs should consider additional support should be available, especially for small employers, to ensure compliance with the Work Permit Policy.

### Restrictions of on movement between employers

During the course of the review there were recurrent themes from community groups and work permit holders. Among the most frequent were the restrictions on movement between employers and the inability to work for more than one employer without the consent of the first (or primary) employer.

In relation to the first of these, the feedback received by the Panel from community groups and work permit holders was that the balance of power on the limits to employment was too far in favour of the employer.

The Friends of Africa Jersey provided the following evidence to the Panel.

#### **Volunteer, Friends of Africa Jersey C.I.:**

*"But as we all know, regardless of where you are from, discrimination is very difficult to tackle. So you will find that the employer, they know you cannot go anywhere for a year. You cannot go anywhere for the duration of the employment if you are a seasonal holder. If you are in finance or in health you cannot do anything for a year. Even if they mistreat you there is no penalty for that mistreatment. For example, if you do win at tribunal, there is no way of Immigration knowing what has happened and there is no way for Immigration to hold them to account. Yes, they will be answerable to employment law but not answerable to immigration law, even though the 2 are linked by virtue of the work permit holder's rights have been infringed on, on both sides, and they have had to leave without any preparation in 7 days."*<sup>80</sup>

However, the Panel note that the outcome of employment tribunal disputes is a matter of public record and are published on the Jersey Law Information Board website.<sup>81</sup>

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<sup>80</sup> [Transcript – Public Hearing with the Friends of Africa Jersey](#) – p13

<sup>81</sup> [Jersey Law Information Board](#)

11 of those respondents to the Panel's survey who were not satisfied with the terms and conditions of their employment cited either restrictions on supplementary employment (7 people) or restrictions on switching employment (4 people) as the reason.

Comments provided included:

- 'The contract was one sided and I was not informed of any changes in immigration laws which prevented me from leaving for 12 months where I had to put up with a toxic work environment.'
- 'The issue that I have to stay with an employer for a year seems to empower the employer and makes the employee at the mercy of the employer. There is some unfairness on that policy.'

While the numbers reporting the problem as part of the survey are small, the comments reflected a theme which had been expressed to the Panel by community groups and support organisations.

An anonymous submission to the Panel provided the following statement:

*"Several of our members commented that they were forced to remain in a toxic work environment for a year in order to serve out this one-year policy. One of our members returned to his home country because his work environment became untenable, and he had no other options available to him (despite the fact he had another job offer)."*<sup>82</sup>

In the view of one of those who provided evidence to the Panel, the requirement for an individual to request permission from an employer to undertake supplementary employment placed the work permit holder in servitude.

*"Whichever definition you choose to look at for servitude, the requirement for the employer's permission to change jobs and the restriction placed on the permits requiring the employer's permission to undertake supplementary work is placing the permit holder in servitude and that is an infraction of the human rights law. This is exacerbated when you consider that most workers also fall into a position of debt bondage because they frequently pay for travel and flight arrangements from Kenya requiring payment back, et cetera. What I found interesting here is that all of this is based on the work permit policy, which is a document written by the Immigration Department. That document, written by a government department, places the employer in a position where they are in breach of the human rights law, so far as I can see."*<sup>83</sup>

The occasions on which this restriction appears to have caused the most difficulty appear to have been those on which the employment on offer, once a work permit holder has arrived in Jersey, does not meet the expectation they had based on prior conversations, contracts or documents.

Evidence provided to Panel by the Jersey Farmers' Union suggested that the rigidity of this rule had also had some impact on employers.

#### **President, Jersey Farmers' Union:**

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<sup>82</sup> [Microsoft Word - Submission - Anonymous 4 - 29th March 2023 \(gov.je\)](#)

<sup>83</sup> [Transcript – Public Hearing with the Kenyan Jersey Committee](#) - p18

*“It has been loosened because at the outset of the 9-month permit you could not even move between farms and now you can. So that has been a bit of a help because if, for example, we had very wet weather there might be somebody on a dairy farm or on the glasshouses who would take your staff for a couple of days. So now we can move them within the industry. That has been very helpful.”<sup>84</sup>*

Evidence provided to the Panel would suggest that in some instances, work permit holders are finding support from cultural groups and – on occasions when it falls under their remit – from JACS. The JCIS has reported supporting individuals in moving between employers when the circumstances are exceptional<sup>85</sup>.

In her letter to the Panel which followed the conclusion of the Panel’s evidence-gathering, the Minister provided the following statement about the ability to switch employers.

*“Ability to switch employers: Various stakeholders have in giving evidence commented on the inability of work permit employees to switch employers.*

*A work permit is issued for a named individual to take employment in Jersey for a named employer, in a specific role for a set period. Historically there was nothing in the work permit policy to prevent an employee changing employer once in Jersey, subject to meeting the requirements of the policy.*

*Further to recruitment challenges post-Brexit the work permit policy was expanded. Employers were investing more in recruitment and were being left out of pocket when an employee changed employer. At the request of industry, and in particular the Jersey Hospitality Association, restrictions were introduced into the policy to prevent employees changing employer in the first 12 months of their employment.*

*However, where there have been issues in the workplace JCIS have reviewed on a case-by-case basis and employees have been allowed to switch exceptionally.*

*As I said at the public hearing I attended, I am reviewing the continued appropriateness of the 12-month timeline for this restriction and am open to reducing this, I await any recommendations from the Panel as part of that consideration.”<sup>86</sup>*

The Panel welcomes the Minister’s assurance that she is willing to review this restriction and would ask that this is done at the earliest opportunity.

It is also aware that any review will need to carefully consider human rights legislation and should aim to provide a better balance between the interests of employers and the rights of individuals.

**KEY FINDING 16:** Employment tribunal judgements are a matter of public record and are published on the Jersey Law Information Board website.

**KEY FINDING 17:** The 12-month restriction preventing work permit holders from moving between employers places more power with employers than work permit holders.

<sup>84</sup> [Microsoft Word - Jersey Scrutiny - Work Permit Holder Welfare Review - Jersey Farmers’ Union 10.05.2023 \(gov.je\)](#)

<sup>85</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#)

<sup>86</sup> [letter - minister for home affairs to work permit holder welfare review panel re work permit clarifications - 9 august 2023.pdf \(gov.je\)](#)

**Recommendation 12:** The Minister for Home Affairs should review the 12-month restriction in place preventing work permit holders to switch between employers consulting with both employer representatives and support groups. This review should consider human rights legislation and modern slavery legislation.

## Working hours

The primary driver for many work permit holders coming to live and work in Jersey is a financial one. For some, this means working as many hours as possible once they arrive in Jersey to make a return on their investment travelling to the Island.

However, this report has previously highlighted that some employers are not clear about whether the Work Permit Policy ('WPP') includes a requirement to provide a minimum of 40-hours per week, and that the WPP does not explicitly state that zero-hours contracts are prohibited.

Whilst the expectation of work permit holders might be that they are provided with 40-hours of work per week, on a number of occasions during the review, the Panel was informed that some employers had not been providing 40 hours of work:

### **Chair, Friends of Africa Jersey C.I.:**

*"...When somebody is coming in for a 9-month contract, for example, for them [employer] to be given that licence they have to guarantee that they are offering that individual 40 hours' worth of work a week. We have employers who have then put people on zero-hour contracts when they have been here, and they will tell the staff: "I cannot guarantee you the 40 hours a week so whatever hours you work that week because it might get quiet at some point." So in those cases we have reported those to Immigration."*

### **Volunteer, Friends of Africa Jersey C.I.:**

*"Especially October and November, the hours drop significantly and they are told: "You made up that time in the summer." So people can work as little as 15 hours and get a pay slip with a minus after their rent having been taken out."*

Friends of Africa also provided the following view in their submission to the review.

*"People who should be guaranteed full time hour's contracts in the hospitality sector as per immigration and home office rules are then given zero hours contracts and not guaranteed those full-time hours. The individuals are then not able to make enough money to be able to make their stay here in Jersey worthwhile, they do not have access to social security funds for the hours they do not get on a full-time basis as any other resident on the island. They are not accorded the opportunity to earn a living that will not allow them to sustain their existence on the island even though this is the basis and the promise for bringing them to the island.<sup>87</sup>"*

The Panel accepts the assurances provided during a Public Hearing with the Minister for Home Affairs on 7<sup>th</sup> June 2023, that employers must not provide a zero-hours contract:

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<sup>87</sup> [Submission – Friends of Africa Jersey](#)

### **The Minister for Home Affairs:**

*“These include as part of the work permit policy that an employer must provide a contract and it must not be a zero-hours contract, so work permit holders must be on a proper contract of employment.”*

However, the Panel is concerned that these assurances do not match the experiences of some work permit holders in Jersey.

The Jersey Farmers’ Union addressed working hours during its meetings with the Panel and in the Public Hearing held on 10<sup>th</sup> May. It described the assurances that were needed by the Philippines Government in order to allow the JFU to work with the recruitment agency in the Philippines to bring workers to Jersey.

*“I think the last thing was the number of hours that they were going to work because obviously coming from such a long way away to make it worthwhile for everyone you have to be doing at least 45 to 50 hours a week. The Farmers Union guarantees 41 hours a week or, in exceptional circumstances, if you would have snow, it is rolled over for a fortnight.”*

However, the JFU later clarified during factual checking that the phrase “*rolled over for a fortnight*” is incorrect, and that employees are guaranteed a minimum of 41 hours of employment per week, or in exceptional circumstances, 164 hours of employment per month.

The comment also provided an insight into the need expressed by the agriculture industry for flexibility on the timing of hours worked in relation to poor weather. However, the JFU remained clear that their members understood that the minimum was 40 hours.

The Panel also heard during the hearing from the Business Unit Director, Jersey Royal Company that workers’ often requested additional hours.

### **Business Unit Director, Jersey Royal Company:**

*We will always get that request. All of our staff sign up to a 48-hour opt-out policy to say that they can work 48 hours. On average we probably average about 50 hours. Under our S.M.E.T.A. (Sedex Member Ethical Trade Audit) audit, our ethical audit, we are not supposed to work consistently above 60 hours. Our staff want to work as many hours as they can. If they could they would work 70, 80 hours a week because that is what they are here for, to earn money. But under our audit regime we try and keep them below 60. They want to earn as much as they can.<sup>88</sup>*

The Panel recognises that there is a balance to be struck for employers between a duty of care to an individual, to ensure that the hours worked do not have a negative impact on their health and wellbeing and increasing those hours to aid both the business and the individual’s financial requirements.

**KEY FINDING 18:** The experience of some work permit holders does not match the expectation that they will be provided with a minimum 40-hour working week.

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<sup>88</sup> [Microsoft Word - Jersey Scrutiny - Work Permit Holder Welfare Review - Jersey Farmers’ Union 10.05.2023 \(gov.je\)](#)

## Disputes and Grievances

An important aspect of this review was to examine how well the Work Permit Policy protected workers in cases where there was a dispute or grievance with an employer.

Appendix 7 of the Work Permit Policy states:

*If you think you're being treated unfairly or wrongly, you should try first of all, if you can, to resolve any issues with your employer informally. If that doesn't succeed, then you can make a formal complaint, which could include bringing a claim to the Employment & Discrimination Tribunal.*

*If you do have a problem with your employer, you can also get advice from an independent employment advisory organisation, from the government, a trade union or from other community bodies and representatives. This leaflet gives you details of who can help.<sup>89</sup>*

However, the Panel is not clear about the extent to which work permit holders are currently supported by trade unions in Jersey and believes that it is important that work permit holders are able to access this representation and support.

The appendix also provides information on rights under the employment law and the names of agencies and support groups which could provide information.

The policy also sets out the action that should be taken in the event of a dispute with an employer.

*The Customs & Immigration Service generally will not get involved in disputes between an employer and a work permit holder however we must be made aware of the context of the conflict or disagreement as action may need to be taken against the employer or the work permit holder.*

*Work permit holders should contact the Jersey Advisory and Conciliation Service (JACS) if they enter into a dispute with their employer as this is not a matter for immigration to resolve.*

*If, as a result of employment being terminated, the employee enters into a dispute with the employer which goes to an employment tribunal there is no requirement for the employee to remain in the Island as their case can be submitted and heard from outside the Common Travel Area.<sup>90</sup>*

Evidence provided to the Panel was that the policy presented practical difficulties for work permit holders in pursuing a dispute in the following ways:

- Direction is provided to the JACS but in a number of instances a grievance fell outside a breach of employment or discrimination law.
- The 'requirement' for work permit holders to leave the Island within 7 days of the end of their contract.

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<sup>89</sup> [Work Permit Policy & Procedures \(gov.je\)](#) – p73

<sup>90</sup> [Work Permit Policy & Procedures \(gov.je\)](#) – p29

In relation to the first of these points the Panel would refer to its findings and recommendations (below) in relation to the clear signposting of information for work permit holders and the need for a central repository for accurate, timely guidance and support.

The JACS provided the following evidence of the contact made by work permit holders in a letter to the Panel dated 22<sup>nd</sup> February 2023.<sup>91</sup> It does highlight both the increase in the number of cases and also the scope of service the JACS provide.

*“Until 2022 JACS received very few (possibly less than 3) queries a year, but this started to change around July 2022 – at this point any such contact was not recorded separately. From January 2023 we now have a separate category for Work Permits (covering all/any concerns). To date the overall number of people contacting JACS is 1211; queries directly about work permits (to date) is 8 (less than 1%). Below is an extract from our 2022 Annual Report (to be released once our audited accounts are available at the start of April 2023:”*

*“...A new trend in 2022 (from around July) was the number of queries in relation to Work Permits. Whilst JACS are not able to advise on work permits (this falls under Customs and Immigration) we are available to discuss employee issues that fall either under the Employment (Jersey) Law 2003 and/or The Discrimination (Jersey) Law 2013. The types of query we receive are around employers changing contracts once employees have arrived on the Island, deducting sums from wages that have not been agreed, acts of discrimination and harassment. Whilst generally employees cannot claim for unfair dismissal until they have been employed for 52 weeks, if the dismissal falls under a statutory breach or the discrimination legislation claims can be lodged for ‘auto-unfair’ dismissal. JACS have worked closely with Justice and Home Affairs (as well as Jersey Customs and Immigration Service and Customer and Local Services) to ensure that employees arriving to work in the Island have as much information about their employment rights from first day of working for their employer.”*

The requirement to leave and the difficulty that this presents for work permit holders was highlighted in the evidence provided by the Friends of Africa in their written submission to the Panel.

*The policy also does not address the fact that in Jersey immigration surpasses any other policy that’s put in place. This highlights the clear disconnect of the policy, the law, its interests and preserving the safety and practicality to ensure the confidence of islanders and permit holders.*

*When issues arise the employer hides behind the law when the issues are more to do with the welfare of the individual. Due process is then difficult to take place when people are given 7 days to leave the island without means, time or resource to challenge the outcome. Our very own immigration department have admitted that the policy is discriminatory and does not protect the individual.<sup>92</sup>*

The Kenyan Jersey Committee outlined the stress experienced by individuals trying to, in some instances, continuing to work-their notice period while potentially trying to find another job and making representations to the JCIS.

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<sup>91</sup> [submission - review of work permit holder welfare - jacs - 22 february 2023 jacs.pdf \(gov.je\)](#)

<sup>92</sup> [Microsoft Word - Friends of Africa meeting notes \(gov.je\)](#)



*... The work permit holder, is still working the notice, so this individual does not have time to sort out their affairs with regards to travel, any money owed or even to compose themselves due to the fact that they have lost their job. They are required to leave the Island, the Common Travel Area. They are required to vacate the room, hand in their keys because their work is tied to the accommodation and the accommodation is tied to their visa. So, in essence, it becomes very, very stressful, especially when the end time runs into the weekend or bank holiday. There are instances whereby we have had a work permit holder having the immigration officer requesting them to turn up to the office on a bank holiday to have their permission scuttled and this is really stressful and it becomes a big struggle when it comes to that.<sup>93</sup>*

The evidence provided to the Panel speaks to a general understanding that the standard period of time for leaving at the end of a contract (disputed or otherwise) is 7 days. It does appear, however, that this is discretionary and in the hands of the JCIS and the Minister.<sup>94</sup>

During the hearing with the Home Affairs Minister and the Jersey Customs and Immigration Service, the Panel asked about the time requirement provided for individuals to leave Jersey.

**Deputy L.V. Feltham:**

*I will move on to talking about if there was a dispute between employers and employees and if a work permit holder is dismissed, meaning that effectively the terms of their visa is broken. We understand that in that situation the employee would be required to leave the Common Travel Area. Can you confirm what notice period is provided to work permit holders to leave the Common Travel Area if they are in that situation?*

**Senior Manager, Jersey Customs and Immigration Service:**

*We will normally give them sufficient time to put their affairs in order. That can be a week, it can be a few days, it depends on their circumstances.<sup>95</sup>*

The Kenyan Jersey Committee also made the point that while they and the Friends of Africa were available to support work permit holders, they were aware that as a cultural group, they might not reach all non-British workers in Jersey who were seeking assistance.<sup>96</sup>

The Panel believes that in circumstances where an employee feels that they have been unfairly treated, it is unreasonable to expect them to have gathered the required information and support within 7 days. Additionally, it would question how practical it is to pursue a dispute with an employer once they have left the Island.

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<sup>93</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](#)

<sup>94</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#) – p53

<sup>95</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#) p53

<sup>96</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](#) – p13

**Recommendation 13:** The Minister for Home Affairs should consider ways in which the Work Permit Policy can be strengthened with a temporary stay for work permit holders who are pursuing a dispute or grievance.

**Recommendation 14:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should consult with industry and trade unions to ensure that work permit holders have access to trade union representation and support.

## Length of work permits

During the course of the review the length of permits came up frequently for both employers and work permit holders. The Panel has tried to restrict the comment on the permits to the issues relevant to the terms of reference of this report – that being the impact of permit length on employee welfare.

Both work permit holders and employers expressed some frustration at the length of work permits available.

From the work permit holder's point of view, the challenges centred on the expense of leaving for short periods before being able to return. The cost of travelling long distances is addressed earlier in this report. This was further exacerbated by the situations in which a contract for work was for a shorter period than the length of the individual's visa.

One respondent to the Panel's survey wrote: 'My employer is good and I'm very happy, but my contract duration only 7 month, because its seasonal hotel, although my visa is for 9 month.'<sup>97</sup>

The President of the Jersey Farmers' Union spoke about the 9-month permit<sup>98</sup> and the requirement for an individual to leave for 3 months prior to returning to Jersey.

*"When it comes to the 9- month permit, obviously that is expensive in itself, and by that I mean if someone has to go back after 9 months for 3 months, and we mentioned that some of the original 18 [work permit holders] are now on their fourth time. Basically they have done 36 months but they have spent a year away. It is not always ideal. We had a long hot dry summer last year. Certainly spring was very hot and dry. This year it is raining all the time. We may get to a situation where staff have to go back because they have done their 9 months at the end of July, which was fine last year but this year we may be digging seed potatoes into August. So 9 months is much more difficult but I think most of us are trying to manage it. The difficulty ... I think most growers are finding at the moment that the 2 issues we have with the 9-month work permits, we are very disappointed at the outset that they did not include in this document, the work permit policy, they did not include herdsman or tractor drivers as skilled operators. It is very difficult, from the Philippines in particular, to find skilled tractor drivers because they do not have tractors like we have and they certainly do not have small roads like we have. So the man who says: "I can drive a tractor in the Philippines" is probably on a road about 40 foot wide with bamboo canes either side. We have granite walls. That is an issue, we think, going forward. The same, when you are running a dairy unit, to have a herdsman that is good and*

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<sup>97</sup> Ref to survey results once in report

<sup>98</sup> [Work Permit Policy & Procedures \(gov.je\)](https://www.gov.je/Work-Permit-Policy-&-Procedures)

*then only stays 9 months and has to go home for 3 months, you cannot have nobody so you have to find another man. In effect, if you are a small dairy unit you cannot carry someone, so the first man cannot come back not for 3 months but for 9 months. This, for those particular areas of our industry, are a problem.”<sup>99</sup>*

The Jersey Hospitality Association also addressed the length of work permits in its hearing, stating that it had worked with Government to shape the newer one-year temporary route which could be renewed annually for a maximum of three years. However, the JHA shared their frustration with the Panel that the 12-month route also carried what they considered to be an onerous break in employment.<sup>100</sup>

The Panel notes that the Minister details the ability to amend the policy in regard to permit and residency break periods in her [letter of 9<sup>th</sup> August](#) and would suggest that further discussion takes place with employers and representative groups for work permit holders to ensure that the length of the permits and the required residency breaks are not placing undue financial pressure on work permit holders.

**KEY FINDING 19:** The 9-month work permit with the requirement for the work permit holder to leave for 3 months between each permit incurs additional travel expenses for returning work permit holders and employers.

**Recommendation 15:** The Minister for Home Affairs and the Minister for Economic Development, Tourism, Sport and Culture should commit to a regular review of the permit lengths which should be conducted in close consultation with industry bodies and support agencies to ensure that both employer needs and the rights of individuals are met.

## Community support and signposting

Central, co-ordinated and accurate information for work permit holders is at the heart of this review.

The evidence provided by the Minister for Home Affairs would suggest that work is ongoing to improve the information and its availability. However, at the time that the Panel was collecting its evidence, there seemed to be little general understanding of this work or of any Government-led support agency providing a hub for all relevant information and support.

The evidence provided was that work permit holders could be signposted to a number of different agencies depending on the nature of their query or concern. As already referenced in the disputes and grievances section above, appendix 7 of the WPP does now bring together a list of organisations and tries to give some direction depending on the query. However, the Panel would reiterate here, the Home Affairs Minister’s statement in her letter of 9<sup>th</sup> August that the JCIS is not an advisory service.

However, the Panel’s conclusion is that the result of there being no recognised central advisory body is that a number of groups, which had originally existed as cultural networking

<sup>99</sup> [Microsoft Word - Jersey Scrutiny - Work Permit Holder Welfare Review - Jersey Farmers' Union 10.05.2023 \(gov.je\)](#)

<sup>100</sup> [Microsoft Word - 2023.05.11 Jersey Hospitality Association transcript \(gov.je\)](#)

groups, have had to fill that gap and, in some cases, educate themselves in order to provide complex support for a wide and sometimes distressing range of issues.

Both the Kenyan Jersey Committee and the Friends of Africa Jersey provided evidence of that learning curve and of the original nature of their groups.

**Kenyan Jersey Committee:**

*We came together as a group post-COVID because there was a big migration of Kenyans and I think a combination of COVID and the numbers that came meant that there was a lot of people out there who were short on information in terms of settling into Jersey, what to expect from the employers, what to expect from the Government of Jersey. Further to that, we came together and we started providing that service. It is predominantly provided through a WhatsApp group that most of the Kenyan work permit holders working here are members of. We also have a Facebook group, which incorporates all Africans and we are widening the net for other work permit workers. The way we deliver that is we organise events where we will tell them about the things they need to know. Most of us have been under work permits so we understand the struggles that they have and that is why we felt empowered to provide that service. So it is predominantly advising them on how to navigate Island life, organising social events to give them a bit of fun, answering their questions about anything they are unsure of and the latest has been they have been directing 3 a lot of grievances to us, whether that be from the employer or from the Immigration Department, and also questions about the immigration policy.<sup>101</sup>*

**Friends of Africa Jersey:**

*...It is very difficult for us in terms of us navigating and supporting people. We found working between different departments within government has been very complex in terms of bringing Immigration or Social Security together or even the Tax Department because of confidentiality. It becomes very difficult. It just adds another layer of a department that you need to address.<sup>102</sup>*

As outlined above, the Panel also received a submission from the JACS which provided the Panel with the scope of their advice and their work with the JCIS. It also provided information about additional signposting that has been added to their website.

*JACS role is to offer advice on employment and discrimination issues to all employees we do not offer advice specifically on work permits as this is not an area that falls under JACS (just as we do not advise on matters in relation to say Social Security/tax or Data Protection). To this end we added a landing page tab on our website setting out employee's rights when working in Jersey and a brief guide to such rights was developed and has been available since May 2022.<sup>103</sup>*

The Panel is also aware (as highlighted elsewhere in this report) of the 'Moving to Jersey' section of the Government website. The website does provide general information about moving to Jersey which would be useful for a work permit holder – and anyone moving to Jersey – however, it is not comprehensive. For instance, it does not provide specific information on what to do or who to approach for work-related support.

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<sup>101</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](#)

<sup>102</sup> [Microsoft Word - Jersey - WPHW Review with Friends for Africa 30.05.2023 \(gov.je\)](#)

<sup>103</sup> [submission - review of work permit holder welfare - jacs - 22 february 2023 jacs.pdf \(gov.je\)](#)

The Panel has noted that the Government’s Common Population Policy Annual Report refers to a number of measures being taken to promote equity – one of which is to ‘provide information for non-CTA workers’.<sup>104</sup> The document also mentions the development of the International Cultural Centre as part of an aim to ‘develop an inclusive community’.

- **Information for non-CTA workers**

*Develop information to support non-CTA employees arriving in Jersey for the first time, in consultation with community groups and trade representative organisations. Information available from June 2023*

*Develop information to support non-CTA employees arriving in Jersey for the first time, in consultation with community groups and trade representative organisations.*

*Information available from June 2023.*

- **International Cultural Centre**

*Development of an International Cultural Centre to provide information about services in Jersey; improve access to those services across the community; celebrate Jersey’s cultural identities; and bring Islanders together by raising awareness of different cultures. The Centre will promote and signpost cultural events in the community; provide welcome packs to new arrivals to the island and consider outreach work to underrepresented communities as required.*

*The Centre has been established in the Jersey Library and is due to be launched publicly in Q3 2023.*<sup>105</sup>

The Panel notes that the information referred to above as the ‘information for non-CTA workers’ does not seem to be mentioned or available as a download from the International Cultural Centre web page.<sup>106</sup>

In her letter to the Panel on 9<sup>th</sup> August 2023, the Minister provided the following clarification about ‘information packs’.

*“Information Packs: To briefly clarify in relation to what information is provided to work permit holders by JCIS. JCIS have not produced an information pack containing details about living and working in the Island. They have updated the notices that are sent to employers and employees to provide more information on the immigration routes that the permits have been issued under, provide guidance on how to apply for visas, signpost to JACS/CAB, provide a link to the Moving to Jersey webpage and how to contact JCIS. They also include a copy of an employee rights notice produced by Strategic Policy Planning and Performance (SPPP). This is being translated into several languages by SPPP and will be available via gov.je which JCIS will sign post to. In addition to providing advice on employee rights it also signposts to independent organisations, charities, and honorary consuls.”*

Whilst the Panel notes that the ‘employee rights notice’ provided to work permit holders will be translated into ‘several languages’, the Panel wishes to highlight the importance of

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<sup>104</sup> [Common Population Policy Annual Report 2023.pdf \(gov.je\)](#)

<sup>105</sup> [Common Population Policy Annual Report 2023.pdf \(gov.je\)](#)

<sup>106</sup> [International Cultural Centre \(gov.je\)](#)

providing information to work permit holders that is inclusive for people who speak different languages.

It is the Panel's current understanding that this refers to the updated appendix 7 of the Work Permit Policy.<sup>107</sup> The Panel does not believe that this appendix is adequate for the need and does not fill the current support gap.

The Panel received evidence from the Jersey Hospitality Association about the updated 'information packs' and how this might be used by employers as part of an induction package.

**Deputy M.R. Le Hegarat:**

*Just one quick question and it lends from when you were talking about induction and what you have decided to provide. Do you get any induction provided from any States department at all for any employees that are coming from overseas?*

**Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*No. So we receive no ... we receive - well, I do not know the word - nothing from any States department so ...*

**Deputy M.R. Le Hegarat:**

*What about the employees?*

**Co-Chief Executive Officer, Jersey Hospitality Association (2):**

*"Up to whenever this change was made by Immigration, the employees would have received an information packet if their employer had forwarded it from Immigration. So the Immigration Department would have sent this package. This package has now been changed. So we saw the package last week and made recommendations as to bits that needed to be added and changed to it. We were not initially consulted in the creation of this package. In general, it is pretty good. It is not the most jolly brochure of hospitality-filled happiness. It is black and white, government document, with a nice States of Jersey logo at the top. But I think it is relatively self-explanatory.*

*Where bits have been complicated we had made recommendations that wordings should be changed. This is now going to be sent out to the employees as part of their work permit package before they come as well.<sup>108</sup>*

As highlighted previously in the report, it would appear to the Panel that the direct contact with the employer alone (because the permit is issued to the employer not the individual) relies on the goodwill and experience of employers to pass on relevant information.

The Panel recognises that the evidence provided by the JHA indicates a level of consultation with employer groups in relation to induction information for employees. However, at the time of the Panel's hearing with the Friends of Africa Jersey, it would seem that they had not been contacted for their views on the information updates.

**Deputy M. Tadier:**

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<sup>107</sup> [Work Permit Policy & Procedures \(gov.je\)](#)

<sup>108</sup> [Microsoft Word - 2023.05.11 Jersey Hospitality Association transcript \(gov.je\)](#)

*In order to make sure that people are more informed when they come to work in Jersey as permit holders we were told a couple of weeks back that Immigration have put together an information pack to give to workers, which they will email. Are you aware of that or have you been made aware of it?*

**Volunteer, Friends of Africa Jersey C.I.:**

*We were made aware that it is being done but we were not made aware that it is now out; if it is. However, we have not looked at it and for me, personally, with the first-lived experience that we have, I think it would be useful to have people who have walked the walk to probably have a look at it before it is published. Which is something we find very common, that decisions are made or something is published and we have to follow up and say: "This does not work, this does not work" and that is taxpayers' money.<sup>109</sup>*

Further, the evidence provided by the Kenyan Jersey Committee was that they had started compiling their own information.

**Mr. J. Muchiri:**

Not officially. We have heard about it on the grapevine and heard that it will be translated into Swahili, but we have not heard about it officially and in fact we have separately started compiling our own following this fatal incident that happened due to misinformation. We have taken it upon ourselves.<sup>110</sup>

The Panel would reiterate the need for a coherent, comprehensive and clearly signposted central hub for information and that this be provided physically. It would seek the clarification as to whether a physical (and knowledgeable) presence is provided in the International Cultural Centre.

If that is not the intention the Panel would ask the Minister to work with International Cultural Centre Steering Group and the Minister for Social Security to determine where a physical support resource should be located: whether that should be at the International Cultural Centre or at Customer and Local Services.

In this context, it has noted the Minister's comment during the public hearing:

**The Minister for Home Affairs:**

*There is also a piece of work going on through Customer and Local Services around the Welcome to Jersey pack for anybody that arrives and clearly the links in there around particularly community-focused kind of church groups and community groups they like and I think they are calling it Community Compass, are they not, or the International Cultural Centre, one of the 2? They are supporting us and vice versa in that.<sup>111</sup>*

As a final point, the Panel would highlight the need to speak to relevant cultural groups prior to making changes which, while well-intentioned, do not improve the accessibility of the information provided. The Kenyan Jersey Committee, for instance, gave the following evidence in relation to translated material.

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<sup>109</sup> [Microsoft Word - Jersey - WPHW Review with Friends for Africa 30.05.2023 \(gov.je\)](#)

<sup>110</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](#)

<sup>111</sup> [Microsoft Word - Jersey - Scrutiny - Work Permit Holder Welfare Review Panel \(Home Affairs Minister\) 07.06.2023 \(gov.je\)](#) p41

**Mr. A. Nyatta:**

*The assumption is, which we understand in one respect and we account for it, that because we are a Swahili-speaking country, Swahili is what everybody would be able to communicate in but when we go to school for our education, all of it foundational to postgraduate would be in English.*

*So English is technically our first language but Swahili equally. So it would be very hard for ... not very hard but it would be a bit difficult for most people to read it in Swahili as opposed to English. English would be a very preferred and easily understandable language. ...*

**Mr. J. Muchiri:**

*I saw one of the brochures that had been translated. I did not understand it in Swahili.*

**Mr. A. Nyatta:**

*It would be very generic Swahili as well and Swahili has moved on quite a lot.*

**Deputy M. Tadier:**

*I think there is a disconnect. It has probably been well intentioned but it has completely missed ... thank you.*

**Mr. A. Nyatta:**

*Exactly, yes.<sup>112</sup>*

**KEY FINDING 20:** Neither Appendix 7 to the Work Permit Policy nor the Moving to Jersey section of the Government website provide comprehensive advice or guidance regarding work-related support.

**KEY FINDING 21:** There is a need for a coherent, comprehensive and clearly signposted central hub for information which is provided physically and online.

**Recommendation 16:** The Minister for Home Affairs should work with the Minister for Economic Development, Tourism, Sport and Culture, the International Cultural Centre Steering Group and the Minister for Social Security to determine where a physical support resource should be located and provide detail of the information which will be provided. This should be reported back to the Panel by no later than 31 December 2023

**Recommendation 17:** The Minister for Home Affairs should work with the Minister for Economic Development, Tourism, Sport and Culture, the International Cultural Centre Steering Group and the Minister for Social Security to ensure that the physical support resource includes independent and confidential support for work permit holders on matters

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<sup>112</sup> [Microsoft Word - Jersey - WPHWRP - Public Hearing with Kenyan Jersey Committee 30.05.2023 \(gov.je\)](https://www.gov.je)



related to employment disputes. This should be reported back to the Panel by no later than 31 December 2023

**Recommendation 18:** The Minister for Home Affairs and the Economic Development, Tourism, Sport and Culture should ensure that the information provided to work permit holders is inclusive for people who speak different languages.

## Modern Slavery and Exploitation

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In line with the terms of reference for its review of work permit holder welfare, the Panel examined the Work Permit Policy ('WPP') to determine whether it was effective at protecting work permit holders from Modern Slavery and exploitation.

This section of the report will look at the protections provided by the WPP, legislation and recognised training and consultations and the evidence the Panel has gathered from work permit holders and key stakeholders.

### Modern Slavery: Background and Context

There are hundreds of definitions of Modern Slavery, all of which include aspects of control, involuntary actions and exploitation.<sup>113</sup> An example, used by the non-governmental organisation Anti-Slavery International, defines Modern Slavery as:

*"...when an individual is exploited by others, for personal or commercial gain. Whether tricked, coerced, or forced, they lose their freedom."*<sup>114</sup>

However, Modern Slavery is considered an umbrella term encompassing a "wide spectrum of crime, including human trafficking, slavery, servitude and forced labour".<sup>115</sup>

The below diagram created by the Slave Free Alliance, illustrates some examples of Modern Slavery and exploitation:

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<sup>113</sup> [Anti-Slavery International – What is Modern Day Slavery?](#)

<sup>114</sup> [Ibid](#)

<sup>115</sup> [UK Parliament Modern Slavery & Human Trafficking Policy – March 2023](#)



In Jersey, official data and statistics about Modern Slavery and exploitation does not appear to be available. For example, data from Jersey about Modern Slavery and exploitation does not appear on databases maintained by international human rights organisations such as the [Walk Free Global Slavery Index](#) or the [International Trade Union Confederation Global Rights Index](#).

### Work Permit Policy: Protections against Modern Slavery

As previously stated in this report, one of the key stated purposes of the WPP is “*To protect employees from ‘Modern Day Slavery’ and ensure their welfare is maintained*”<sup>117</sup>. To assess the effectiveness of this objective, the Panel sought the views of key stakeholders representing work permit holder communities in Jersey, as to whether the WPP adequately protected work permit holders from Modern Slavery and exploitation.

During a Public Hearing on 30<sup>th</sup> May 2023, the Panel learned that the Friends of Africa charity, representing African and Caribbean communities in Jersey, did not feel that the WPP protected employees from Modern Slavery:

**Deputy L.V. Feltham – Public Hearing – 30<sup>th</sup> May 2023:**

<sup>116</sup> [Slave Free Alliance](#)

<sup>117</sup> [Work Permit Policy](#)

*“The work permit policy states that its purpose is to protect people from modern day slavery. Do you feel that it achieves this goal in line with international definitions of that term?”*

**Founder, Friends of Africa Jersey C.I. – Public Hearing – 30<sup>th</sup> May 2023:**

*“No.”*

The Kenyan Jersey Committee similarly felt that the WPP did not protect employees from Modern Slavery:

**Deputy L.V. Feltham – Public Hearing – 30<sup>th</sup> May 2023:**

*“One of the statements within the work permit policy is that its purpose is to protect people from modern day slavery. Do you feel that it achieves this goal in line with international definitions of that term?”*

**Mr. M. Robbins, Kenyan Jersey Committee – Public Hearing – 30<sup>th</sup> May 2023:**

*“It does not, is the short answer based on what I have just said to you.”*

However, during its Public Hearing with the Minister for Home Affairs on 7<sup>th</sup> June 2023, the Minister set out a series of measures in the WPP that are intended to protect employees from Modern Slavery in the absence of specific Modern Slavery legislation:

**The Minister for Home Affairs – Public Hearing – 7<sup>th</sup> June 2023:**

*“...we do not have a modern-day slavery Act in the way that they would have that in the U.K. (United Kingdom) but our work permit policy does put various parameters and requirements in place as well as providing guidance regarding separate legislation.”*

The Minister went on to state parameters and requirements in the WPP that provide work permit holders with protections from Modern Slavery. For example, the Panel observed that employers are prohibited from employing work permit holders on zero-hours contracts under the WPP:

**The Minister for Home Affairs – Public Hearing – 7<sup>th</sup> June 2023:**

*“These include as part of the work permit policy that an employer must provide a contract and it must not be a zero-hours contract, so work permit holders must be on a proper contract of employment.”*

However, the WPP does not expressly state that employers are prohibited from employing work permit holders on zero-hours contracts. Furthermore, the WPP only makes references to zero-hours contracts more generally in relation to rest breaks under Jersey Employment Law:

**Work Permit Policy – Page 74:**

*“You’re entitled to a daily rest break of 20 minutes if you work for six hours or more each day. You’re also entitled to a rest period of 24 hours in any seven-day work period. This applies whether you work only a few hours a day, on a zero hours’ contract, or you’re in full-time employment.”*

Whilst the stated intent of the WPP to protect work permit holders from Modern Slavery is welcomed by the Panel, the policy lacks specificity in relation to how it protects work permit

holders from Modern Slavery and exploitation. The Panel highlighted the absence of a definition of Modern Slavery during its Public Hearing with the Minister:

**Deputy M. Tadier – Public Hearing – 7<sup>th</sup> June 2023:**

*“The panel notes that one of the functions of the work permit is to protect employers from modern day slavery. It is noted already that we do not have a definition to employees, yes?”*

**Head, Jersey Customs and Immigration Service – Public Hearing – 7<sup>th</sup> June 2023:**

*“That is right”*

However, some stakeholders have submitted to the Panel additional steps taken to mitigate the risks of Modern Slavery. In its submission, GR8 Recruitment highlighted that it had produced a ‘final draft’ anti-slavery policy:

**Submission – GR8 Recruitment – 15<sup>th</sup> February 2023:**

*“Any business who uses WPs should have or be in the process of having an Anti-Slavery Policy in place, ours is in the final draft alongside our Anti-Corruption Policy.”*

However, in the absence of a definition for Modern Slavery, guidance, and legislation, the WPP does not have a specific framework to raise awareness or deal with potential cases of Modern Slavery and exploitation.

**KEY FINDING 22:** The Work Permit Policy lacks specificity in relation to the protection of work permit holders from Modern Slavery and exploitation.

**Recommendation 19:** The Minister for Home Affairs should amend the Work Permit Policy to improve the specific protections from Modern Slavery and exploitation.

## Modern Slavery Legislation

On 26<sup>th</sup> March 2015, the United Kingdom enacted the Modern Slavery Act, designed to enhance support and protection for victims of Modern Slavery (‘the Act’).<sup>118</sup> At the time, the Act was considered the first of its kind to, *“comprehensively address both the definition and enforcement of modern slavery crimes, but also address the predicament of victims of the crimes”*.<sup>119</sup>

There is evidence that the introduction of Modern Slavery legislation can be an effective tool in raising awareness of Modern Slavery, and lead to an increase in reporting of cases of Modern Slavery and exploitation. For example, in a 2019 publication by international law firm Clifford Chance, it was stated that the introduction of the Act and publicity around the Act, had helped increase awareness of Modern Slavery, leading to an increase in reporting of cases in the UK, *“In June 2019, there were over 1,479 active law enforcement investigations into modern slavery crimes – compared with 188 in November 2016”*.<sup>120</sup>

<sup>118</sup> [Historic law to end Modern Slavery passed – gov.uk](https://www.gov.uk/government/news/historic-law-to-end-modern-slavery-passed)

<sup>119</sup> [The UK Modern Slavery Act – Recent Developments – Clifford Chance – 17<sup>th</sup> December 2019](https://www.cliffordchance.com/insights/publications/2019/12/17-the-uk-modern-slavery-act-recent-developments)

<sup>120</sup> [The UK Modern Slavery Act – Recent Developments – Clifford Chance – 17<sup>th</sup> December 2019](https://www.cliffordchance.com/insights/publications/2019/12/17-the-uk-modern-slavery-act-recent-developments)

This publication highlighted that the introduction of the Act had also led to an increase in the number of prosecutions and convictions related to Modern Slavery in the UK, *“In 2017-2018 the number of prosecutions increased from 265 to 294, and convictions increased from 180 to 191”*.<sup>121</sup>

Over the course of its review, the Panel established that Jersey does not have specific Modern Slavery legislation in place. The Friends of Africa, during its Public Hearing with the Panel, questioned how compliance with the Modern Slavery statement in the WPP could be challenged in the absence of Modern Slavery legislation:

**Chair, Friends of Africa**

*“To add to that in terms of the work permit policy itself, it talks about modern day slavery but that as an Island we have not defined modern day slavery within law. In terms of if it is going to be one of the principles of that policy, what are we hanging that policy on? How do we challenge employers?”*

In the absence of legislation, the Panel observed that the current approach used by the JCIS, to deal with suspected cases of Modern Slavery and exploitation, operates on a case-by-case basis:

**Deputy M. Tadier:**

*“In the absence of any legislation in this area, how does Jersey Customs and Immigration determine whether cases of modern day slavery are not taking place?”*

**Senior Manager, Jersey Customs and Immigration Service:**

*“It is very much case by case. The Minister has outlined the kind of things we would be looking at: coercion, what is the rate of pay, what are the hours, what are the working conditions? All of that would need to be taken into the mix as to whether we thought a particular case brought to us would fit within something that we would describe as modern slavery.”*

The Panel is supportive of the introduction of Modern Slavery legislation for Jersey. During its Public Hearing, the Panel was pleased to learn that the Minister intends to consider the introduction of Modern Slavery legislation for Jersey:

**Deputy M. Tadier – Public Hearing – 7<sup>th</sup> June 2023**

*“I think that really follows on to the question of whether you would consider either the need or consider the need for an equivalent Jersey legislation.”*

**Minister for Home Affairs – Public Hearing – 7<sup>th</sup> June 2023 k**

*“Yes, absolutely, because we have got no teeth at the moment. In the U.K. employers can be fined up to £10,000 per employee when there is evidence of modern slavery. As you will know, we have got a rather intense legislative programme but it is most definitely something that I will be considering before the end of my term”*.<sup>122</sup>

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<sup>121</sup> [Ibid](#)

<sup>122</sup> [Work Permit Holder Welfare Review Panel Public Hearing \(Witness: Minister for Home Affairs\) - 7<sup>th</sup> June 2023](#)

In addition to Modern Slavery legislation, Non-Departmental Public Bodies ('NDPB') can play an important role in the protection of vulnerable and exploited workers<sup>123</sup>. In the UK, the Gangmasters and Labour Abuse Authority ('GLAA'), is an NDPB governed by an independent board that consists of a Chair and six members, recruited based on their knowledge, experience and skills.<sup>124</sup>

The GLAA operates a licencing scheme which assesses labour providers against licencing standards established by the GLAA and includes an assessment of health and safety, accommodation, pay, transport, and training.<sup>125</sup>

Some of the benefits of the GLAA licencing scheme include:

- *“Workers receive fair treatment, the pay, benefits and conditions they are entitled to.*
- *Labour providers are not undercut by those who pay less than the minimum wage or avoid tax. Industry standards are raised.*
- *Labour users can check their workers come from a legitimate provider and are informed if their labour provider’s licence is revoked.*
- *Consumers can be assured that their food has been picked and packed in an ethical environment. Illegal activities which lead to a loss of public revenue – income tax, VAT and NI – are reduced.”<sup>126</sup>*

The GLAA has a broad remit to prevent labour abuse in all sectors of the UK economy. In a series of published case studies, the GLAA also highlighted the ways in which local UK councils can play different roles in relation to tackling Modern Slavery, including the identification and referral of potential victims, support for victims, disrupting Modern Slavery and ensuring supply chains are free from Modern Slavery.<sup>127</sup>

**KEY FINDING 23:** Modern Slavery legislation can be an effective tool in raising awareness of the existence of Modern Slavery and lead to an increase in reported cases of Modern Slavery and exploitation.

**KEY FINDING 24:** The United Kingdom Gangmasters and Labour Abuse Authority operates a licencing scheme which assesses labour providers against licencing standards established by the Gangmasters and Labour Abuse Authority.

**Recommendation 20:** The Minister for Home Affairs should consider the introduction of a Jersey employer licencing scheme and licencing standards, with clear sanctions for non-compliance, for local labour providers.

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<sup>123</sup> [Gangmasters and Labour Abuse Authority – What we do](#)

<sup>124</sup> [Ibid](#)

<sup>125</sup> [Ibid](#)

<sup>126</sup> [Ibid](#)

<sup>127</sup> [Ibid](#)

**Recommendation 21:** The Minister for Home Affairs should undertake a process of consultation with key stakeholders from community groups and industry representatives on the introduction of Modern Slavery legislation for Jersey.

## Training and Resources

There are a range of training materials and resources that can help raise awareness of Modern Slavery and exploitation. The UK Government has produced a 'Modern slavery awareness booklet' intended "...as a resource providing clear and up to date information on the key facts, and to help public sector workers who may not routinely come across modern slavery recognise the signs and respond so that more victims get help and perpetrators are brought to justice."<sup>128</sup>

Furthermore, the UK government has published additional resources and training links related to Modern Slavery<sup>129</sup>. These include:

- Links to videos created by the [GLAA](#) and the [Independent Anti-Slavery Commissioner](#) to 'spot the signs of modern slavery'.
- Guidance on how to access modern slavery training materials produced by the UK Training Delivery Group.
- A link to the [Anti-Slavery Partnership Toolkit](#).
- [Modern Slavery e-learning](#) produced by the UK Border Force.

## Accommodation

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### Standard and nature of accommodation

The terms of reference set out that the review would examine the effectiveness of the Work Permit Policy ('WPP') in providing guidance in relation to accommodation, and sought to find out what level of protection, if any, was afforded to work permit holders.

Over the course of this review the Panel sought the views of both employers and work permit holders and sought to clarify with the Minister for Home Affairs - ('Minister') and the Jersey Customs and Immigration Service, whether the WPP was intended to give that protection and, if not, where it would come from.

The WPP states that:

*"In granting any work permit, the Minister for Home Affairs does so on the expectation that all employers give due consideration to the welfare of their employees both in and outside the workplace. In particular, the Minister for Home Affairs would expect all employees relocating to Jersey to live in accommodation of a standard which supports their health and wellbeing and, most importantly, that of their dependent children. The Minister expects employers holding work permits to*

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<sup>128</sup> [Modern Slavery Awareness and Victim Identification Guidance](#)

<sup>129</sup> [Modern Slavery: Training and awareness raising resources – gov.uk](#)

*take reasonable steps to ensure that their employees and their employees' dependents are suitably accommodated.*"<sup>130</sup>

The WPP also makes stipulations that prevent the granting of visas for dependants of work permit holders, if it cannot be demonstrated that suitable accommodation is in place to 'support the wellbeing and health of the family and does not contravene statutory overcrowding legislation'.<sup>131</sup>

The WPP does not provide for enforcement of the Ministerial expectation outlined above or for any checks to be carried out to ensure that employers are complying with the expectation. This is a point that will be returned to in relation to the standard and nature of accommodation.

It is unclear to the Panel what the Minister would consider to be 'reasonable steps' by an employer to ensure that employees are 'suitably accommodated'.

The obligation of the employer was outlined as follows by the Minister during the Public Hearing held on 7<sup>th</sup> June 2023:

**Public Hearing – Minister for Home Affairs – 7<sup>th</sup> June 2023:**

*"The employer does not have to provide accommodation per se. They just need to ensure that their permit worker will be in accommodation that is meeting standards of health and welfare. The vast majority of hospitality and farming, they usually have staff accommodation. For the banks and finance it might be that they have leases for blocks of flats where people come over and you just happen to be on a work permit but you might be living alongside somebody who is not."*<sup>132</sup>

In its submission to the Panel, the Chamber of Commerce commented that:

*"It would be helpful to have further clarity/guidance as to the level of expectation of the employers' responsibility in this area in a scenario where an employee chooses to seek their own accommodation."*<sup>133</sup>

As part of its evidence gathering the Panel visited Meleches Farm to see the accommodation and working conditions. The Panel were invited to speak to owner Nick Maurant and to staff working and living at the farm. The regulations and auditing of the farm, the working conditions and the accommodation were described to the Panel as was the duty of care exercised by the company. The Panel also had the opportunity to view the accommodation in the company of staff living there.

The view of the Panel was that, in relation to standards of accommodation, the WPP provides little direction for employers or protection for employees but instead relies on an employer's experience, goodwill and compliance with other regulations and departmental policies.

The policy does not seem to provide clear central guidance for employees about who they should contact about the standard of their accommodation or what that standard should be.

The Panel accepts that this may never have been the intention of the policy, however as stated elsewhere in this report, it is indicative of a lack of centralised and comprehensive

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<sup>130</sup> [Jersey Customs and Immigration – Work Permit Policy – April 2023 – p3](#)

<sup>131</sup> [Jersey Customs and Immigration – Work Permit Policy – April 2023 – p25](#)

<sup>132</sup> [Transcript – Public Hearing with the Minister for Home Affairs – 7 June 2023 – p6](#)

<sup>133</sup> [Submission - Chamber of Commerce](#)



protection for work permit holders while living and working in Jersey, as well as guidance for employers and employees.

A wide-ranging discussion about housing needs and shortages in Jersey would fall outside the terms of reference for this review, however, it is clear from evidence provided that an increasing lack of available and affordable accommodation is creating challenges for employers and having an impact on the welfare of work permit holders.

The Jersey Hospitality Association outlined a number of the issues that their members faced as part of their evidence to the Panel.

**Co-Chief Executive Officer, Jersey Hospitality Association (1):**

*“... You have to provide [workers] accommodation in order to get approved the permit. So very few of our members have the capacity to provide that. So if you are a hotelier, you have had to make the financial decision to basically cut out some of your stock for your operations and give it to your staff. So they are able to provide that because they have the room; that is the sort of business model they have. But you have, for example, restaurateurs that do not have accommodation as part of their business model so they cannot hire anybody that is not part of the Common Travel Area or does not have the 5 years on the Island. It is extremely limited resources.”<sup>134</sup>*

The JHA expressed the view that creative solutions and updates to existing regulation and policy would be required.<sup>135</sup>

Evidence provided by the Kenyan Jersey Committee during a public hearing held with the Panel on 30th May 2023 also raised issues caused by a lack of single or studio accommodation.

**Public Hearing - Kenyan Jersey Committee – 30<sup>th</sup> May 2023:**

*“We all know accommodation is a problem on this Island, so I also sympathise with the employers being sent out to the market to seek accommodation for their employees. I think this is a bigger problem where the Jersey Government or the Planning Department has failed to recognise that most of the people who immigrate to Jersey for work arrive on their own and later on their family might follow. Whether it is finance, healthcare, agriculture, everyone arrives on their own. ... there is just no studio or single accommodation being created here. I think that is where it has gone wrong. We know what the market is like. We cannot expect the employer to move mountains even though they have been given the obligation, but the worst case we have heard of is 2 people sharing a double bed, 2 strangers.”<sup>136</sup>*

The Kenyan Jersey Committee also provided evidence of the lack of privacy which was often associated with shared accommodation.<sup>137</sup>

The point was also made in evidence provided by the Friends of Africa Jersey that shared accommodation could also cause problems when those sharing were working on shifts.

**Friends of Africa Jersey:**

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<sup>134</sup> [Transcript – Public Hearing with the Jersey Hospitality Association – 11 May 2023 – p28](#)

<sup>135</sup> [Transcript – Public Hearing with the Jersey Hospitality Association – 11 May 2023 – p27](#)

<sup>136</sup> [Transcript – Public Hearing with the Kenyan Jersey Committee – 30 May 2023 p24](#)

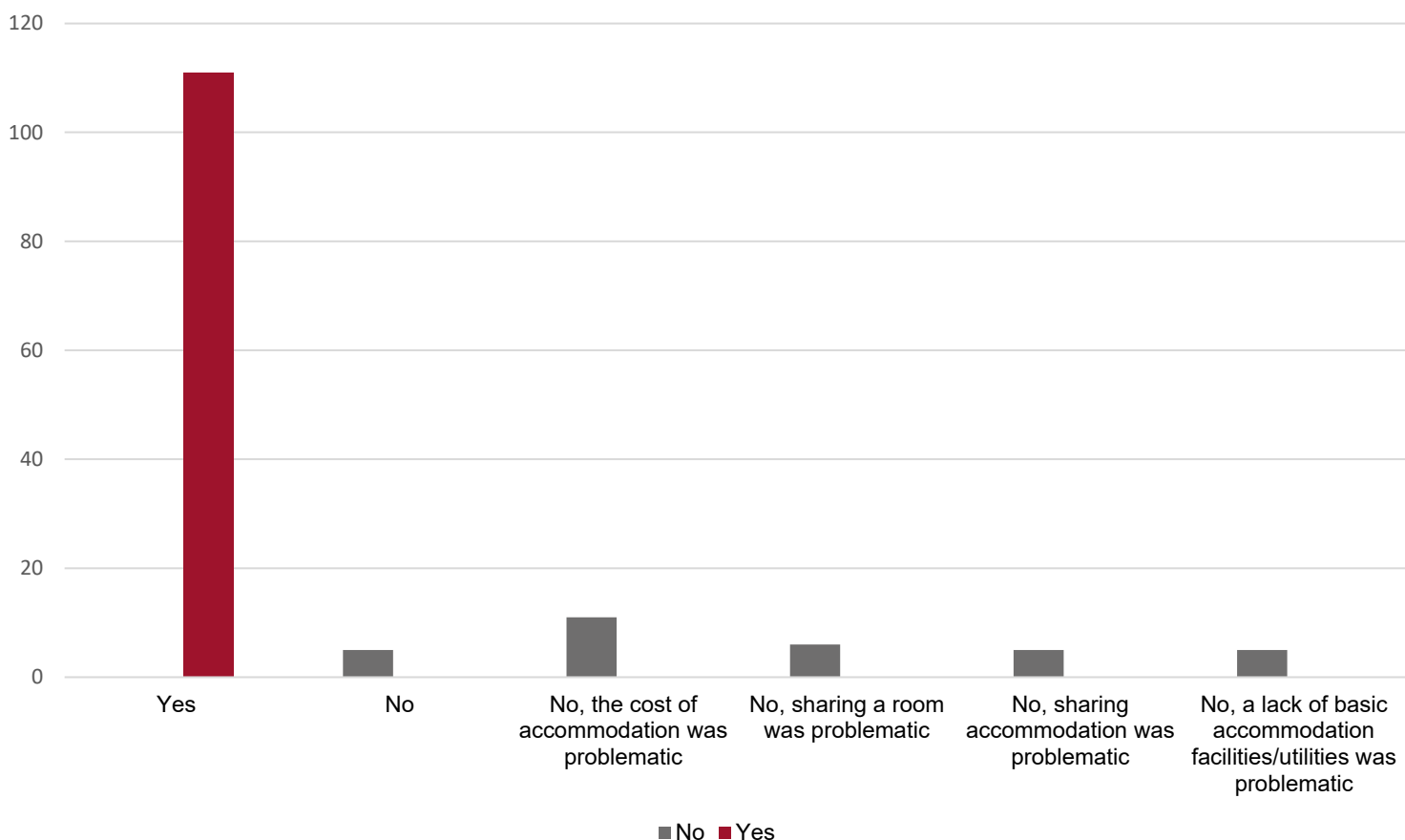
<sup>137</sup> [Transcript – Public Hearing with the Kenyan Jersey Committee – 30 May 2023 p24](#)

We also have incidents in health where people are living together but they are working different shifts. So some are night shift, some are day shift, some are coming in, so it is very difficult to even rest.

... I think also just to add on to that, the fact that you have got complete strangers being asked to live in a hostel-style accommodation - professionals - is not quite appropriate.<sup>138</sup>

The majority of work permit holders who responded to the Panel's survey indicated that they were satisfied with their standard of accommodation (111 of 209):

### Were you satisfied with the standard of your accommodation?



However, of those who were unsatisfied, the number who said that this arose from sharing a room or accommodation was 11.

A common theme among those who provided an additional comment was that lack of privacy was a key issue but that there was either no choice in whether to share or not, or that the cost of single person accommodation was prohibitive.

Comments included:

- *"Shared accommodation which was very expensive and there is no privacy for instance two people living in one room and each paying £150 every week"*

<sup>138</sup> [Transcript – Public Hearing with Friends of Africa – 30 May 2023 p21](#)

*whereas other people live in studio apartments each person with their room and they pay less amount”.*

- *”I prefer to stay by myself for privacy reasons but there's no option but to stay with a colleague. Pretty uncomfortable”.*
- *”I was not used to sharing my space but it's fairly ok considering what I earn especially since renting is very expensive in Jersey and where I stay the probability of getting anything that would fit into my earnings is close to none.”*

The evidence provided by both employers and the support groups indicated that there was little choice in the accommodation available for some work permit holders and, therefore, little choice about whether they shared with other work permit holders or not.

The Panel received information privately and in the form of evidence which indicated that the standard of accommodation varied.

As part of their evidence, the Kenyan Jersey Committee said that their experience was that the larger employers and bigger hotel chains which had been employing workers on a seasonal basis for a long time knew ‘how to do it properly’ but that the influx of workers for smaller employers who were still obliged to provide accommodation meant that unsatisfactory living conditions were being provided in some cases.<sup>139</sup>

Of those who responded to the Panel’s Work Permit Holder Survey that they were not satisfied with their accommodation, 5 people cited a lack of basic facilities. This included:

- A lack of cooking facilities
- Shared bathrooms
- Dilapidation and old appliances and/or lack of appliances.
- ‘Breezy’ and cold accommodation
- Lack of hot water in the morning

As indicated earlier in this section, WPP does not seek to establish a minimum standard for accommodation. During its public hearing with the Minister for Home Affairs, the Panel asked the Minister how the Jersey Customs and Immigration Service established the ‘standard of accommodation that supports the health and wellbeing of the work permit workers’:

**Public Hearing - Minister for Home Affairs – 7<sup>th</sup> June 2023:**

*“In short, we do not. We put into the work permit policy that, as I have said, accommodation must be provided, suitable accommodation that supports their health and wellbeing. Unsatisfactory accommodation over here is regulated by the Environment Department although what we will ensure is that obviously there is cross-departmental working. If we did become aware of an issue in accommodation because somebody made a complaint, the police, for example, might pay a visit for a particular reason and they could report back to Immigration. We would then report that to Environment for suitable enforcement.”<sup>140</sup>*

The Panel sought to find out what standards are applied to accommodation provided, what regulations exist and what mechanisms are in place for Government to check

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<sup>139</sup> [Transcript – Public Hearing with the Kenyan Jersey Committee – 30 May 2023 – p24](#)

<sup>140</sup> [Transcript – Public Hearing with the Minister for Home Affairs – 7 June 2023 – p4](#)

accommodation by writing to the Minister for Housing and Communities.<sup>141</sup> The questions it asked related to lodging house accommodation. In response, information was provided about the registration of lodging houses and a website link<sup>142</sup> to the minimum standards for rented accommodation (which apply to all rented accommodation).

The Panel was also told that lodging house accommodation was inspected on a one-, two- or three-year cycle dependent on the risk rating of the accommodation. The letter also stated that residents in rented accommodation could report concerns to the Housing and Nuisance team at Environmental Health.<sup>143</sup>

The conclusion drawn by the Panel was that, while it is understandable that different categories of dwellings would fall under different regulations, there is no centralised guidance which brings this information together in one place for either an employer or a work permit holder.

In the case of the latter, it is unclear how an individual in sub-standard accommodation would easily find information about how to make a complaint and to do so in a way which would have a positive impact on their circumstances – especially if they felt ‘tied’ to the accommodation by their employment, as referenced by the Friends of Africa Jersey during the group’s public hearing with the Panel.

**Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023 - Deputy M. Tadier:**

*“... if you are aware of any permit holders who have needed or who have changed accommodation during their time in Jersey and whether that is something that they can do easily?”*

**Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023 - Chair, Friends of Africa Jersey C.I.:**

*“It is not something that they can do easily because of the housing licence. So it is not something that they can easily do. I think as a charity we have had to support a few people to find alternative accommodation either because they have moved job roles and there is no accommodation attached to it. So there are incidents but it is not easy.”*

**Public Hearing – Friends of Africa – 30<sup>th</sup> May 2023 - Volunteer, Friends of Africa Jersey C.I.:**

*“Sometimes the contract itself ties you to the accommodation, so if you do say you want to leave you already signed a contract before you come here. So you cannot move.”<sup>144</sup>*

In addition, the Panel has concluded that there is no systematic checking of the accommodation occupied by work permit holders in Jersey.

It would appear, from the evidence provided to the Panel, that when such complaints are made it is through contact with cultural groups which have developed into a supportive role rather than directly from the individual to a Government agency.

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<sup>141</sup> [Letter – Work Permit Holder Welfare Review Panel to Minister for Housing re Requests for Information – 30<sup>th</sup> March 2023](#)

<sup>142</sup> [Housing standards \(gov.je\)](#)

<sup>143</sup> [Letter – Minister for Housing to Work Permit Holder Welfare Review Panel – 5<sup>th</sup> April 2023](#)

<sup>144</sup> [Transcript – Public Hearing with the Friends of Africa Jersey – p22](#)

The Panel also noted the Minister for Housing and Communities response that complaints about lodging house accommodation were ‘not stored in a manner (or level of detail) which enabled the Minister to state how many complaints about lodging house accommodation were made by work permit holders.

Evidence provided to the Panel, in particular by the Jersey Farmers’ Union and by employer Nick Mourant, indicated that in some industries a level of audit of living accommodation was required in order to receive accepted levels of accreditation.

Public Hearing – Jersey Farmers’ Union :

*As well as L.E.A.F. accreditation, because we are the main supplier to the retailers, we are also members of a group called Sedex, so we have ethical trading audits, 8 which are unannounced audits. They arrive here and then they will do a 2 full-day audit. Part of that process is looking into all the work ethics for the staff, they look at their accommodation, they look at our payment scheme.<sup>145</sup>*

It would also appear that agricultural workers can make complaints through the agent which employed them and there is a worker welfare group through which people can raise concerns. In some cases, monitoring takes place by Embassy for incomers:

Jersey Farmers’ Union:

*“To sign up with his company, or the company that he was representing, we had to go through a whole load of legal hoops with the Philippines Embassy in London which, at the end of our negotiations and the signing of the agent, they sent their labour attaché and one other person to Jersey to come and meet us to understand what the work would entail, to make sure that we could provide good accommodation, which they inspected on that first visit.”<sup>146</sup>*

This evidence supports the Panel’s view that the standard of accommodation provided is left in the hands of the employer.

It remains unclear to the Panel what the consequences are for employers who have been found to be non-compliant with the expectation set by the Minister, what action would be taken by the Jersey Customs and Immigration if accommodation is found to be sub-standard and what would trigger that action.

**KEY FINDING 25:** The Work Permit Policy sets out a broad Ministerial expectation for a standard of accommodation that supports health and wellbeing but does not provide a definition of this standard of accommodation or for enforcement or checks to accommodation.

**KEY FINDING 26:** It is not immediately clear to employers what their responsibility is in relation to the standard of accommodation where it is chosen and leased privately by the employee.

<sup>145</sup> [Transcript – Public Hearing with the Jersey Farmers’ Union – 10 May 2023 p7](#)

<sup>146</sup> [Transcript – Public Hearing with the Jersey Farmers’ Union – 10 May 2023 p3](#)

**Recommendation 22:** The Minister for Home Affairs and the Minister for Housing and Communities should introduce guidance to employers and work permit holders about the definition of accommodation that supports health and wellbeing and set out the enforcement mechanisms in place to ensure that work permit holders are ‘suitably accommodated’.

## Cost of accommodation

Appendix 7 of the Work Permit Policy is a document aimed at work permit holders and is entitled: Your Rights as An Employee Working in Jersey. Appendix 7 includes the charges which can be applied by employers of employees on minimum wage as follows:

### Work Permit Policy:

*“If you are paid at the minimum wage rate of £10.50 an hour, and you get accommodation or food with your job, your employer can charge you a maximum of*

- *£115.00 a week for accommodation only*
- *£153.28 a week if you get food and accommodation*

*The law says your employer is not allowed to deduct more than these amounts from your wages if you receive accommodation or accommodation and food as part of your employment contract.”<sup>147</sup>*

Elsewhere in the Work Permit Policy, the cost of accommodation is referenced in relation to dependents of work permit holders and the obligation to accommodate their dependents without recourse to public funds:

### Work Permit Policy:

*“A work permit holder must consider the impact that moving a family to Jersey will have, including being aware of limited housing stock and high rental prices.”<sup>148</sup>*

This is the only direct guidance/information found by the Panel in the work permit policy in relation to the cost of accommodation.

The Jersey Hospitality Association provided evidence that in some cases, employers had no choice but to pass on costs.

### Co-Chief Executive Officer, Jersey Hospitality Association (2):

*“Employers that own their own accommodation are in a different situation from employers that will have to go out and find somewhere that qualifies for them.*

*Some employers are able to give quite good packages on the accommodation and some just literally have to, no other means. This is the cost from the landlord and this is the cost ... some of them can subsidise some of that and some of them just have to pass that on. But again, that is communicated and should be communicated prior to as part of that contract.”<sup>149</sup>*

<sup>147</sup> [Jersey Customs and Immigration – Work Permit Policy – April 2023 – p73](#)

<sup>148</sup> [Jersey Customs and Immigration – Work Permit Policy – April 2023 – p25](#)

<sup>149</sup> [Transcript – Public Hearing with the Jersey Hospitality Association – p32-33](#)

The Business Unit Director of the Jersey Royal Company also spoke about the challenges of accommodation and the cost to employees.

**Business Unit Director, Jersey Royal Company:**

*“All of our accommodation is agricultural workers accommodation. We cannot use that for anything else. We are restricted to how much we can charge for that accommodation. So £115 a week is our maximum that we can charge for. For us, we subsidise that, depending on length of service. If people have done more than 7 years for us we will reduce that down to £90 a week as a bit of an incentive to keep coming back. We are limited to the amount of income we can charge for those. So keeping accommodation updated, up to spec, trying to find new accommodation is very difficult”.*

Cost was also cited by respondents to the Panel’s Work Permit Holder Survey as one of the reasons for being unsatisfied with their accommodation or being unable to move to better accommodation. The Panel did note that the 11 respondents who cited cost as being problematic had self-selected as being skilled workers which may indicate that they are not being paid on minimum wage and therefore paying more from their accommodation.

Comments included:

*“We were charged £245 for a room in a house with 10 people – not allowed guests. 8 months later rent went to £258.60. Told that we had to give 3-months’ notice if we want to leave”.*

*“Increase of rent without discussion”.*

*“Small basic rooms, rent is too expensive.”*

*“High cost of rent and availability of suitable houses”.*

The evidence from both the Jersey Hospitality Association and the Jersey Farmers’ Union would indicate that good practice would dictate that workers should be informed of additional costs prior to signing a contract.<sup>150</sup>

However, as concluded in relation to the standard of accommodation, the costs which are passed on to the work permit holder are in the hands of the employers and dependent on their resources, experience and goodwill and no guidance appears in the Work Permit Policy.

It is also clear to the Panel that – as mentioned above – the high cost and shortage of suitable accommodation is a contributory factor to the cost of accommodation.

While it may never have been the intention that the work permit policy should provide guidance or protection in relation to accommodation, it is the Panel’s conclusion that clear and specific work permit holder guidance should exist.

**KEY FINDING 27:** the high cost and shortage of suitable accommodation is a contributory factor to the cost of that accommodation.

<sup>150</sup> [Transcript – Public Hearing with the Jersey Hospitality Association – p32-33](#)

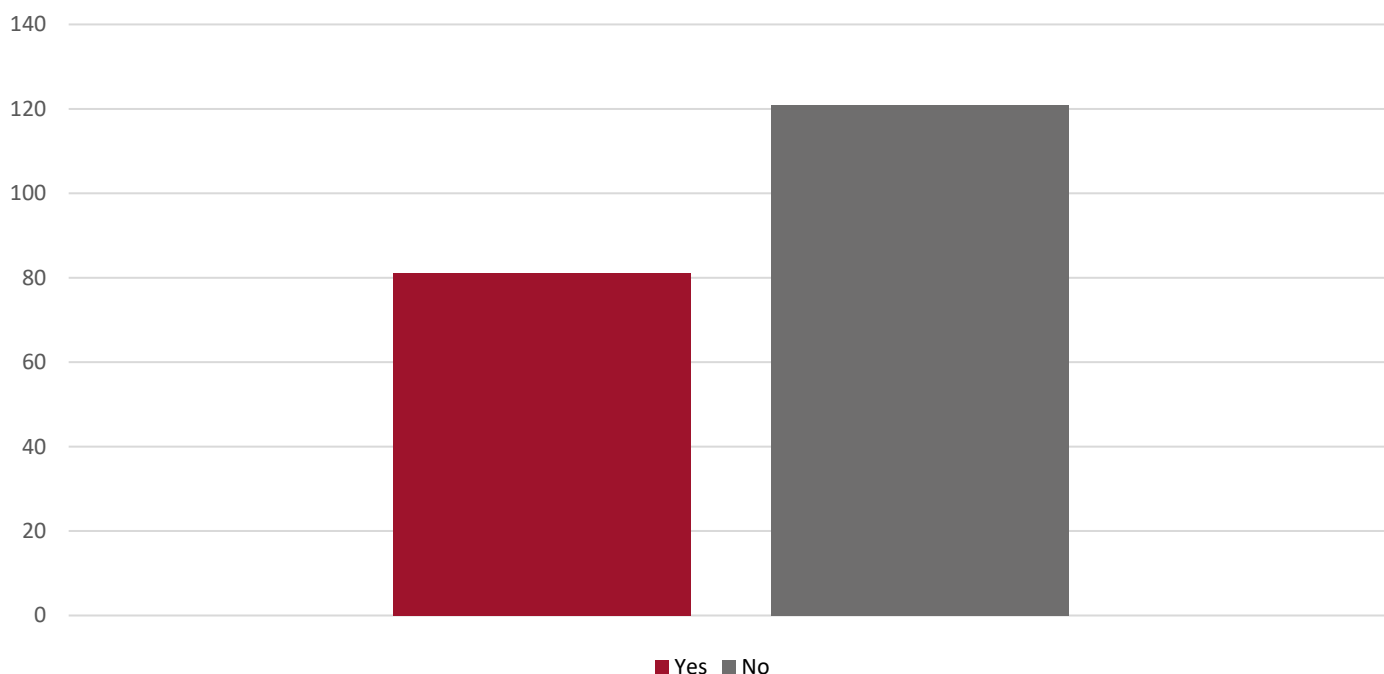
## Healthcare

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The healthcare system in Jersey operates differently to the UK National Health Service and the healthcare systems operating in the other Channel Islands. In Jersey, new arrivals to the Island are required to pay for most healthcare services accessed during the first six months of living and working in Jersey.<sup>151</sup>

The cost implications of accessing healthcare during the first six months of living and working on-Island, particularly in the absence of a suitable travel insurance policy, mean it is important that work permit holders understand how the Jersey healthcare system operates prior to their arrival. However, most work permit holders indicated through the Panel's Work Permit Holder Survey, that information about the Jersey healthcare system was not communicated to them prior to their arrival on-Island:

**Were you made aware of how the healthcare system operates in Jersey prior to your arrival?**



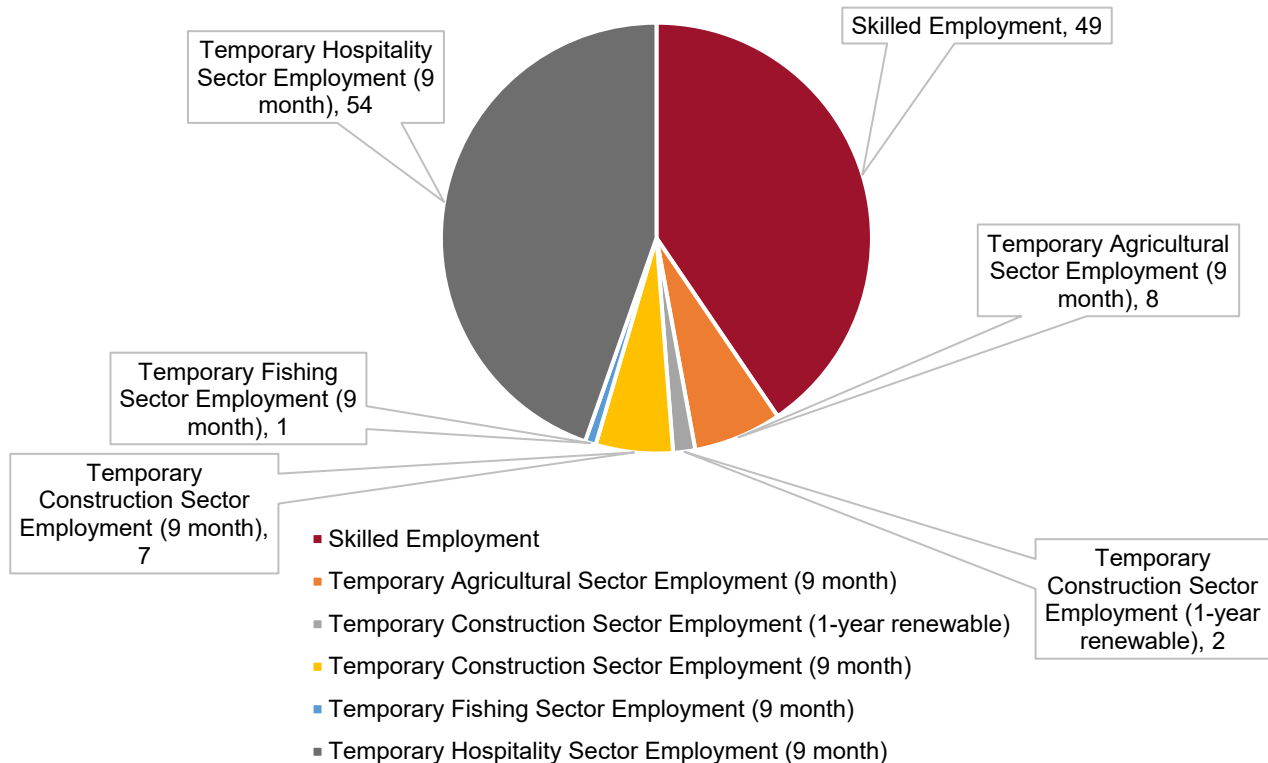
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<sup>151</sup> [Moving to Jersey – Healthcare – gov.je](http://gov.je/moving-to-jersey-healthcare)



Of the 121 respondents who answered 'No', the majority were employed on a Temporary Hospitality Sector 9-month work permit and a Skilled Employment Work Permit:

**Respondents that were made aware of how the healthcare operates in Jersey prior to their arrival, by permit type:**

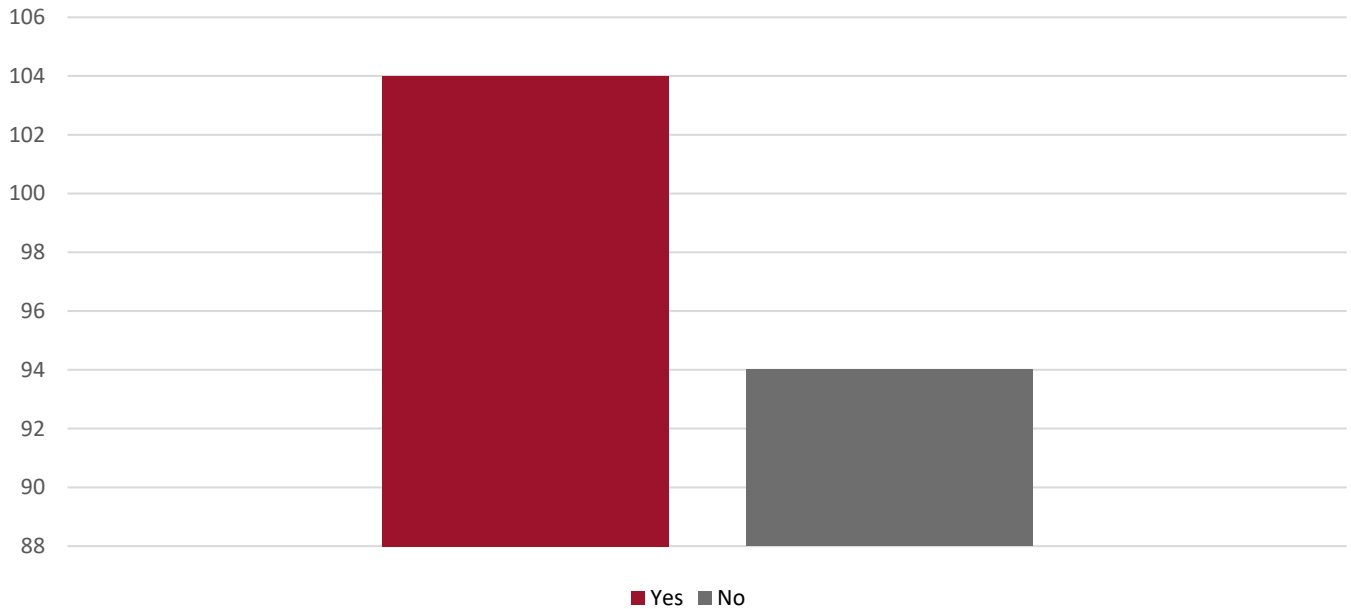


This report has previously highlighted issues related to communication of information, advice and policies to work permit holders. In relation to the Jersey healthcare system, the Work Permit Policy ('WPP') (and its Appendix 7) does not include information about healthcare in Jersey, or links to information about healthcare in Jersey.

To find this information, work permit holders must either access the Moving to Jersey webpage, the [Non-Residents Charging Policy](#) or a separate ['Frequently Asked Questions'](#) document published on the ['Work permits: make an application' section of gov.je](#), which redirects work permit holders to the Moving to Jersey webpage. However, in the absence of links to these websites in the WPP and Appendices to the WPP and following the results of the Work Permit Holder Survey, it does not appear that these sources of information about the Jersey healthcare system are clearly accessible to work permit holders.

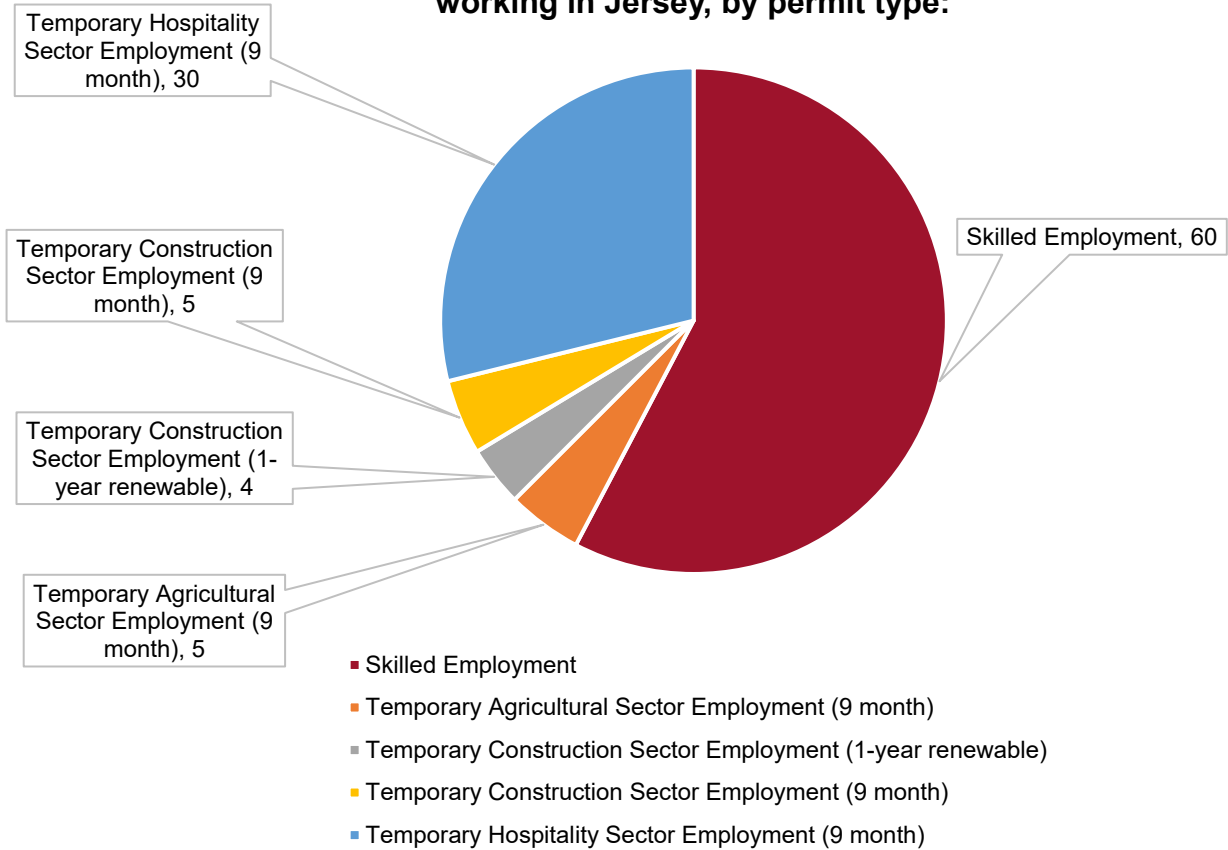
Whilst most work permit holders were not made aware of how the healthcare system operated prior to their arrival on-Island, a majority also indicated that they needed to access healthcare at some point during their time living and working in Jersey.

### During your time living and working in Jersey, did you need to access healthcare?



Of the respondents that did access healthcare, most respondents were employed on Skilled Employment Work Permits and Temporary Hospitality Sector Employment Work Permits.

**Respondents that accessed healthcare during their time living and working in Jersey, by permit type:**



The Work Permit Holder Survey results therefore indicate that the majority of work permit holders that accessed healthcare at some point during their time living and working on-Island, were not aware of how the Jersey healthcare system operated prior to their arrival. In the absence of a suitable travel insurance policy, work permit holders could potentially incur significant healthcare costs during their first six months living and working in Jersey.

**KEY FINDING 28:** The Work Permit Policy and Appendices to the Work Permit Policy, does not include information about access to healthcare in Jersey, or links to information about healthcare in Jersey.

**KEY FINDING 29:** The Work Permit Holder Survey indicated that most work permit holders had not been made aware of how the Jersey healthcare system operates prior to their arrival on-Island.

**Recommendation 23:** The Ministers for Social Security and Health and Social Services should introduce specific guidance to work permit holders that includes information about their rights to healthcare in Jersey.

## Travel insurance

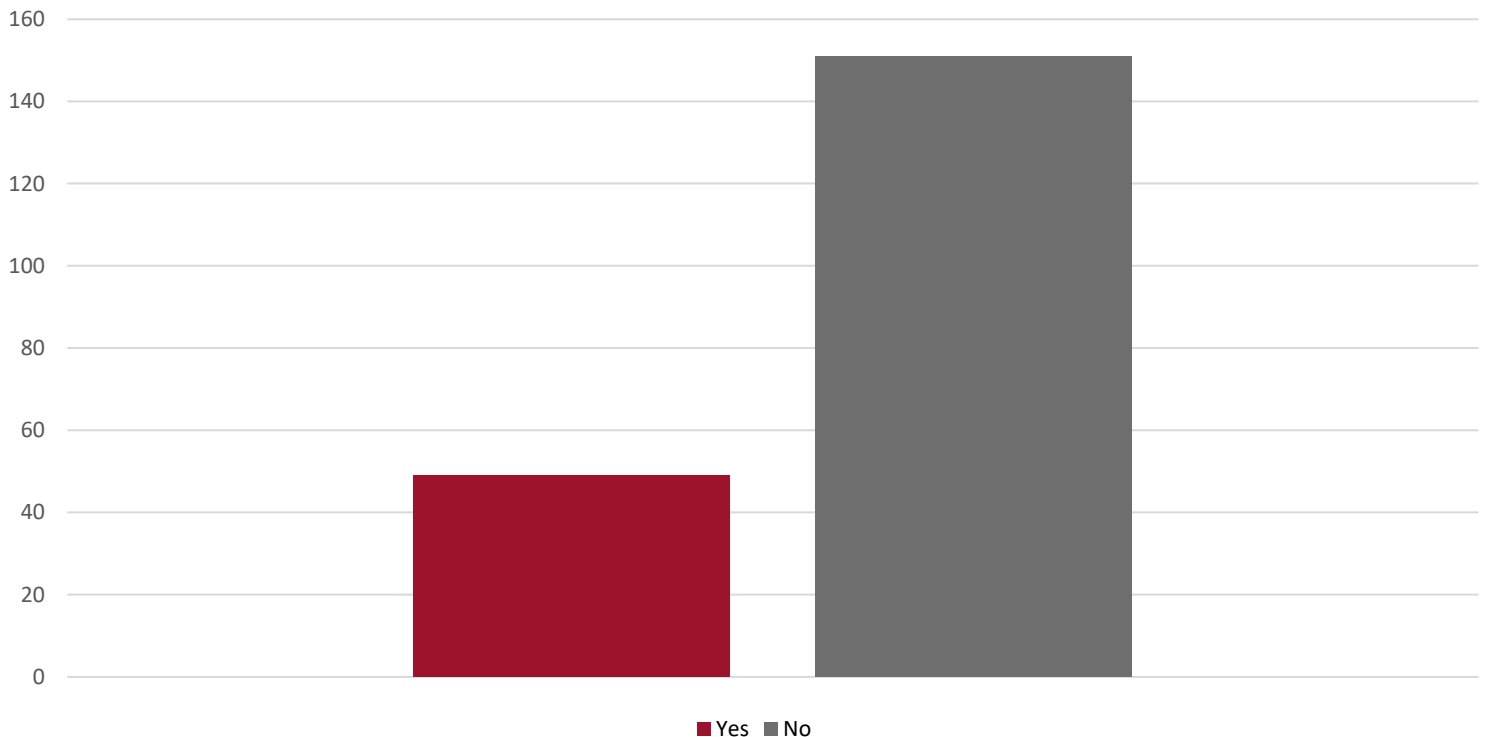
A travel insurance policy can protect a policy holder from the significant risks associated with travelling abroad, that include accidents, illness, missed flights, lost baggage, theft, terrorism, and death while abroad.<sup>152</sup>

Whilst travel insurance typically covers a range of events, the cover for medical costs can be extremely important, particularly where an individual is travelling to a country where there is no reciprocal health agreement in place.<sup>153</sup> A reciprocal health agreement will generally only cover the cost of urgent or emergency treatment, and Government of Jersey advice when travelling off-Island is that these agreements “...cannot take the place of health travel insurance”.<sup>154</sup>

Jersey has reciprocal health agreements with a small number of countries, however, these do not include countries such as Kenya and the Philippines, which reflect a significant proportion of the work permit holder community in Jersey.<sup>155</sup>

Whilst most work permit holders will not be entitled to free or subsidised healthcare during their first six months in Jersey, 151 out of 209 work permit holders indicated through the Work Permit Holder Survey that they had not been advised to take out a health insurance policy prior to their arrival on-Island:

### Were you advised to take out health insurance prior to your arrival in Jersey?



<sup>152</sup> [When do I need travel insurance? – Citizens Advice Bureau New Zealand](#)

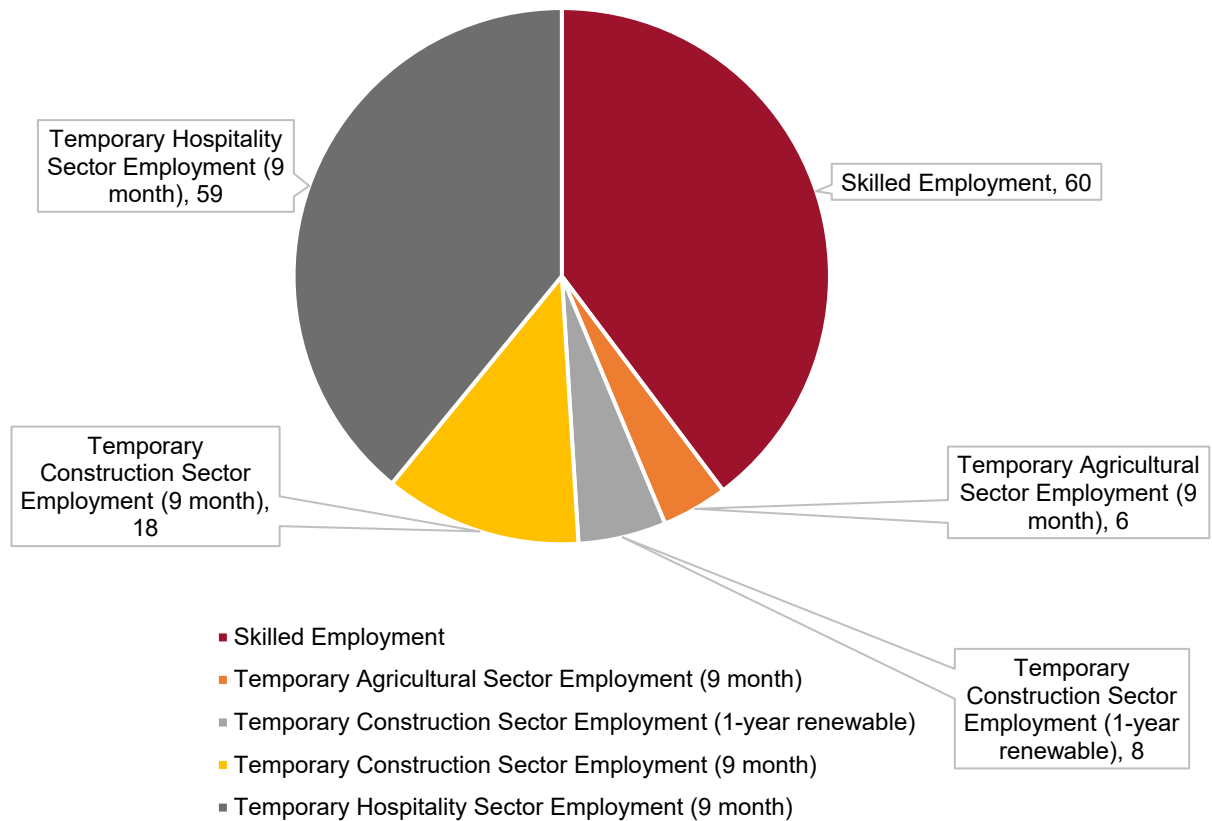
<sup>153</sup> [Ibid](#)

<sup>154</sup> [Health agreements between Jersey and other countries – gov.je](#)

<sup>155</sup> [Ibid](#)

Of the 151 work permit holders that responded 'No' to this survey question, most were employed under a Skilled Employment or Temporary Hospitality Sector Employment Work Permit.

**Respondents that were not advised to take out health insurance prior to their arrival in Jersey, by permit type:**



**Recommendation 24:** The Minister for Home Affairs should introduce a requirement to the Work Permit Policy to ensure that all work permit holders are covered by an appropriate travel insurance policy during the first six months of living and working in Jersey, and that the costs associated with this travel insurance requirement are met by the employer.

**Recommendation 25:** The Minister for Health and Social Services and the Minister for External Relations should work with the Minister for Economic Development, Tourism, Sport and Culture to ensure that reciprocal health agreements are made with countries where formal arrangements have been established by the Government of Jersey regarding the employment of work permit holders in Jersey.

**Eligibility for healthcare: Residents and Non-Residents Charging Policy**

The Residents and Non-Residents Charging Policy ('Policy') is an important document affecting work permit holder access to healthcare treatments and services in Jersey. The stated purpose of the Policy is to set out "...who is eligible for access to free services from the Health and Community Services department - to persons meeting the conditions outlined in the Policy, unless a treatment or service is chargeable to all eligible Jersey residents."<sup>156</sup>

During Public Hearings with Friends of Africa and the Kenyan Jersey Committee, it was submitted to the Panel that returning work permit holders had experienced difficulties accessing healthcare services:

**Public Hearing – Friends of Africa - 30<sup>th</sup> May 2023 - Chair, Friends of Africa Jersey C.I:**

*"I think access to healthcare is a fundamental issue that we have been pushing. You have got people who are on 9-month visas who have been coming to the Island year-on-year for the last 20 years but every time they come back they have to start from zero to get that 6-month point where they can get subsidised healthcare in terms of accessing G.P.s (general practitioners)."*

**Public Hearing – Kenyan Jersey Committee - 30<sup>th</sup> May 2023 - Mr. J. Muchiri:**

*"Yes, but you could be coming here for 20 years and every year they treat you as somebody new. The usual system - and correct me if I am wrong - is if you are a new arrival to Jersey you have to contribute for 6 months before you can access government services like healthcare and what have 22 you. So there are people who have been coming here for 20 years on a 9-month permit and they only have healthcare for 3 months of the year because every year they are treated as somebody new for the first 6 months."*

However, a Scrutiny Review of [Seasonal Workers and the Rural Economy](#) undertaken by the previously constituted Economic and International Affairs Scrutiny Panel, found that the previous Minister for Health and Social Services ('Minister') had decided to amend the Policy to rectify this issue:

**Letter – Minister for Health and Social Services to Chair of Economic and International Affairs Scrutiny Panel – 25<sup>th</sup> March 2022:**

*"The existing policy will be amended to provide that returning workers may access free health care on their return to the Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment – ie, there will be no requirement to complete a further qualification period. They will, however, need to be able to show that they have returned to Jersey for the purposes of work."*

The Panel was pleased to learn that the decision of the previous Minister was subsequently carried forward by the current Minister, and changes to the Policy were enacted by way of Ministerial Decision on 22<sup>nd</sup> August 2022, and included changes to:

**Residents and Non-Residents Charging Policy: Amendment – 22<sup>nd</sup> August 2022:**

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<sup>156</sup> [Residents and Non-Residents Charging Policy – Purpose of the Policy](#)

*“remove the requirement for returning persons who are in possession of a 9-month work permit and who have completed the required 6-month qualification period to re-complete that 6-month qualification period before being eligible for access to non-emergency health care provided that person returns to Jersey within three years;”*

**KEY FINDING 30:** Returning work permit holders are no longer required to re-complete the 6-month qualification period before being eligible for access to non-emergency health care provided that person returns to Jersey within three years.

The amendment demonstrates an improvement to the Policy and means that returning work permit holders that have previously completed the 6-month qualification period, are eligible to receive free non-emergency healthcare provided the person returns to Jersey within three years.

## Conclusion

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The Panel has made recommendations within this report which it believes will improve the effectiveness of the Work Permit Policy ('WPP') at maintaining the welfare of work permit holders in Jersey. The Panel has assessed the WPP and its impact, as well as the demographics of the increasing number of work permit holders undertaking employment opportunities in Jersey. It is the view of the Panel that these recommendations address gaps in the availability and accessibility of important information that can help inform decisions made by work permit holders about whether to undertake employment in Jersey and seek support when on-Island. The Panel believes that its recommendations will also assist employers as primary users of the WPP, in understanding and meeting their obligations to work permit holders and the requirements of the WPP. Finally, this report also addresses protections for work permit holders regarding travel insurance and access to healthcare, as well gaps in legislation, by recommending that the Minister consult on the introduction of Modern Slavery legislation for Jersey, to further support the WPP to fulfil its stated purpose to 'protect employees from Modern Slavery and ensure that their welfare is maintained'.

## Appendix 1 - Panel Membership and Terms of Reference

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Deputy Beatriz Porée (Chair) Deputy Mary Le Hegarat (Vice-Chair) Connétable Marcus Troy



Deputy Lyndsay Feltham

Deputy Montfort Tadier



## 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
  - b. the information provided to applicants during the application process;
  - c. the funding requirements of the Jersey work permit application process.
2. To examine Jersey's Work Permit Policy and determine its effectiveness in:
  - a. ensuring the welfare of work permit holders;
  - b. protecting work permit holders from exploitation and 'Modern Day Slavery';
  - c. providing guidance in relation to work supplementary employment, variation of employment contracts, termination of employment, accommodation and employment disputes.
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; and
  - b. any relevant legislation;
  - c. how fulfilment of the obligations is reviewed.
4. To identify and assess:
  - a. the financial obligations that employers and work permit holders have to the Government; and
  - b. any Government services or benefits available or not available to temporary work permit holders.
5. To identify and consider temporary work permit holder protection practices in other relevant jurisdictions.