

Work Permit Holder Welfare Review Panel

Review of Work Permit Holder Welfare

JHA Feedback

- *What impact do you feel the Work Permit Policy,(WPP) and the overall Work Permit system, has on the local hospitality industry?*
- The Jersey Hospitality Association (JHA) represents over 200 businesses across all sectors of the local Hospitality Industry (pls see attached structure) which depend on the Work Permit system as a main core part of their operation. The Hospitality industry is not just a seasonal industry but one that revolves all year around contributing in multiple ways to the greater island economy and also heavily impacting all islander's and their quality of life. It's impact on the success and existence of other island industries (including financial services) is also significant.
- The JHA has been advised that during/after the Brexit negotiations, the Jersey government's Immigration department has taken the active decision to remove a long list of approved "Skilled Work" job roles from Jersey's approved list vs the UK one that's already in place. The removal of such UK approved job roles limits our Island's hospitality industry beyond the impacts of Brexit, and causes huge barriers to business and our members. Such roles as -Bakers, Butcher, Cleaners, Laundry Workers, & Recreational Boat Captains etc. In order for these roles to now be approved by our Jersey Immigration department our members are resorted to submit rigorous "special case applications " with set conditions to put their case forward why a business needs this exception to be made. Not only this, but in some situations our members are being told that their business or the job which they are applying for 'isnt part of hospitality' by immigration officers. This is despite being registered as a hospitality business, serving the visitor economy on a daily basis and being part of the Hospitality Association. Should we have to align with all the of the Brexit rules in place as we're always being told- then why go out of the way and delete or remove lists of approved "skilled work" job roles from the Jersey approved list just to make things further restricted? We ask that the full list of approved job roles is available in Jersey as it is to the UK (and is updated regularly to match) to our local greater Hospitality industry businesses. We have very clear definitions of what constitutes the hospitality industry and this ties to the governments visitor economy department definition.
- We were previously asked to consult with industry and submit a paper on what the current needs of the industry are for "non skilled" work permits. We submitted a concise and direct proposal (please see attached paper), which advised to leave in place the current 9 month permit, but to also offer a one year rolling permit. This has now been issued however with a very restricted clause which requires the employee to be off the island for as long as they've been working on the island. So if they work here for a 3 year period (which is the max) then they have to be off island for 3 years before they can return again. We've asked why this is necessary, where the rule stems

from, if it is UK immigration law, but didn't get an answer back. The only explanation given by the Home Affairs Minister to us was that 'it's a copy of the permit rules issued to the construction industry'. We have also been informed by the External Relations Minister that permits are rules and not laws and that Jersey has the ability to create its own permit rules and inform the UK of them, there is no need to align.

If we are looking at ensuring that housing qualifications 5 yr. residence is not reached or contested, then surely the standard 3 months off island covers the limit of the entitlement issues. As per Social Security current policies -if an individual leaves the island for more than a 6 week period then they automatically lose their "entitled to work" status. With a lack of population policy in place, it is clearly beneficial for permits to be a preferred employment method than visas. Thus, we ask that the current one year rolling work permits for our industry has this restriction removed (time off island matching the time on island) and stick with the standard 3 months off island condition (as per current 9 month work permit).

- We also ask that when changes and updates are made to the WPP, the Immigration department make an effort to share those changes with the wider community and industry. There have been several instances when changes were made and to the policy or procedure and members found out once the permits or applications were declined only to be told that "it's in the WPP which is public, look it up"
- *Do you feel that the WPP clearly sets out employer and employee obligations?*

The Employee and Employer obligations should be stated in the work contract between the two parties and contracts need to be signed by both parties prior to approval of a permit.

We believe that it is critical to cover our Island against any potential human rights cases in the future and more importantly for the transparency and welfare of employees and employers, that clear statements explaining that the permit route does in no way enable the holder to accrue time towards settlement and if an applicant wishes to seek long term settlement then a visa route is an offered option for those that qualify. This statement should be written and agreed by government and become a golden standard for employment contracts associated with permits. The Association is very happy to set this stand throughout its membership.

The current obligations listed are misinterpreted. Our members want to offer their employees the opportunity to upskill and uptrain, however based on the current work permit terms, they do not allow them to be offered additional training in any other areas of the business differing from the description on the employees approved permit from the same employer. This is a poorly written, confusing and debatable issue that needs to be resolved.

- *Do you feel there is enough information available to employers and Work Permit holders on matters related to employment and accommodation?*

Feedback on this point has been that members always struggle to get answers from any immigration officer by phone to ask questions relating to their business and application query. There are long delays in replies via email and unless one has a dedicated HR department to deal with such matters for hours on end, the information available and service provided by the department is not adequately supportive to the members. Processing permits has been positively run in most cases but there are always anomalies and questions businesses will need to ask an officer and that is not an option via phone at the moment unfortunately. A lack of consistency is also a recurring complaint.

- *Do you feel that the WPP would be a useful document to refer to in the event of a dispute between an employer and a Work Permit holder?*

Unclear feedback on this point, as the employment contract is the initial document that needs to provide clarity of the agreements between employer and employee as stated above. The Association believe in and supports complete transparency between employer and employee and that both parties should be fully aware of their rights and expectations prior to a permit being issued

Overall lots of feedback has been had on the misunderstanding and misinterpretation of the WPP in general. Members have fed back that again not having the accessibility to speak with an immigration officer on the issues or “translation” of the WPP in layman’s terms causes lots of barriers and time delays to the operation of a small and large businesses which always leads to more financial impacts.