



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Vulnerable Temporary Migrant Workers: Hospitality Industry

August 2015



Ministry of Business, Innovation and Employment (MBIE)

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Contents

Figures	5
Tables	5
Executive summary.....	7
1 Introduction	11
1.1 Background.....	11
1.2 Purpose of the research	11
1.3 Project context	12
1.4 Structure of the report.....	15
2 Research approach	16
2.1 Analysis of quantitative data sources	16
2.2 Interviews with key informants.....	16
2.3 Ethics	17
2.4 Challenges and limitations	18
3 Temporary migrants working in the hospitality industry	19
3.1 Introduction	20
3.2 Characteristics of temporary migrants working in the hospitality industry	20
3.3 Characteristics of Essential Skills workers in hospitality-related occupations.....	23
3.4 Pathways of Essential Skills visa holders in the hospitality industry.....	27
3.5 Characteristics of study to work visa holders working in hospitality occupations ...	28
3.6 Labour market outcomes.....	30
4 Nature and extent of temporary migrant vulnerability in the hospitality industry	35
4.1 Introduction	36
4.2 Quantitative evidence on the extent of temporary migrant vulnerability	36
4.3 Interviews with key informants.....	40
5 Information sources and awareness of employment rights	46
5.1 Introduction	46
5.2 Awareness of employment rights	46
5.3 Access to information	47
5.4 Employers' awareness and sources of information	48
5.5 Ways to improve information	49
5.6 Where migrants go for help	50
5.7 Why migrants are reluctant to report exploitative practices	50

6	Initiatives	52
6.1	Introduction	52
6.2	Information, training and advice.....	52
6.3	Labour Inspectorate	53
6.4	Enforcement and regulation	53
6.5	Collaboration between agencies.....	54
6.6	Unions	55
6.7	Visa conditions	55
7	Conclusion	56
7.1	Characteristics of temporary migrants working in the hospitality industry	56
7.2	Nature and extent of vulnerability of temporary migrants working in the hospitality industry.....	57
7.3	Information sources and awareness of employment rights	59
7.4	Interventions to mitigate vulnerability and prevent exploitative practices in the hospitality industry.....	60
7.5	Conclusion	62
	Appendices	63
	Appendix 1: Methodology	63
	Appendix 2: Hospitality-related occupations	65
	Appendix 3: Interview schedule	66
	Appendix 4: Informed consent sheet	69
	References	71

Figures

Figure 3.1: Temporary migrants in the hospitality industry, 2008–2014 tax years	20
Figure 3.2: Temporary migrant trends in the hospitality industry by region, 2008–2014 tax years	21
Figure 3.3: Temporary migrants in the hospitality industry by visa type, 2008–2014 tax years	22
Figure 3.4: Top source countries of hospitality workers, 2008–2014 tax years	23
Figure 3.5: Age breakdown of Essential Skills workers in the hospitality industry, 2009–2014 tax years	25
Figure 3.6: Essential Skills workers – country of origin by occupation, 2014 tax year	26
Figure 3.7: Visa transition by skill level for Essential Skills workers in hospitality occupations, 2014 tax year	28

Tables

Table 3.1: Source country of temporary migrants by visa type, 2014 tax year	22
Table 3.2: Source country of Essential Skills workers by tax year, 2009–2014.....	25
Table 3.3: Top occupations for Essential Skills workers by tax year, 2009–2014	26
Table 3.4: Essential Skills hospitality workers by skill level by tax year, 2009–2014	27
Table 3.5: Study to work visa holders – age breakdown by tax year, 2009–2014.....	29
Table 3.6: Study to work visa holders – country of origin by tax year, 2009–2014.....	29
Table 3.7: Study to work visa holders – hospitality occupations by tax year, 2009–2014	30
Table 3.8: Study to work visa holders – skill levels by tax year, 2009–2014.....	30
Table 3.9: Essential Skills worker quintile cut-offs (inflation adjusted in 2014 dollars), 2008–2014.....	31
Table 3.10: Essential Skills hospitality workers in each Essential Skills income quintile by tax year, 2008–2014.....	31
Table 3.11: Essential Skills hospitality workers in each Essential Skills quintile for different New Zealand regions, 2014 tax year	32
Table 3.12: Essential Skills hospitality workers in each Essential Skills income quintile, by skill level, 2014 tax year	32
Table 3.13: Essential Skills workers in each Essential Skills income quintile, by country and industry, 2014 tax year.....	33
Table 3.14: Essential Skills workers in each Essential Skills income quintile, by time in New Zealand and industry, 2014 tax year.....	34

Executive summary

Introduction

In 2013, the Ministry of Business, Innovation and Employment (MBIE) commenced a programme of research on vulnerable temporary migrant workers. The first phase involved a review of New Zealand and international literature on the vulnerability of temporary migrant workers (Yuan, Cain and Spoonley, 2014) and an analysis of existing data sources.

The second phase focuses on temporary migrants in the hospitality industry and is the subject of this report. It includes semi-structured interviews with key informants from government agencies, businesses, and other organisations, including migrant communities and unions. It brings these interviews together with analysis of administrative data to better understand the nature and extent of migrant vulnerability in the hospitality industry and effective interventions to address the issues and reduce exploitative practices in the industry. It is important to note that this phase of the research did not include interviews with migrants.

The research shows that the hospitality industry is a significant employer of migrants on temporary visas, particularly working holidaymakers and international students. However, many migrants on Essential Skills, study to work (StW) and family visas are also working in the industry. While very difficult to accurately determine the extent of exploitative practices, the research shows exploitative practices in the industry are a significant concern. Students, migrants on a pathway to residence (including former students) and migrants working for ethnic or migrant-owned businesses are considered particularly vulnerable.

Characteristics of migrants working in the hospitality industry

Temporary migrants working in the hospitality industry are in New Zealand on a variety of visas

The largest group of temporary migrants working in the hospitality industry are those on working holiday visas and their number has steadily increased since 2009. In 2014, they made up a third of all temporary migrants working in the hospitality industry. The main source country for working holidaymakers in the hospitality industry is Great Britain followed by Germany.

In 2014, migrants on student visas comprised a quarter of temporary migrants working in the hospitality industry, and migrants on Essential Skills and StW visas comprised 13 per cent each. India and China are the top source countries of migrants on these visas.

There has been a large increase in migrants on StW visas working in the hospitality industry over the last five years. Much of this increase has been driven by former students from India.

The majority of migrants on Essential Skills and study to work visas are chefs or café/restaurant managers

Around three-quarters of Essential Skills and StW visa holders are working as chefs or café and restaurant managers. Migrants on Essential Skills visas were most likely to be working as chefs (52 per cent) whereas 41 per cent StW visa holders were working as chefs and 37 per cent as café and restaurant managers.

Both of these occupations are classified as high skilled (skill level 2 in the Australian and New Zealand Standard Classification of Occupations).

Essential Skills hospitality workers are poorly paid compared with the average Essential Skills worker

While the majority of Essential Skills workers in hospitality are considered to be working in high-skilled occupations, they are very poorly paid compared with other Essential Skills workers. Over two-fifths earned less each month than the equivalent of a \$32,000 annual salary, while three-quarters earned less than the equivalent of a \$40,000 annual salary. Essential Skills hospitality workers from Great Britain had high incomes relative to hospitality workers from other countries.

Nature and extent of temporary migrant vulnerability

Exploitative practices are a significant concern in the hospitality industry

While it is difficult to accurately determine the extent of exploitative practices in the hospitality industry, the research shows exploitative practices involving temporary migrants in the industry are a significant concern. Most key informants said exploitative practices were a concern in the hospitality industry with half saying they were deliberate and sustained practices. In addition, survey data show migrants and international students working in the hospitality industry are more likely to report poorer conditions than those working in other industries.

Some migrants in the hospitality industry are earning less than the full-time minimum wage

Administrative data show that Essential Skills migrants working in the hospitality industry are more likely than the average Essential Skills worker to be earning less than a full-time minimum wage, although this has declined over time, consistent with the general trends. Nevertheless, some migrants in the industry continue to be more likely than others to receive very low pay. This could indicate they are being paid less than the minimum wage or they are not working full-time hours, in violation of their visa conditions.

Key informants also highlighted concerns that many temporary migrants working in the hospitality industry were not receiving the minimum wage or were working longer hours than they were paid for.

International students, migrants on a pathway to residence and migrants working for ethnic or migrant-owned businesses particularly vulnerable

The majority of key informants said international students were particularly vulnerable to exploitative practices and over half mentioned migrants on a study to work or work to residence pathway as being vulnerable. This latter group of migrants relies on the sponsorship of their employer for residence, and it appears that some migrants are paying their employer for jobs or are working less than the minimum wage to secure that sponsorship.

Migrants and students from India working in hospitality were frequently mentioned by key informants as being a vulnerable group. However, several also mentioned those from China and other Asian countries as being vulnerable. Reasons included migrants being desperate for work for financial reasons, including to pay back loans, but also to get residence.

Most key informants said exploitative practices were most common among ethnic and migrant-owned hospitality businesses. Exploitative practices were also considered more common in small businesses. While there was no quantitative evidence that migrants working for ethnic businesses or migrant-owned businesses were earning below the minimum wage, migrants working for small businesses did seem to be particularly at risk.

Information sources and awareness of employment rights

Migrants are not well aware of their employment rights

The majority of key informants said temporary migrants working in the hospitality industry are not well aware of their employment rights. Reasons included language barriers and not knowing where to go for information, but also a lack of interest in knowing what their rights are.

Migrants access information on employment rights through other migrants and family

The first port of call for migrants needing information or help about their employment rights are family members or members from their own community. A couple of key informants raised concerns about the pressure migrants can face from their community to keep quiet about exploitative practices.

Migrants are reluctant to report exploitation for fear of reprisals from employers or losing their job

The majority of key informants said fear was at the root of why migrants are reluctant to report exploitative situations. Several mentioned that some migrants were fearful of reprisals from their employers, including employees or their families suffering abuse after reporting exploitative practices. Others said migrants are fearful of losing their job and being sent home (where the job was attached to their visa conditions) or losing their main source of income.

Effective initiatives to mitigate temporary migrant vulnerability

Key informants mentioned a variety of possible initiatives to mitigate temporary migrant vulnerability and prevent exploitative practices. Initiatives included providing information through a variety of media and in different languages, greater collaboration between agencies and stronger regulation and enforcement.

Conclusion

This research raises concerns about temporary migrant vulnerability in the hospitality sector. While it is very difficult to accurately determine the extent of exploitative practices, the research shows exploitative practices in the industry are a significant concern. Students, migrants on a pathway to residence and migrants working for ethnic or migrant-owned businesses may be particularly vulnerable.

MBIE has initiatives in place or in planning to address many of the concerns raised in the research. These include regulatory interventions such as strengthening enforcement of employment standards and the prosecution of defaulting employers and information interventions for migrants and their employers in the hospitality sector. These initiatives aim to mitigate the vulnerability of migrant workers in the hospitality industry and reduce exploitative situations by informing migrants and their employers about their employment rights and obligations and holding employers acting unlawfully to account. However, it is important to continue to monitor the situation to ensure these initiatives work as intended and that the continued demand for migrant workers in the hospitality industry does not result in further exploitative situations.

1 Introduction

1.1 Background

In 2013, the Ministry of Business, Innovation and Employment (MBIE) commenced a programme of research on vulnerable temporary migrant workers. A phased approach was undertaken. The first phase involved a literature review of New Zealand and international evidence on the vulnerability of temporary migrant workers (Yuan, Cain and Spoonley, 2014) and an analysis of existing data sources. This phase was designed to define the problem and prioritise areas of focus for the second phase of the research.

Following a workshop with MBIE stakeholders, two areas were prioritised for further research in the second phase: vulnerable temporary migrant workers in the hospitality industry and vulnerable temporary migrant workers in the Canterbury construction industry. Vulnerable temporary migrant workers in the hospitality sector are the subject of this report, and parallel research of temporary migrant workers in the Canterbury construction sector is reported on separately.

1.2 Purpose of the research

1.2.1 Part of a coordinated approach

MBIE has developed a strategy for a coordinated approach to the issue of migrant exploitation. The Migrant Exploitation Strategy provides a framework for work being carried out across MBIE in four priority areas:

- educating, empowering and incentivising migrant workers and their employers to understand and act on their rights and obligations
- strengthening operational responses
- strengthening the regulatory framework
- increasing knowledge of the problem and effective responses.

This programme of research contributes directly to the fourth priority area and contributes to the other priority areas by increasing our understanding of drivers of vulnerability and effective interventions to reduce vulnerability.

1.2.2 Broad research questions

The research addresses four questions:

- What are the characteristics of temporary migrants who work in the hospitality industry and the businesses who hire them?
- What is the nature and extent of temporary migrant worker vulnerability and exploitation in the hospitality industry?
- What are the experiences of vulnerable temporary migrant workers in the hospitality industry?
- What are some potentially effective interventions or policies to address temporary migrant vulnerability and reduce migrant exploitation in the hospitality industry?

1.3 Project context

1.3.1 Definitions of ‘vulnerability’ and ‘exploitation’

The United Kingdom’s Department of Trade and Industry (2006, p 25) defined a vulnerable worker as “someone working in an environment where the risk of being denied employment rights is high and who does not have the capacity or means to protect themselves from that abuse”.

Exploitative practices such as employing migrants on terms below minimum employment standards give those employers a commercial advantage by enabling them to avoid the full costs of employing workers on a lawful basis. This commercial advantage can drive compliant business out of the market.

Exploitation is defined in the *Immigration Act 2009* as:

- serious failure to pay money payable under the *Holidays Act 2003*
- serious default under the *Minimum Wage Act 1983*
- serious contravention of the *Wages Protection Act 1983*.

Also included in the exploitation offence are examples where the employer takes action with the intention of preventing or hindering the employee from:

- leaving the employer or New Zealand
- ascertaining or seeking entitlements under the law
- disclosing the circumstances of their work.

Until recently, the offence applied to only unlawful workers. In May 2015, the *Immigration Amendment Act 2015* extended these provisions to people in New Zealand on temporary work visas.

This research on vulnerable temporary migrant workers takes account of the legislative definition, including the amendments made as a result of the *Immigration Amendment Act 2015* but also includes other aspects of exploitation such as debt bondage and contravention of the *Health and Safety in Employment Act 1992*.¹ The Immigration Act states that exploitation involves “serious” breaches of various Acts. However, this research also examines the continuum of minor breaches to more serious breaches of employment legislation and the extent to which minor breaches are indicative of more serious breaches of minimum employment rights.

1.3.2 Temporary migration

The project focuses on migrants who have been granted the temporary right to reside and work in New Zealand rather than those who have been granted permanent residence. The objectives of New Zealand’s temporary entry policy are to facilitate the entry of genuine visitors, students and temporary workers while managing the associated risks and to contribute to building strong international linkages, attracting foreign exchange earnings and addressing skill shortages.

¹ The Health and Safety at Work Bill is before a select committee and is expected to be introduced this year.

The Temporary Work Policy aims to facilitate the access of New Zealand employers and industry to global skills and knowledge while complementing the government's education, training, employment and economic development policies. Work visas allow employers to recruit temporary workers from overseas to meet particular or seasonal labour shortages while protecting employment opportunities and conditions for New Zealand workers. Various work visa categories allow people to enter New Zealand for work-related purposes. For example, the:

- Essential Skills Policy facilitates the entry of people required temporarily to fill shortages where suitable New Zealand citizens or residents are not available for the work offered
- Working Holiday Schemes allow young people to work and study while in New Zealand, if the primary intention for their visit is to holiday
- Recognised Seasonal Employer Scheme allows horticulture and viticulture businesses to supplement their New Zealand workforce with non-New Zealand citizens or residents.

The Student Policy aims to facilitate the entry of genuine students by focusing on attracting and developing students who have the skills and talents New Zealand needs. This policy also aims to increase global connectedness, support sustainable growth of export education capability, earn foreign exchange, and strengthen New Zealand education while managing risks to New Zealand. Many students are permitted to work for up to 20 hours a week during term time and full time during holiday breaks.² Work rights were extended to English language students in 2013.

Former students who have the skills and talents New Zealand needs are encouraged to move to work or residence through the Study to Work Policy. The study to work pathway is a two-step process. The post-study work visa (open) gives students up to 12 months to get a job in a field related to their studies. The post-study work visa (employer assisted) relates to a specific job with a specific employer and is for two or three years.

1.3.3 Hospitality industry in context

The hospitality sector comprises accommodation (hotels, motels and so forth) and food services (for example, restaurants, cafes and takeaways). Among broad industries, accommodation, restaurants and bars are in the top 10 employers in New Zealand (accounting for 5.2 per cent of total employment). In terms of more detailed industry categories, cafes and restaurants are the second largest employing industries in New Zealand, employing 63,917 people in 2010 (2.9 per cent of total jobs) (Infometrics, 2012).

The hospitality sector is also a significant employer of temporary migrants, particularly international students, working holidaymakers and those on Essential Skills visas. A report on the labour market outcomes of recent migrants to New Zealand showed that the accommodation and food services industry was the top employer of international students (34 per cent of international students earning wages and salaries worked in this industry) (Merwood, 2013). This industry is also one of the top two employers of working holidaymakers

² In special cases, some students may be allowed to work for more than 20 hours a week. For example, if their programme of study includes a set number of hours of required work experience, this can be in addition to the 20 hours per week. Also, students of a masters by research or doctoral degree at a New Zealand institution may work full time while they are studying.

(the other is the agriculture, forestry and fishing industry). These two industries account for over half the jobs held by working holidaymakers.

The hospitality industry is also a major employer of people arriving in New Zealand under the Essential Skills Policy. The most common occupation for people approved under the Essential Skills Policy in 2013/14 was chef (8 per cent), with café and restaurant managers the third top occupation (3 per cent) (MBIE, 2014a).

Research identifies the hospitality sector as characterised by poor employment conditions (Yuan, Cain and Spoonley, 2014). One Australian study found the under-reporting of working hours, cash payments and the use of undeclared labour common practices in the industry (Rothengatter, 2005).

MBIE analysis of data from the Survey of Working Life 2012 (Statistics New Zealand) showed that 17 per cent of employees reported that they were not getting one or more of the minimum entitlements asked about in the survey (minimum holiday entitlement, being paid the minimum wage, and having an employment agreement). Workers in the accommodation and food industry were less likely to be getting their minimum entitlements when compared with the average across all employees (MBIE, 2014b).

Between July 2012 and December 2013 the Labour Inspectorate dealt with 5,937 individual employment standards issues that were triggered by complaints (as opposed to arising from targeted investigations). Of these, a quarter involved migrant workers. The top industry group in which these issues arose was accommodation and food services industry (24 per cent of issues). During the same period, the inspectorate uncovered 958 individual employment standards issues through targeted investigations. Of these, over a third involved migrant workers. Most issues were in the accommodation and food services industry, agriculture, forestry and fishing industry, and retail trade industries (MBIE 2014b).

Yuan, Cain and Spoonley (2014) state there is little policy-based research on migrant engagement in the hospitality sector in the New Zealand context. However, reports of abuse and exploitation of migrant workers in the hospitality industry have received increasing attention from the media in New Zealand. These reports include people being paid under the minimum wage, working long hours with no breaks, and suffering breaches of health and safety regulations. There has also been recent attention in the media on breaches of worker rights by employers who are themselves recent migrants.

1.3.4 Other MBIE-related activities

The *Immigration Amendment Act 2015* received royal assent on 6 May 2015. The Act addresses migrant exploitation in the following ways:

- employers who exploit temporary migrant workers could face a jail term of up to seven years and/or a fine up to \$100,000
- employers who exploit migrant workers and were reckless to their visa status (whether they were unable to work or on a temporary visa) may be fined up to \$100,000 and/or face a jail term of up to five years
- employers who hold a residence visa will be liable for deportation if the offence (exploitation or knowingly employing migrant workers without the right to work) was committed within 10 years of gaining residence

- immigration officers will have additional powers to search an employer's premises and interview certain workers to determine whether the employer is complying with their obligations under the *Act* (these powers have not yet been brought into force).

In addition, people on temporary or expired visas who feel they have been exploited have been encouraged to come forward through messages in the media, on websites and through community groups. They are informed that they may be eligible to remain in New Zealand while their complaint is looked at and resolved, even if they have been working without the correct visa. The Labour Inspectorate and Immigration Compliance staff are coordinating their work with a focus on addressing migrant exploitation.

In March 2015, the government approved a package of measures to strengthen the enforcement of employment standards, including:

- tougher sanctions
- clearer record-keeping requirements
- increased tools for labour inspectors
- changes to the Employment Relations Authority's approach to employment standards cases.

All these changes will be reflected in an Employment Standards Bill to be introduced to Parliament this year.

New settlement resources are planned for development in 2015 for migrant workers and their employers in the hospitality industry. Immigration NZ's Settlement Unit has developed a series of tailored resources for employers and migrants in the dairy, construction and aged care sectors and for international students. These resources include information on minimum employment rights, workplace health and safety, improving workplace communications and where to go for further settlement support. The findings of this project into vulnerable migrant workers in the hospitality industry will inform the content for guides for the hospitality industry.

1.4 Structure of the report

This report is structured into chapters according to the main research questions. Chapter 2 outlines the method and sources of data. Chapter 3 examines the characteristics of temporary migrant workers in the hospitality industry and their labour market outcomes. Chapter 4 presents information from data sources and interviews with key informants on the nature and extent of exploitative practices. Chapter 5 examines key informants' perspectives on awareness of information rights and obligations and sources of information. Chapter 6 provides perspectives on effective interventions. Finally, chapter 7 brings this all together in a conclusion.

2 Research approach

This phase of the vulnerable migrants' programme of research is informed by an analysis of existing quantitative data sources and interviews with key informants.

2.1 Analysis of quantitative data sources

Analysis of data from Statistics New Zealand's Integrated Data Infrastructure (IDI)³ and Immigration New Zealand's (INZ) Application Management System (AMS) aimed to determine the characteristics of temporary migrants working in the hospitality industry and the businesses they work for. In addition, findings from the 2013 Migrant Survey and International Student Expenditure Survey are also used in this report.

We define hospitality workers in two ways in this report: firstly according to industry and secondly on an occupation basis. Integrated data from the IDI links individuals to employers, allowing us to identify the industry in which they work. If someone works for a business in the accommodation and food services industry, they will be identified as being a hospitality worker. If they work for another type of employer, for example a tourism business in the arts and recreation services industry with a restaurant or café attached, they will not be identified as a hospitality worker.

In other data sources, such as in administrative records on skilled migrants from the AMS and survey responses, occupation information is more consistently recorded than industry information. For these data sources, we identify workers in hospitality-related occupations.

The different data sources and approaches discussed above mean the results presented may differ depending on the definitions and data sources used.

Information from the IDI is kept confidential by randomly rounding values and suppressing small counts in accordance with Statistics New Zealand's confidentiality rules. Within each table, the values are rounded independently. This means counts may not sum to totals and percentages may not sum to 100.

More information on the methods and data sources used in this report is in Appendix 1. A list of hospitality-related occupations is in Appendix 2.

2.2 Interviews with key informants

Semi-structured interviews with key informants from government agencies, businesses, and other organisations such as non-government organisations, unions and migrant communities were conducted in Auckland and Wellington. (The interview schedule is in Appendix 3.) Key informants were selected based on their expert knowledge of the hospitality sector and/or migrant workers. Seventeen interviews with 25 individuals were conducted.

Interviews have been grouped into three categories: business (four interviews with four people), government (four interviews with eight people) and other (9 interviews with 13 people). 'Other' includes unions, non-government organisations and ethnic communities. Participants were told that no identifying information would be presented in the report, so specific agencies and individuals are not identified.

³ For more information about the IDI, see the Statistics New Zealand (2015).

Interviews were approximately 60 minutes in length. All interviews were undertaken by two researchers with one taking extensive notes during the interview. While interviews were also recorded and later transcribed, researchers had to rely on the notes in a couple of cases because of technical difficulties with recording equipment. One interview was undertaken on the phone, but all others were face to face. Before the interviews, question areas were sent to participants.

A software package for the analysis of qualitative data (NVIVO) was used to analyse interviews.

2.3 Ethics

The research has been conducted in accordance with the Association of Social Science Researchers Code of Ethics. The research was designed, conducted and reported in a manner that respects the rights, privacy and dignity of those participating. Researchers have ensured participants were fully informed about the research and have attempted to anticipate and avoid all possible harm to participants. In addition, the project plan was reviewed by MBIE's Ethics Review Panel.

2.3.1 Informed consent

Informed consent was obtained from all participants. (See Appendix 4 for the informed consent sheet.) Participants were made aware of what information would be sought and about the purpose of the research. It was made clear that all participation would be voluntary, and participants were aware they had the right to withdraw their involvement at any time. All interview participants were offered opportunity to receive a summary of findings.

For the interviews, written consent was obtained, including consent for the interview to be audio-recorded.

2.3.2 Confidentiality

Physical data are held in a secure (locked) cabinet, and electronic data are kept in restricted folders on MBIE's electronic document and records management system. All data are accessible only by the immediate project team and will be destroyed after five years.

Participants were told that no identifying information would be presented in the report. However, key informants were informed that in some cases, their roles were so singular as to make anonymity impossible. If that were the case, participants were advised that they could be identified and were given the opportunity to review their contributions before inclusion in the report.

2.3.3 Vulnerable participants

While this phase of the research did not include interviews with migrant workers in the hospitality industry, it was possible that key informants would talk about specific situations where people's lives were in danger. Participants were informed that if researchers were to find out that someone's life were in danger or that gross violations of human rights were being committed, the interviewer had the responsibility to pass this information on to others.

In addition, a list of appropriate help agencies and organisations was developed and left with key informants who might need support or want to report exploitation.

2.4 Challenges and limitations

While there are expectations from ministers and MBIE stakeholders that this programme of research accurately measures the extent of migrant worker exploitation, significant methodological challenges need to be acknowledged. For example, the hidden nature of illegal activity and the difficulties of accessing migrants willing to participate in research make data collection difficult. There may be under-reporting of exploitation because of participant uncertainty about what will happen to the information or the potential for personal implications (for example, migrants being worried about being sent back to their home country if they complain about their work situation). These issues, along with language barriers, mean that measuring accurately the extent of exploitation is extremely challenging. The lack of international and New Zealand research on the extent of exploitation is indicative of the difficulties of doing such research, but also emphasises the need to conduct research in this area to better understand the nature of temporary migrant exploitation and vulnerability.

While this phase of the research does not include face-to-face interviews with migrants, it does draw on existing surveys of migrants, administrative data and interviews with key informants. Both qualitative and quantitative information sources were triangulated to provide a broad understanding of the extent of exploitation and to 'paint a picture' of the related issues in the hospitality industry.

3 Temporary migrants working in the hospitality industry

Findings

Temporary migrants in the hospitality industry

- Since 2011, the number of temporary migrants working in the hospitality industry has gradually increased.
- Nearly half of temporary migrants working in the hospitality industry are working in the Auckland region.
- Migrants working in the hospitality industry are on a range of visas, most commonly working holiday and student visas. However, the number on study to work visas has substantially increased.
- Source country differs depending on type of visa. India and China are top source countries for migrants on student, Essential Skills, study to work, and family visas. Great Britain and Germany are top source countries for working holidaymakers. Great Britain is also a significant source country for Essential Skills workers.
- Since 2008, the number of temporary migrants from India working in the hospitality industry has increased considerably.

Essential Skills workers in the hospitality industry

- The proportion of Essential Skills workers in hospitality over the last five years has increased steadily – from 9 per cent in 2008 to 18 per cent in 2014.
- Essential Skills migrants in the hospitality industry are increasingly aged 18–30. In 2014, they were most likely to:
 - be working as chefs or restaurant and café managers
 - come from India and China
 - be classified as being in a high skilled occupation.
- Essential Skills visa holders working in the hospitality industry are less likely to transition to residence than those working in other industries; lower-skilled hospitality workers are particularly unlikely to transition to residence.

Study to work visa holders

- The proportion of study to work visa holders in the hospitality industry has increased substantially. Over 2008 to 2014, they have been increasingly likely to:
 - be aged 18–30
 - come from India
 - be working as chefs and café and restaurant café managers.

Labour market outcomes of Essential Skills hospitality workers

- Hospitality workers are poorly paid relative to other Essential Skills workers.
- Hospitality workers from Great Britain have high incomes relative to hospitality workers from other countries. Essential Skills hospitality workers from other key source countries are similarly likely to have low incomes.

3.1 Introduction

This chapter presents analysis of data from the Integrated Data Infrastructure (IDI) and Immigration New Zealand's Application Management System (AMS) on the characteristics of migrants working in the hospitality industry.

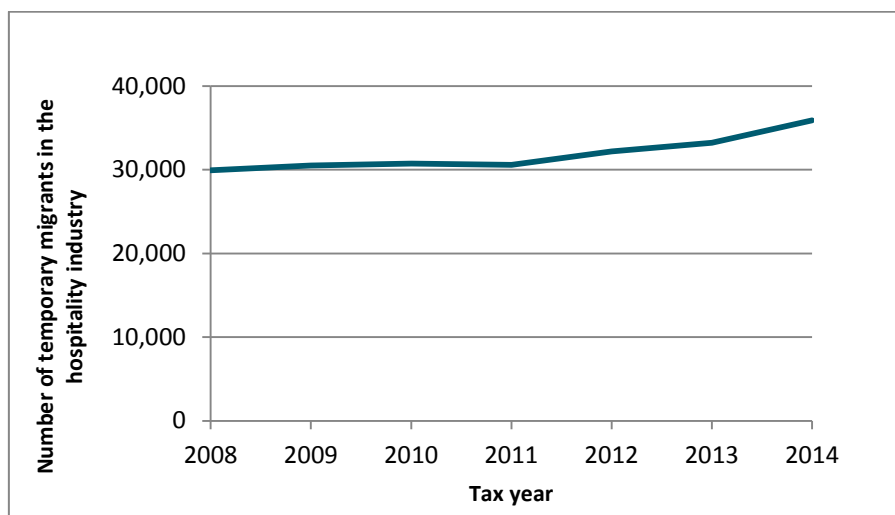
3.2 Characteristics of temporary migrants working in the hospitality industry

This section uses linked data from the IDI to identify migrants working in the hospitality sector in recent tax years. Tax data on salaries and wages paid is used to identify the industry and regions migrants work in.

3.2.1 Trends in temporary migration

Figure 3.1 shows the trend in the number of temporary migrant workers in the hospitality industry over recent years. The number of migrants on temporary visas plateaued in the years following the global economic crisis, but has been gradually increasing since 2011. Temporary migrants working in the hospitality industry accounted for 30 per cent of all temporary migrant workers in the 2014 tax year.

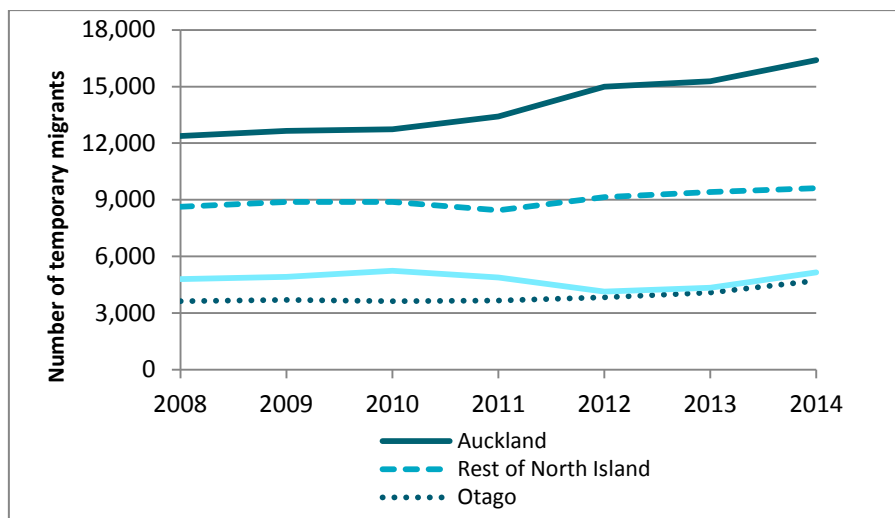
Figure 3.1: Temporary migrants in the hospitality industry, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

This growth has been largely driven by a growth in the Auckland region (see Figure 3.2). Nearly half (46 per cent) the migrants working in the hospitality industry were in Auckland in the 2014 tax year up from 42 per cent in 2008. About 1 in 10 temporary migrants was working in the Otago region (predominantly Queenstown) in the 2008 to 2014 tax years.

Figure 3.2: Temporary migrant trends in the hospitality industry by region, 2008–2014 tax years



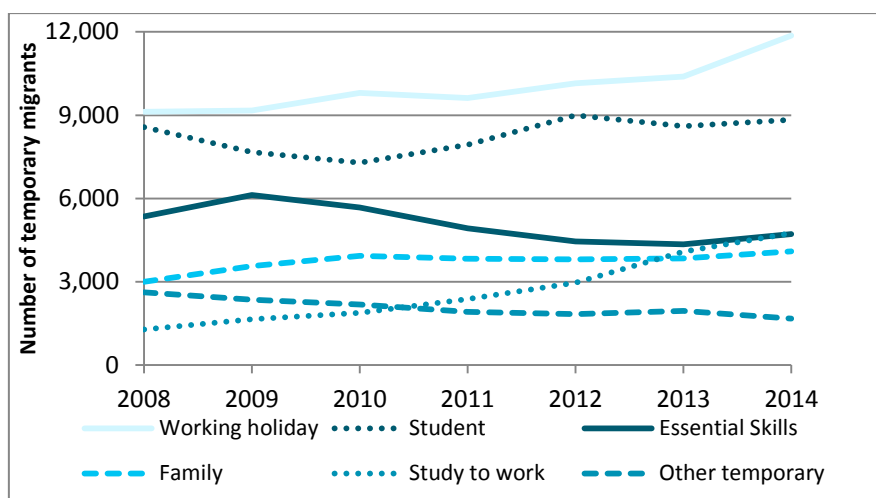
Source: Statistics New Zealand, Integrated Data Infrastructure.

3.2.2 Type of temporary visa

While the Essentials Skills visa is designed to fill specific skills shortages in the New Zealand labour market, many migrants are granted other temporary visas that also allow them to work in New Zealand. Essential Skills visas are labour market tested and tied to a specific employer, but student, working holidaymaker and family visas are open work visas that allow the migrant to work for any employer.

Figure 3.3 shows that migrants working in the hospitality industry were issued a variety of visas. The largest group of migrants is those on working holiday visas, and their number has increased steadily since 2009. In 2014, they comprised a third of all temporary migrants working in the hospitality industry. Students are the second largest group of temporary migrants working in the hospitality industry (25 per cent). The number of migrants on study to work visas working in the hospitality industry has grown substantially since 2008 and is now close in number to Essential Skills visa approvals (both comprise 13 per cent of all migrant hospitality workers). Further detail on Essential Skills and study to work visa approvals is provided later in this chapter.

Figure 3.3: Temporary migrants in the hospitality industry by visa type, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

3.2.3 Source country

Temporary migrants working in the hospitality industry are drawn from a wide variety of countries and which differ according to visa type. Table 3.1 shows that for the 2014 tax year over half of migrants on study to work visas working in the hospitality industry were from India and another 19 per cent were from China. Students from India and China also dominated the hospitality industry, and India and China represented the top two countries for Essential Skills and family visas. Top source countries of working holidaymakers in the hospitality industry were Great Britain and Germany.

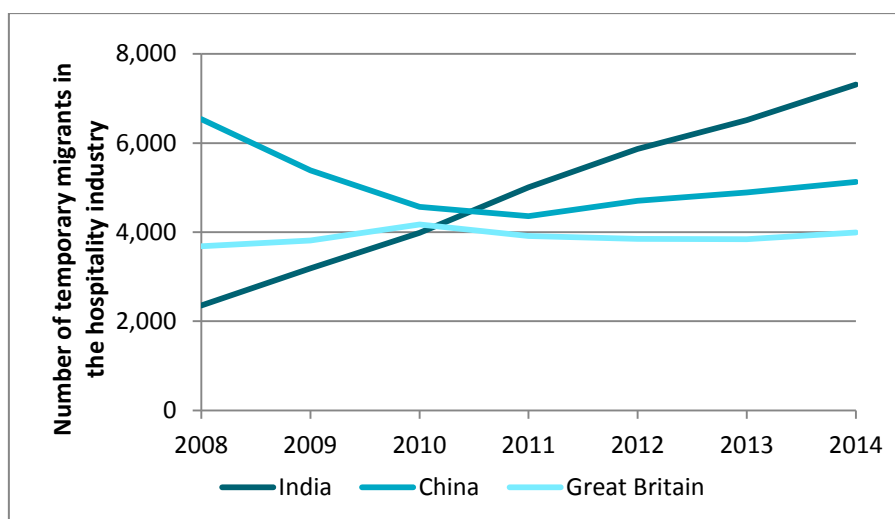
Table 3.1: Source country of temporary migrants by visa type, 2014 tax year

Source country	Working holiday	Student	Essential Skills	Study to work	Family
India	0%	34%	16%	56%	16%
China	2%	26%	12%	19%	16%
Great Britain	24%	1%	11%	0%	8%
Germany	14%	1%	2%	0%	2%
Japan	8%	2%	6%	1%	5%
South Korea	5%	6%	5%	6%	5%
Other	35%	29%	45%	17%	48%

Source: Statistics New Zealand, Integrated Data Infrastructure.

Figure 3.4 highlights changes over time for the top three source countries for all temporary migrants working in the hospitality industry. In 2008, China was the top source country followed by Great Britain and then India. In subsequent years, there has been large growth in the number of temporary migrants from India working in hospitality, and they now represent 20 per cent of all temporary migrants working in that industry.

Figure 3.4: Top source countries of hospitality workers, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

3.3 Characteristics of Essential Skills workers in hospitality-related occupations

3.3.1 Introduction

This section looks at one particular group of temporary migrants, Essential Skills visa holders, working in the hospitality industry. Between 2009 and 2014, the number of Essential Skills visa holders in hospitality occupations increased 37 per cent from 4,075 to 5,593.⁴ As a proportion of total Essential Skills visa holders, Hospitality has increased from 9 per cent in 2009 to 18 per cent in 2014.

3.3.2 Definition of key terms

Essential Skills work category

The Essential Skills work category provides a temporary work visa for migrants with a job offer from a New Zealand employer. Essential Skills work visas are usually issued with a maximum duration of three years for higher-skilled occupations or five years, if the occupation is at the highest skill level with a base salary of at least \$55,000.⁵ Essential Skills work visas for lower-skilled occupations are usually granted for a maximum duration of one year.⁶

Employers must prove no suitable New Zealand workers are available to do the job. This can be done through an approval in principle process, by providing proof or through the Essential Skills in Demand skills shortage lists. The employer needs to show they have genuinely searched for suitably qualified and trained New Zealand workers and explain why the job

⁴ The results presented in this section differ from the results presented in section 3.2, because of the different data source used and the different definition of hospitality workers. The different data sources and approaches are discussed in section 2.1.

⁵ Five-year Essential Skills work visas can be obtained only once. On cessation of a five-year visa, a new visa with a maximum three-year duration may be applied for.

⁶ From July 2015, migrants working in lower skilled occupations in Canterbury can be issued visas for three years.

specifications are necessary for the work and why New Zealand applicants are not suitable or readily trained.

This process usually includes a labour market test. Evidence is not considered sufficient if New Zealand workers are available or if employment conditions or advertisement wording discourages New Zealand workers from applying. INZ also has to be satisfied the employer has met – and will continue to meet – New Zealand employment and immigration laws.

Skill level classification

INZ uses the Australian and New Zealand Standard Classification of Occupations (ANZSCO) as part of the work visa application assessment. ANZSCO is a standard list of occupations providing general information about the skill level, tasks and duties, and the level of qualifications and/or work experience generally required.⁷

ANZSCO assigns occupations with a skill level from 1 (highest) to 5 (lowest). Generally, skill levels 1 to 3 are called ‘higher skilled’ and receive a three-year work visa. Skill levels 4 and 5 are considered ‘lower skilled’ and receive a one-year work visa. Workers in skill level 2 occupations dominate the hospitality sector, and no hospitality workers are in skill level 1 occupations. Throughout this report, we refer to workers as high skilled (in occupations at skill levels 1 and 2 – although in practice this captures only skill level 2), medium skilled (skill level 3) or low skilled (skill levels 4 and 5).

All industries have a variety of occupations at various skill levels. In the hospitality industry, for example, there are low-skilled occupations such as kitchen hands through to high-skilled occupations such as chefs and café and restaurant managers.

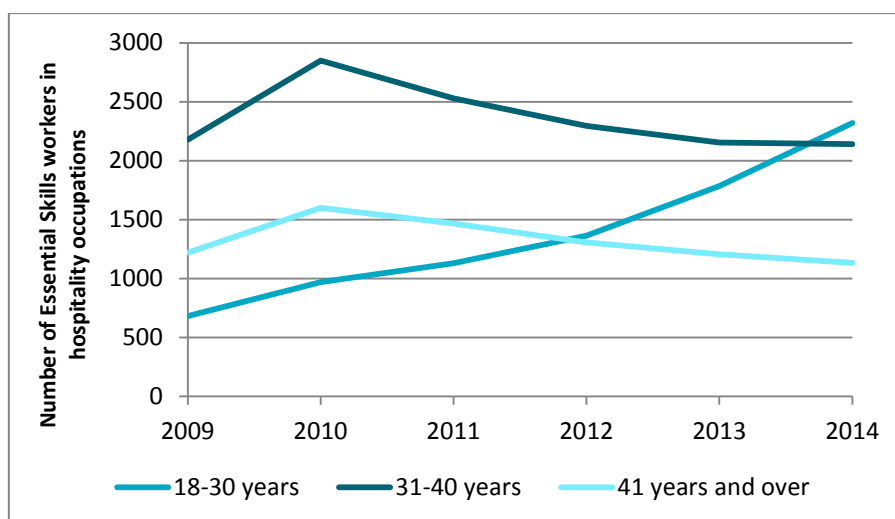
3.3.3 Gender and age

In 2009, two-thirds (67 per cent) of Essential Skills hospitality workers were male and one-third were female. While the overall number of individuals has increased, the gender split remained approximately the same over 2009 to 2014.

The age profile of Essential Skills visa holders in hospitality occupations between 2009 and 2014 has changed significantly. In particular, the number of Essential Skills migrants aged 18 to 30 working in hospitality-related occupations increased substantially. Since 2010, the number of workers aged 31 and over has decreased. In 2009, individuals aged 18 to 30 represented 17 per cent of Essential Skills hospitality workers; this increased to 41 per cent in 2014.

⁷ For more information about ANZSCO, see Australian Bureau of Statistics (2013).

Figure 3.5: Age breakdown of Essential Skills workers in the hospitality industry, 2009–2014 tax years



Source: Ministry of Business, Innovation and Employment.

3.3.4 Country of origin

Table 3.2 shows that India comprised provided the greatest proportion of Essential Skills hospitality workers in 2014 (17 per cent), followed by China and Thailand (12 per cent and 8 per cent respectively). India displayed the greatest percentage increase in Essentials Skills hospitality workers over 2009 to 2014 (120 per cent), while the number of workers from Thailand almost doubled (increasing 97%).

Table 3.2: Source country of Essential Skills workers, 2009–2014 tax years

Source country	2009	2010	2011	2012	2013	2014
India	10%	11%	12%	13%	15%	17%
China	15%	14%	13%	12%	12%	12%
Thailand	5%	6%	7%	8%	9%	8%
Japan	6%	7%	6%	6%	6%	6%
Great Britain	5%	6%	6%	6%	7%	7%
Brazil	8%	7%	7%	6%	5%	4%
South Korea	5%	5%	6%	6%	6%	6%
Philippines	4%	4%	4%	4%	3%	3%
Fiji	4%	4%	4%	4%	3%	3%
Sri Lanka	3%	3%	3%	1%	1%	2%
Other	34%	33%	32%	33%	32%	32%
Total visas approved	4,075	5,407	5,085	4,911	5,079	5,520

3.3.5 Occupations

Table 3.3 shows the occupations classified as being part of the hospitality industry. About half (52 per cent) of Essential Skills visas issued in 2014 were for chefs, and this proportion remained relatively constant between 2009 and 2014. While chefs, café and restaurant

managers, cooks, waiters, and fast food cooks all increased as a proportion of all Essential Skills hospitality workers, other occupations decreased proportionally. The proportion of café and restaurant managers increased from 15 per cent in 2009 to 22 per cent in 2014.

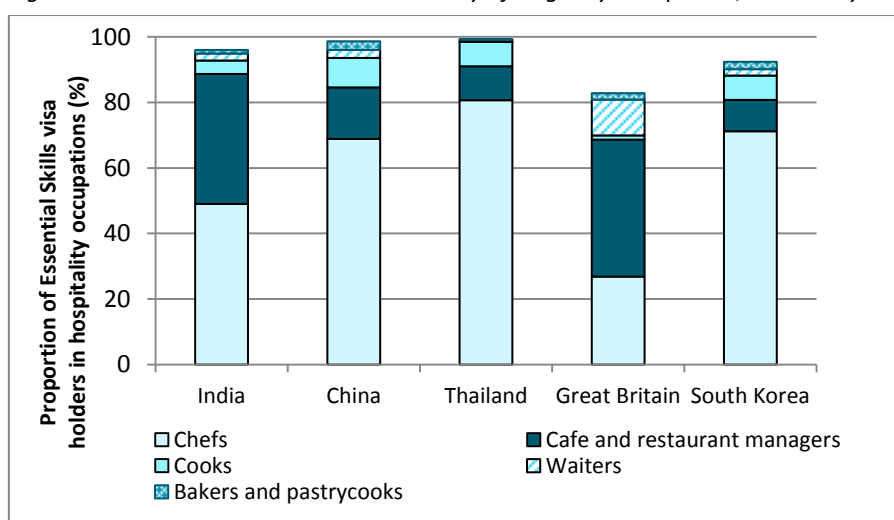
Table 3.3: Top occupations for Essential Skills workers by tax year, 2009–2014 tax years

Occupation	Skill level	2009	2010	2011	2012	2013	2014
Chefs	2	50%	52%	54%	55%	53%	52%
Cafe and restaurant managers	2	15%	17%	18%	19%	20%	22%
Cooks	3	4%	4%	5%	5%	6%	6%
Waiters	4	6%	6%	5%	4%	5%	5%
Bakers and pastry cooks	3	9%	8%	7%	5%	5%	5%
Bar attendants and baristas	4	4%	3%	2%	2%	2%	2%
Kitchen hands	5	4%	3%	2%	2%	2%	2%
Other hospitality workers	5	3%	2%	2%	3%	3%	2%
Fast food cooks	5	2%	1%	2%	2%	2%	2%
Food trades assistants	5	2%	1%	1%	1%	1%	1%
Cafe workers	5	1%	1%	1%	1%	1%	1%
Total visas approved		4,075	5,417	5,126	4,965	5,142	5,593

Source: Ministry of Business, Innovation and Employment.

Figure 3.6 shows that the majority of Chinese, Thai and South Korean Essential Skills visa holders working in hospitality were working as chefs. On the other hand, individuals from India and China were more likely than other nationalities to be working as café and restaurant managers.

Figure 3.6: Essential Skills workers – country of origin by occupation, 2014 tax year



Source: Ministry of Business, Innovation and Employment.

3.3.6 Skill level

In 2009, two-thirds (65 per cent) of Essential Skills hospitality workers were in high-skilled occupations,⁸ 13 per cent were in medium-skilled occupations and 23 per cent were in low-skilled occupations. In 2014, the proportion in high-skilled occupations had increased to 74 per cent whereas those in low-skilled occupations had decreased to 15 per cent.

Table 3.4: Essential Skills hospitality workers by skill level, 2009–2014 tax years

Skill level	2009	2010	2011	2012	2013	2014
High skilled	65%	69%	72%	74%	73%	74%
Medium skilled	13%	13%	12%	10%	11%	10%
Low skilled	23%	18%	15%	15%	17%	15%
Total	4,075	5,417	5,126	4,965	5,142	5,593

Source: Ministry of Business, Innovation and Employment.

The skill level of Essential Skills visa holders working in hospitality varies by both gender and age. Females working in hospitality are more likely to be employed in low-skilled occupations than are their male counterparts (27 per cent compared with 10 per cent). A quarter of individuals aged 18–30 were in low-skilled occupations compared with 11 per cent of those aged 31–40 and 4 per cent of those aged over 40.

3.4 Pathways of Essential Skills visa holders in the hospitality industry

3.4.1 Transition to residence

Analysis was undertaken using the AMS data set to track Essential Skills migrants from entry to around three years⁹ after entry. The following sections present analysis of transitions to residence by skill level and industry.

Across all industries, 16,278 individuals were identified of whom 1,337 were working in the hospitality industry; 1,088 were in occupations considered medium to high skill (skill levels 1, 2 and 3) while 249 were in occupations considered low skill (skill levels 4 and 5).

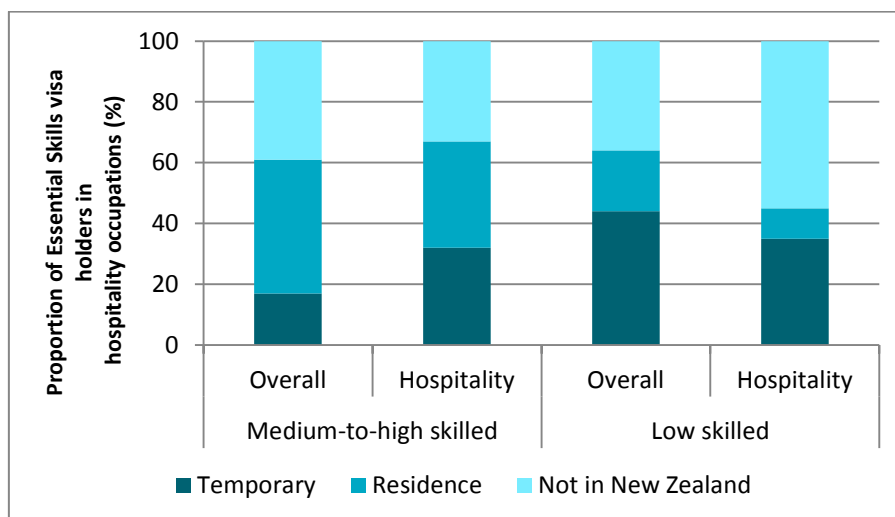
Figure 3.7 shows the proportion of migrants who transition to residence or remain on temporary visas after three years across all Essential Skill visa holders and for hospitality-related occupations. Workers in medium- to high-skilled occupations were more likely to transition to residence than workers in low-skilled occupations. However, workers in both medium- to high-skilled and low-skilled hospitality occupations were less likely to transition to residence than were Essential Skill workers across all industries. In the case of visas issued for workers in medium- to high-skilled occupations, 35 per cent of such workers had transitioned to residence after three years compared with 44 per cent of workers in medium- to high-skilled occupations across all industries. Ten per cent of individuals issued visas for low-skilled

⁸ High-skilled occupations are defined as skill levels 1 and 2, but no hospitality occupations are classified as skill level 1. Medium-skilled occupations are skill level 3, and low-skilled occupations are skill levels 4 and 5.

⁹ That is, 1,080 days.

occupations in hospitality had transitioned to residence after three years compared with 20 per cent overall. Over half (55 per cent) of workers in low-skilled hospitality occupations were no longer in New Zealand after three years.

Figure 3.7: Visa transition by skill level for Essential Skills workers in hospitality occupations, 2014 tax year



Source: Ministry of Business, Innovation and Employment.

3.4.2 Transition to higher skilled occupations

We also analysed the transition from higher to lower skilled occupations over time. Workers in low-skilled occupations in the hospitality industry are less likely to transition to medium- to high-skilled occupations than are those working in other industries. A quarter of all Essential Skills workers in low-skilled Essential Skills had transitioned to a medium- to high-skilled occupation after three years compared with 14 per cent of those in the hospitality industry.

3.5 Characteristics of study to work visa holders working in hospitality occupations

International students who have completed their qualification in New Zealand may be eligible for a study to work (StW) visa. Students must have completed a qualification that would qualify for points under the Skilled Migrant Category. The analysis below relates to StW visa holders with an occupation recorded (57 per cent of StW visa holders for the period studied).

In 2009, 237 StW visa holders had a recorded hospitality occupation. This increased tenfold to 2,382 in 2014. As a proportion of total StW visa holders, hospitality increased from 6 per cent to 22 per cent.

3.5.1 Gender and age

In 2009, 60 per cent of StW hospitality workers were male and 40 per cent were female. Over 2009 to 2014, the gender split shifted more in favour of males: in 2014, 66 per cent were male and 34 per cent were female.

The proportion of 18–30-year-old StW visa holders working in hospitality occupations has increased substantially. In 2009, individuals aged 18–30 represented 39 per cent of StW

hospitality workers; this had increased to 76 per cent in 2014. The proportion of those aged 31–40 decreased from 54 per cent in 2009 to 17 per cent in 2014.

Table 3.5: Study to work visa holders – age breakdown, 2009–2014 tax years

Age	2009	2010	2011	2012	2013	2014
18–30 years	39%	49%	59%	68%	72%	76%
31–40 years	54%	43%	32%	24%	20%	17%
41–50 years	5%	6%	7%	7%	7%	6%
Over 50 years	3%	2%	2%	1%	1%	1%
Total	237	546	930	1,405	1,977	2,382

Source: Ministry of Business, Innovation and Employment.

3.5.2 Nationality

In 2009, China was the largest source country of StW visa holders working in hospitality occupations, representing nearly two-thirds (65 per cent) of all approvals. By 2014, this had decreased to 27 per cent. In 2014, India was the largest source country (44 per cent), up substantially from 14 per cent in 2009.

Table 3.6: Study to work visa holders – country of origin, 2009–2014 tax years

Country of origin	2009	2010	2011	2012	2013	2014
India	14%	27%	41%	46%	47%	44%
China	65%	49%	36%	30%	25%	27%
South Korea	7%	8%	9%	9%	10%	10%
Fiji	1%	1%	2%	3%	3%	2%
Sri Lanka	0%	0%	0%	1%	2%	3%
Philippines	0%	1%	1%	1%	2%	2%
Thailand	2%	1%	2%	2%	2%	1%
Japan	1%	1%	1%	1%	1%	1%
Vietnam	1%	1%	1%	1%	1%	1%
Indonesia	0%	1%	1%	1%	1%	1%
Other	9%	9%	7%	5%	6%	6%
Total	237	546	930	1,405	1,977	2,382

Source: Ministry of Business, Innovation and Employment.

3.5.3 Occupations

Chefs and café and restaurant managers together accounted for three-quarters of all StW visa holders with a recorded occupation in the hospitality industry (41 per cent and 37 per cent respectively in 2014).

Table 3.7: Study to work visa holders – hospitality occupations, 2009–2014 tax years

Hospitality occupation	2009	2010	2011	2012	2013	2014
Chefs	34%	25%	28%	35%	37%	41%
Cafe and restaurant managers	29%	32%	34%	36%	37%	37%
Bakers and pastrycooks	10%	14%	12%	7%	6%	5%
Waiters	4%	6%	6%	6%	5%	4%
Cafe workers	5%	7%	7%	6%	5%	4%
Other hospitality workers	5%	6%	4%	4%	3%	3%
Bar attendants and baristas	7%	4%	3%	2%	2%	1%
Cooks	0%	1%	1%	1%	1%	1%
Fast food cooks	1%	1%	0%	1%	1%	1%
Food trades assistants	4%	5%	5%	4%	3%	2%
Total	237	546	930	1,405	1,977	2,382

Source: Ministry of Business, Innovation and Employment.

3.5.4 Skill level

In 2009, just over a quarter (27 per cent) of StW hospitality workers were in low-skilled occupations. This decreased to 16 per cent in 2014. Those in occupations categorised as high skilled increased from around two-thirds to over three-quarters.

Table 3.8: Study to work visa holders – skill levels, 2009–2014 tax years

Skill level	2009	2010	2011	2012	2013	2014
High skilled	63%	57%	62%	70%	75%	78%
Medium skilled	11%	15%	13%	9%	7%	6%
Low skilled	27%	29%	25%	21%	18%	16%
Total	237	546	930	1,405	1,977	2,382

Source: Ministry of Business, Innovation and Employment.

3.6 Labour market outcomes

3.6.1 Approach

We used the IDI to look at the average monthly income of Essential Skills workers between the 2008 and 2014 tax years. We then created income cut-offs in such a way that 20 per cent of Essential Skills migrants fell between each cut-off. These groups are known as quintiles. Table 3.9 shows the quintile cut-offs for each year, adjusted for inflation and reported in 2014 dollars.

In 2008, the 20 per cent of Essential Skills workers with the lowest monthly earnings earned less than \$2,324 per month while the 20 per cent with the highest earnings earned more than \$5,210. By 2014, the bottom 20 per cent were earning less than \$2,675, while the top

20 per cent earned more than \$5,303. None of the quintile cut-offs showed a very strong movement over time, although the bottom two quintile cut-offs showed a steadily increasing trend in most years and the largest increases overall across the period.

Table 3.9: Essential Skills worker quintile cut-offs (inflation adjusted in 2014 dollars), 2008–2014 tax years

Tax year	Quintile				
	2	3	4	5	
2008	\$2,324	\$3,092	\$3,876	\$5,210	
2009	\$2,392	\$3,075	\$3,776	\$5,042	
2010	\$2,472	\$3,122	\$3,791	\$5,055	
2011	\$2,552	\$3,203	\$3,879	\$5,186	
2012	\$2,510	\$3,143	\$3,864	\$5,169	
2013	\$2,611	\$3,273	\$4,007	\$5,346	
2014	\$2,675	\$3,311	\$4,028	\$5,303	

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.6.2 Income of workers in the hospitality industry over time

Due to the way the cut-offs were constructed, 20 per cent of all Essential Skills workers are in each income quintile. We can compare subgroups of Essential Skills workers with the overall group by seeing how many are in each quintile. The percentage of workers in the hospitality industry who fall into each quintile is reported in Table 3.10.

Table 3.10 shows that relative to other Essential Skills workers, hospitality workers are very poorly paid. In 2014, only 11 per cent of Essential Skills workers in the hospitality industry were in the top two quintiles (compared with 40 per cent of Essential Skills workers in these quintiles). In comparison nearly three-quarters (73 per cent) were in the bottom two quintiles. This had increased from 65 per cent in 2008. Over two-fifths earned less each month than the equivalent of a \$32,000 annual salary, while three-quarters earned less than the equivalent of a \$40,000 annual salary.

Table 3.10: Essential Skills hospitality workers in each Essential Skills income quintile by tax year, 2008–2014 tax years

Tax year	Quintile				
	1	2	3	4	5
2008	34.0%	30.8%	19.7%	10.1%	5.3%
2009	36.4%	28.4%	18.9%	9.7%	6.6%
2010	35.7%	27.8%	19.2%	10.8%	6.4%
2011	35.9%	29.2%	18.0%	10.8%	6.1%
2012	37.3%	30.8%	17.7%	8.9%	5.3%
2013	39.7%	30.1%	18.1%	8.1%	4.0%
2014	42.6%	30.6%	16.3%	6.9%	3.7%

Source: Statistics New Zealand, Integrated Data Infrastructure.

Table 3.11 shows that in 2014 hospitality workers in Auckland (8 per cent) and Wellington (10 per cent) regions were less likely to be in the top two quintiles of income than were workers elsewhere in the North Island (19 per cent). In the South Island, workers in the Otago region were more likely to be in the top two quintiles (10 per cent) than were workers in Canterbury (6 per cent) and the rest of the South Island (6 per cent).

Table 3.11: Essential Skills hospitality workers in each Essential Skills quintile for different New Zealand regions, 2014 tax year

Region	Quintile				
	1	2	3	4	5
Auckland	41%	33%	17%	7%	2%
Wellington	40%	30%	21%	9%	1%
Other North Island	41%	25%	15%	9%	10%
Canterbury	47%	31%	17%	4%	1%
Otago	46%	30%	14%	5%	4%
Other South Island	45%	34%	15%	6%	0%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.6.3 Skill level

Table 3.12 looks at whether skill level is an important predictor of earnings for Essential Skills hospitality workers. Skill levels are categorised as high, medium and low where high is defined as skill levels 1 and 2, medium as skill level 3, and low as skill levels 4 and 5.

As we would expect, income is positively related to skill level. While 2 per cent of low-skilled hospitality workers are in the top two quintiles in 2014, 13 per cent of high-skilled workers are in those quintiles. More generally, there are few differences between low- and medium-skilled hospitality workers. While high-skilled hospitality workers tend to be higher paid than lower-skilled hospitality workers, they still earn much less than the average Essential Skills worker. Over two-thirds (69 per cent) earn in the bottom two quintiles – only 40 per cent of all Essential Skills workers have earnings in these two quintiles.

Table 3.12: Essential Skills hospitality workers in each Essential Skills income quintile, by skill level, 2014 tax year

Skill level	Quintile				
	1	2	3	4	5
Low	55.0%	32.0%	10.8%	2.3%	C
Medium	53.8%	29.4%	14.3%	2.5%	C
High	38.5%	30.8%	18.0%	8.3%	4.5%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.6.4 Country of origin

The income profile of Essential Skills workers in the hospitality industry and other industries are in Table 3.13 for the seven main countries of origin for hospitality workers. Hospitality workers from Great Britain had high incomes relative to hospitality workers from other

countries and were the least likely to be in the bottom two quintiles (52 per cent). Hospitality workers from Thailand were the most likely to be in the bottom two income quintiles (89 per cent), and those from China were the most likely to be in the bottom quintile.

When compared with Essential Skills migrants from these countries working in other industries there are clear differences. Even though hospitality workers from Britain are higher income earners than hospitality workers from other countries, they are considerably less likely to earn in the top two quintiles than British workers in other industries (28 per cent compared with 72 per cent). This trend is the same for other countries, although the differences are less pronounced. The exception to this is India where 2 per cent of hospitality workers are in the top two quintiles compared with 38 per cent of Indian Essential Skills workers in other industries.

Table 3.13: Essential Skills workers in each Essential Skills income quintile, by country and industry, 2014 tax year

Industry	Quintile				
	1	2	3	4	5
Hospitality industry					
India	49.5%	35.8%	12.3%	1.9%	0.5%
China	52.8%	28.3%	17.6%	1.3%	C
Great Britain	27.6%	24.1%	20.7%	13.1%	14.5%
Thailand	50.0%	39.3%	10.7%	C	C
Japan	46.9%	29.6%	17.3%	4.9%	1.2%
Korea	45.6%	36.8%	13.2%	4.4%	C
Brazil	50.0%	30.0%	16.0%	4.0%	C
Other industries					
India	16.7%	21.9%	23.2%	18.2%	20.0%
China	28.4%	30.3%	19.3%	13.8%	8.3%
Great Britain	7.9%	8.2%	11.4%	24.9%	47.5%
Thailand	31.7%	19.5%	36.6%	7.3%	4.9%
Japan	42.3%	28.2%	15.4%	9.0%	5.1%
Korea	26.4%	41.5%	20.8%	5.7%	5.7%
Brazil	33.6%	19.3%	23.5%	16.8%	6.7%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.6.5 Time in New Zealand

A possible indicator of vulnerability is persistence over time on a temporary visa, especially if this is coupled with persistent low income. Table 3.14 breaks down Essential Skills visa holders according to whether they are recent (having arrived in New Zealand in the last five years) or long term, both for those working in the hospitality industry and those working in other industries.

There is very little difference between the income profiles of recent and long-term Essential Skills workers in the hospitality industry. Both recent and long-term Essential Skills workers also have considerably lower incomes than recent and long-term Essential Skills workers in other industries.

Table 3.14: Essential Skills workers in each Essential Skills income quintile, by time in New Zealand and industry, 2014 tax year

Industry	Quintile				
	1	2	3	4	5
Hospitality industry					
Recent	43.6%	30.1%	16.3%	6.5%	3.5%
Long term	38.6%	32.0%	16.6%	8.7%	4.1%
Other industries					
Recent	14.5%	17.9%	19.9%	22.0%	25.7%
Long term	16.3%	16.7%	24.5%	26.7%	15.8%

Source: Statistics New Zealand, Integrated Data Infrastructure.

4 Nature and extent of temporary migrant vulnerability in the hospitality industry

Findings

- Essential Skills migrants working in the hospitality industry are more likely than the average Essential Skills worker to be earning less than a full-time minimum wage, although this has declined over time, consistent with the general trend. Nevertheless, some migrants within the sector continue to be more likely than others to receive very low pay, which could indicate vulnerability, either through being paid less than the minimum wage or through not consistently working full-time hours.
- Essential Skills workers from Brazil, women, those who had been on a visa less than a year, and/or those working for firms with fewer than 5 employees or 20–49 employees, are all significantly more likely than migrants with other characteristics to earn less than the full-time minimum wage.
- Migrants working in hospitality-related occupations are more likely to report poorer working conditions than are migrants in other occupations. These conditions include being less likely to have a written employment agreement or to be able to take breaks during their work day.
- Exploitative practices involving temporary migrants are a significant concern in the hospitality industry.
- Most commonly, employers were not meeting minimum employment standards set out in legislation, including not paying the minimum wage. Some migrants are paying for jobs to support their application for residence.
- Students, migrants from India, and migrants on a study to work or residence pathway are particularly vulnerable because they are desperate for work for financial reasons or to get residence.
- Exploitative practices are most common among ethnic businesses and migrant-owned hospitality and small businesses.

4.1 Introduction

This chapter draws on interviews with key informants and information from the 2013 Migrant Survey¹⁰, a survey of International students¹¹ and the Integrated Data Infrastructure (IDI).

Key informants were asked their perspective on how reliant the industry was on temporary migrant workers, the types and extent of exploitative practices they were aware of, and which migrants were particularly vulnerable to these exploitative practices. Key informants were also asked about the drivers of exploitative practices within the hospitality industry, the characteristics of employers most likely to use these practices, and what could be done to prevent exploitative practices.

4.2 Quantitative evidence on the extent of temporary migrant vulnerability

4.2.1 Employment conditions of migrant workers and students

About 14 per cent of respondents to the 2013 Migrant Survey who identified an occupation worked in the hospitality industry. Migrants working in the hospitality industry differed in several ways to migrants working in other occupations. They were more likely to be on temporary visas (83 per cent compared with 76 per cent), more likely to be aged under 30 (63 per cent compared with 46 per cent) and less likely to have obtained a bachelor's degree or higher (35 per cent compared with 68 per cent). They were also less likely to speak English very well or as their first language (58 per cent compared with 68 per cent).

Migrants working in hospitality-related occupations were more likely to report poorer working conditions than were migrants in other occupations. They were more likely than other migrants to say they did not have a written employment agreement (10 per cent and 4 per cent respectively). They were less likely to have breaks during their work day (75 per cent compared with 86 per cent), and they were less likely to receive annual leave or the equivalent in pay (87 per cent compared with 92 per cent). Migrants working in hospitality occupations were less likely to be satisfied or very satisfied with their work (72 per cent compared with 80 per cent) or think their employer was fair compared with migrants working in other occupations (82 per cent compared with 89 per cent). Almost no migrants working in hospitality occupations were paid over \$20 an hour (1 per cent compared with 26 per cent) and they were more likely to be paid on an hourly basis than a salary (82 per cent compared with 49 per cent).

¹⁰ The Migrant Survey is an annual survey conducted on behalf of Immigration New Zealand to investigate the economic and social settlement of migrants. The survey contains questions about experiences migrants might encounter when settling in New Zealand. Of particular relevance to the present report are questions about employment status, industry of employment, the terms of employment, pay rate and pay frequency, level of education, perceptions of employer fairness, and language proficiency.

¹¹ The International Student Expenditure Survey was conducted by National Research Bureau (NRB) and Infometrics on behalf of Education New Zealand. It gauges the financial behaviour of foreign students studying in New Zealand. The survey was live in 2013 and at MBIE's request included questions on employment and including industry, pay rate and conditions.

A survey of international students in 2013 showed similar findings to that of the migrant survey. International students working in hospitality-related occupations were more likely to report working without an employment agreement (19 per cent compared with 10 per cent). The survey of international students also showed that two out of five students working in the hospitality industry said they did not know where to go for information about their employment rights. While only a small proportion of students in the survey said they did not know what the minimum wage was, 13 per cent underestimated the minimum hourly rate. This proportion was even higher for respondents to a migrant survey where 28 per cent of migrants working in hospitality underestimated the minimum wage.

4.2.2 Migrant workers and workplace injury

This section looks at the difference between the propensity of migrant¹² and non-migrant workers in the construction industry to make a workplace injury-related accident compensation claim. The likelihood of making a claim is viewed as one potential indicator of vulnerability in the labour market.

The Accident Compensation Corporation (ACC) provides injury cover for all accidents in New Zealand. As such, visitors, international students, and temporary and permanent migrants are all eligible for accident compensation cover. Nevertheless, it is possible that lack of awareness reduces the number of claims made by migrants. Alternatively, migrants may make claims under a travel insurance policy, and some injuries may not result in an accident compensation claim.

Claim rates are calculated in a way that is broadly consistent with the incidence rates used for official workplace injury statistics by Statistics New Zealand (2014). We focus on wage and salary earners, excluding the self-employed, because there is no information in the IDI about the number of months worked by most people who are self-employed. We also restrict the ACC data to 'employees', so our claim rates are comparable to 'employee' incidence rates in the official statistical data. These rates are lower than the overall reported rates, because the self-employed have higher rates of injury claim than do wage and salary earners.

The hospitality industry is generally characterised by workplace injury claim rates that are slightly lower than those across all industries. Nevertheless, migrants are an important part of the industry, consisting of 26 per cent of total employment in the industry. Table 4.1 breaks down the hospitality sector¹³ by sub-industry. These industries tend to reflect the overall injury claim rates across all industries, with migrants having generally slightly lower claim rates than non-migrants. Differences may relate to migrants working fewer hours, something that may be particularly likely for international students or working holidaymakers. Alternatively, the low rate could relate to a lower probability of making a claim once injured. Nevertheless, the data suggest migrants are unlikely to be considerably more at risk of workplace injury than are non-migrants in the hospitality industry.

¹² Migrant workers are defined as people working for salaries and wages who are in receipt of a temporary visa (either a work or student visa) or who were granted residence in New Zealand in the previous five years. (They may have been in New Zealand longer than this if they were in receipt of a temporary visa before being granted residence.)

¹³ The hospitality sector is defined as division H, Accommodation and Food Services, in the Australian and New Zealand Standard Industrial Classification.

Table 4.1: Workplace injury claims by migrant status and industry in hospitality sector, 2012 tax year

Industry	Claims		Months worked (thousands)		Claim rate*		Claim rate difference
	Non-migrant	Migrant	Non-migrant	Migrant	Non-migrant	Migrant	
H440 Accommodation	1,488	456	235.3	81.4	76	67	-9
H451 Cafes, restaurants and takeaway food services	3,501	1,314	640.1	253.6	66	62	-3
H452 Pubs, taverns and bars	834	159	118.2	25.7	85	74	-10
H453 Clubs (hospitality)	219	18	36.5	2.8	72	78	6
Total hospitality	6,042	1,947	1,030.0	363.4	70	64	-6
Total all industries	132,096	16,440	19,062.1	2,869.2	83	69	-14

* Claim rate is calculated as the number of claims per 1,000 years (12,000 months) worked.

4.2.3 Low income and migrant workers

Essential Skills work visa requirements include a full-time job offer, where full time is considered to be 30 hours or more per week. If someone is earning less than 30 times the minimum hourly wage, then they are likely to be being paid less than the legal minimum hourly wage¹⁴ or to be working fewer hours than required by the rules of the visa or both. As we do not have information on the number of hours worked each month (we have only taxable earnings), we cannot tell which of these is occurring, but it, nevertheless, provides a useful indicator of vulnerability. In the 2012 tax year, 6.4 per cent of Essential Skills workers in the hospitality industry were earning less than a 30-hour minimum wage per month; this figure declined to 4.9 per cent and 4.3 per cent respectively in the 2013 and 2014 tax years. These figures are higher than comparable figures across all industries with 3.9 per cent, 3.5 per cent and 2.8 per cent of all Essential Skills workers earning less than the full-time minimum wage per month in the 2012, 2013 and 2014 tax years. While problems of very low pay for migrant workers seem to be more prevalent in hospitality than in many other industries, they are declining over time, consistent with the overall trend.

To tease out the most important predictors of a worker earning less than the full-time minimum wage (as defined above), we ran statistical models¹⁵ using a variety of predictors: occupation, country of origin, region of employment, sex, age, time on visa, migrant status of employer, and the size of the employing firm. In the hospitality industry, several of these variables were predictive of differences, so are reported below. All reported differences were significant at least at the 5 per cent level. Those that were significant at the 5 per cent level are indicated with a single asterisk (*), while those that were significant at the 1 per cent level are indicated with two asterisks (**).

In all tax years analysed, housekeepers were identified as being at particular risk of being very low paid, being 6*, 13** and 6* percentage points (ppt) more likely than chefs to earn less than the full-time minimum wage (2012, 2013 and 2014 respectively). Other occupations were predictive of low earnings in a particular year: kitchen hands were 17** ppt more likely than chefs to earn very low pay in 2012; sports coaches and instructors were 47** ppt more likely in 2013, and waiters were 7* ppt more likely in 2014.

Migrants from particular countries were more likely to be very low paid. Compared with migrants from China, those from Brazil were more likely to be very low paid (5* ppt, 8** ppt and 7** ppt in 2012, 2013 and 2014). Migrants from Fiji were also more likely to be very low paid in 2013 and 2014 (by 6* ppt in both years) than those from China, while those from Tonga were more likely to earn below the full-time minimum wage than those from China in 2012 and 2013 (by 46** ppt and 35* ppt respectively). Migrants from other countries (Great Britain, France and Thailand) were more likely than those from China to be low paid in a single year.

Women were significantly more likely to earn less than the full-time minimum wage in each year, being 5** ppt, 4** ppt and 3** ppt more likely than men to be very low paid in 2012, 2013 and 2014 respectively.

¹⁴ 'Minimum wage' means the minimum wage level for that year.

¹⁵ We ran logit models for each tax year (2012, 2013 and 2014), first with individual predictors and then with all predictors entered together. Marginal effects were calculated at means for ease of reporting and interpretation.

Those who had been on an Essential Skills visa for less than a year were significantly more likely to be low paid than those who had been on a visa for one to two years in 2012 and 2014 (by 7** ppt and 6** ppt respectively).

Where the employer was also identifiable as a migrant and came from the same country as the employee, they were 3* ppt less likely than those whose employer was identifiable but not a migrant to earn less than the full-time minimum wage.

Workers in firms with fewer than five employees were 5** ppt more likely than those in firms with 50 or more employees to earn less than the full-time minimum wage threshold in 2012. Differences of 4** ppt and 2** ppt were observed in 2013 and 2014 respectively. Employees in firms with 20–49 workers were also more likely to earn very low pay – with differences of 3** ppt in each year – compared with those working in larger firms.

Region of employment was generally not significant in the models (although migrants in Otago were less likely to be low paid than those in Auckland in 2012).

While these indicators were independently predictive of low earnings, models with all predictors included together showed fewer significant results. In particular, migrants from Brazil, women, those who had been less than a year on a visa, and those working for firms with fewer than 5 employees or 20–49 employees were all significantly more likely than migrants with other characteristics to earn less than the full-time minimum wage in every year examined. This finding holds, even when models were run that controlled for the wide range of characteristics discussed above.

Surprisingly, migrants working for other migrants from the same country were actually less likely to be paid less than the full-time minimum wage, although this result did not hold when we controlled for other characteristics. This means the result could be driven by other characteristics associated with being employed by a co-national such as occupation (for example, chefs are at low risk of being low paid and may be particularly likely to be employed by a migrant from the same country).

4.3 Interviews with key informants

4.3.1 Reliance on migrant workers

The majority of key informants said the hospitality industry relied heavily on temporary migrant workers. Some businesses in the hospitality industry were considered to be more reliant than others, most commonly mentioned were ethnic restaurants and cafes. A few informants also mentioned that hotels are increasingly reliant on temporary migrant workers, and a couple mentioned franchise cafes and restaurants.

A couple of different reasons were given as to why these businesses are increasingly reliant on temporary migrant workers. A few mentioned that migrants are willing to take lower wages or put up with conditions that New Zealand workers are not willing to accept:

The common answer [to why they hire migrant labour] is that they are cheaper. They are passive. It's a docile labour [market], no one would like to complain ...

Other

It is not guaranteed work so a lot of the work that the students do is casual, which most New Zealanders won't do.

Business

On the other hand, a couple of key informants mentioned that the roles migrants are taking up in ethnic restaurants require specialist skills and knowledge – both in terms of food preparation as well as language:

I think it's important to understand why they're reliant on them, and I think that two things come to mind ... one is the language and two is the food.

Other

4.3.2 Extent of exploitative practices

Most key informants indicated that exploitative practices involving temporary migrants was a significant concern in the hospitality industry. About half were definite that these practices are extremely common and that they are deliberate and sustained:

I'm not sure about percentage-wise but most of them do.

Other

It is normal. Like he saw a sign up in an Indian restaurant [for work wanted] ... and he comes back with [a] \$9 an hour story. It is pretty much what you can expect.

Other

Several said that, while they knew exploitative practices were occurring, they did not know how extensive these practices were. They could base their views only on those migrant workers willing to come forward, knowing that many were not prepared to do so.

I don't know, to be honest when I see three or four Indian workers coming in, it does imply to me a deliberate practice ... it doesn't strike me as one-off.

Other

It's hard to measure because a lot of them won't come forward.

Government

A few said exploitative practices were more common in certain sectors of the hospitality industry than in others. Small independent businesses, particularly migrant-owned businesses, were mentioned:

It's more the independent companies, even smaller hotels, definitely restaurants, some bars. It's very much the independent who exploit labour, and I have got to be honest, it's mainly migrants exploiting their own.

Business

Finally, a couple of key informants said they believed the number of exploitative situations involving migrants in the hospitality sector was reducing. They suggested this was as a result of greater union involvement in the hospitality sector as well as training and workshops available for small businesses.

4.3.3 Types of exploitative practice

When asked what types of exploitative practices key informants were aware of a variety of situations was mentioned. Most commonly, employers were not meeting minimum employment standards set out in legislation, including not paying their employees minimum wage. In terms of not meeting minimum employment standards this included not providing workers with breaks, holiday leave or sick leave. In addition to being paid less than the minimum wage, some workers were also expected to work more hours than they were being paid for, effectively taking their wage to below the minimum wage.

They might be paid for 20 hours but they are working far longer than 20 hours ...
Business

... but the agreement they work under says that they can work up to 44 and a half hours, which means it's a breach of minimum wage ...

Other

A couple mentioned situations where people were working on a trial period without any pay. In one case, the person was asked to leave at the end of the trial period:

So they actually work free for a month and then the employer says thanks and goodbye.

Business

About half said that while the employment agreement might outline that the worker is being paid the minimum wage and receiving all their entitlements that is not the practice in reality. Agreements are kept to ensure a paper trail for auditing purposes.

I think probably in 8 out of 10 cases that I've seen the employment contract ... will be different to what they are told they are going to have to do.

Other

Many were also aware of situations where migrants were paying for jobs often to support their application for residence:

[The employer is] going to be asking for a sum of money and if you would like to get this position or residency then you have to pay us this amount, like \$5,000 to \$20,000.

Other

Other exploitative practices that key informants were aware of in the hospitality industry included people working without employment agreements, migrants being expected to work long hours and work the shifts no one else wants to do, the withholding of passports, and bullying and intimidating behaviour.

4.3.4 Accommodation

Several key informants raised issues about accommodation for migrant workers, particularly those working in ethnic restaurants. In these cases, they said it was common for workers to be living on restaurant premises or in other accommodation provided by the owner, and rent would be deducted from wages. This resulted in overcrowding and difficulties controlling the hours worked:

Having to stay on the premises or in the flat above the premises means that you are tied to the job.

Other

Chinese chefs didn't realise they could actually live wherever they would like so they were just taken by the agent to this boarding house. We thought there might be maybe 12 or 13 people living in there. I think there were 23, charged \$100 a week each in rent.

Government

4.3.5 Employment arrangements

When asked what were the most common employment arrangements used for temporary migrants working in the hospitality sector, the majority of key informants mentioned casual contracts. A casual contract is one where an employee is employed when and if needed with no particular expectation of continuing employment. A couple of key informants specifically mentioned concern about the growing use of zero-hour contracts in the hospitality industry where workers have to be available for work but no hours are guaranteed.

Casual contracts were perceived to impact on the vulnerability of migrant workers in several ways. Workers are very dependent on their employer for the hours they work each week, so this can lead to a significant power imbalance and abuse. For example, an employer may expect certain favours in return for giving someone the hours they need or want or they may roster the workers they like onto more favourable hours. It also means people can be dismissed with very little notice:

They are all on casual contracts right so you can get fired at any time ...

Other

Casual contracts, and therefore the lack of certainty around work hours, mean it is difficult for workers to budget. In addition, these contracts mean employers do not need to pay workers sick leave or statutory holidays.

However, fixed term or permanent contracts are used when this is a requirement of the visa the migrant is applying for. For example, this is the case with the Essential Skills visa –the person must have a job offer with a minimum of 30 hours of work a week.

4.3.6 Temporary migrants who are most vulnerable

The majority of key informants said international students were particularly vulnerable to exploitative practices in the hospitality industry. Over half mentioned migrants who were on a study to work or a work to residence pathway were especially vulnerable when they relied on the sponsorship of their employer for residence. A few also mentioned that temporary migrants on an Essential Skills visa or other temporary visa were in a vulnerable position, but that vulnerability was primarily due to their goal of obtaining permanent residence through this pathway.

When considering country of origin, migrants from India, including students and those on work visas, were most frequently mentioned as a vulnerable group. However, several informants also mentioned that migrants from China and other Asian countries were also vulnerable to exploitative practices in the hospitality industry. A few said migrants from Latin America were vulnerable, and a couple mentioned family migrants and those working in family businesses. One key informant mentioned that women were a particularly vulnerable group of migrants working in the hospitality industry, and they were aware of situations where women were sexually abused and exploited.

A variety of reasons were given as to why these temporary migrants were particularly vulnerable to exploitative practices in the hospitality sector. Most commonly mentioned were that migrants were desperate for work for financial reasons or to get permanent residence.

Students were desperate for work because many were taking out loans to finance their studies. In some cases, families and whole villages had pooled money to send people to study in New Zealand:

[A] lot of Indian students [are] coming from Punjab. ... a lot of money has gone into them coming over, ... a lot of families have pooled together to send these people. They're trying to send money back, they're paying the money lenders back home.

Business

Many migrants had invested money in their studies in the hope that it would lead to a pathway to residence. They were, therefore, in a position of needing to get experience in a job that would provide points towards their residence application under the Skilled Migrant Category. Students on a post-study work visa had up to year to find a job in order to apply for a work visa. This put enormous pressure on migrants to accept jobs paying less than the minimum wage or to pay employers for jobs.

And then they've got to find [a job] before the year is up and that's when they get desperate and that's when they pay for jobs, that's when they get exploited.

Government

Several key informants also mentioned that cultural factors can render a migrant vulnerable to exploitation, including respect for authority or unwillingness to challenge authority.

It's just that they are so used to doing whatever their boss tells them.

Government

In some cases migrants felt they 'owed' their employer for giving them a job, so were unwilling to speak out against them. In addition, many migrants come from countries with different employment laws, so are unaware they may not be receiving their minimum employment entitlements.

Most of them will come from third world countries. So the definition of what is exploitation, it's a different ladder.

Other

Other reasons as to why some migrants are vulnerable include their poor English language ability and lack of information on their rights. In addition, a couple of key informants mentioned that migrants are particularly vulnerable when their visa is tied to a specific job (as is the case with Essential Skills migrants), making it very difficult to walk away from an exploitative work situation.

4.3.7 Employers more likely to use exploitative practices

Key informants were asked if particular employers were more likely to use exploitative practices than others. Most said exploitative practices were most common among ethnic and migrant-owned hospitality businesses. Ethnic restaurants were frequently mentioned but other businesses such as takeaways, franchises and liquor stores were also mentioned. Exploitative situations were most likely to occur when migrants were employing other migrants, mainly those from the same ethnic group as themselves.

The majority said cultural factors and a lack of knowledge about New Zealand laws and regulations were the main reasons exploitative practices were most often found among these employers in the hospitality industry. Key informants said migrants were importing business models from their home countries, and many were unaware employment rules and regulations were different in New Zealand:

Ignorance of New Zealand law ... combined with coming from a different culture where they do things differently.

Business

They [have] only just come into this country in the last 10 or 15 years. They're not really aware of the rules and regulations and the consequences of this type of practice.

Other

Exploitative practices were also considered to be more common in small businesses because of their lack of appropriate systems and processes, which larger companies had:

I would say the bigger, more reputable firms, I don't think they can get away with it. They've got an HR [human resources] department; they've got accountants and things like that.

Government

One key informant said exploitative practices are more likely to occur in small businesses where there is direct control between the owner and the business:

The smaller, the more direct control is between the owner and the business it seems to be more prevalent ... vulnerability goes up the closer the employer or owner is in terms of those migrant workers.

Other

Several also mentioned the need to remain competitive in a very difficult market was a significant reason why many small businesses pay less than the minimum wage:

... the competitors or the shops beside them don't pay the minimum wage. So why would I pay if my competitors are not? ... So they had to join them so that it is actually the main culture.

Other

A couple of key informants said exploitative practices were not just occurring in small migrant-owned restaurants and businesses, but were also prevalent in some of the larger hotels, especially among cleaners.

But that's just the tip of the iceberg and we know the issue [breach of minimum wage] exists out there in the hotels and it's widely practised ...

Other

5 Information sources and awareness of employment rights

Findings

- Temporary migrant workers in the hospitality industry are not well aware of their employment rights because of language barriers, they don't know where to go for information, and lack of interest in knowing their rights.
- The first port of call for migrants needing information or help around their employment rights is family or their community.
- Although some employers are aware of their employment obligations, others are not well aware. Migrant business owners, particularly recent migrants, are not well informed about their responsibilities.
- Fear is at the root of why migrants are reluctant to report exploitative situations. Migrants fear reprisals from their employers, but also the loss of the job and visa status, if their visa is tied to their job.

5.1 Introduction

This chapter draws primarily on interviews with key informants who were asked to comment on their perceptions of migrants' and employers' awareness of employment rights and their sources of information.

The Immigration New Zealand Settlement Unit produces resources for migrants and employers in different sectors. Although there are no specific resources for migrants and employers in the hospitality sector, the unit plans to develop a resource similar to guides developed for other sectors where migrant vulnerability is possible.

INZ also sends welcome emails (in 13 languages) to approved residence, work and student visa holders. These messages contain links to information about working and living in New Zealand, including employment rights information.

5.2 Awareness of employment rights

The majority of the key informants said temporary migrants working in the hospitality industry were not well aware of their employment rights. While some said migrants were not getting the information they need, others said the information was available, but migrants were not interested in knowing about their employment rights; rather they were focused on their study, getting a job and the work of settling into a new country:

... their prime objective is to get on with their study and get on with the work and money and they don't want to know all this nitty gritty.

Other

Several key informants said migrants were not accessing the information they needed because of language barriers or that the wrong medium was being used to convey information. A

couple said face-to-face contact was important, especially for migrants with lower levels of English:

The thing is though if people have good English it's no problem. They can go to the website to read all the things they can't understand. But for lower skilled people normally they don't have such good English so they have to talk to someone who speaks their language.

Other

A few key informants said migrants did not know where to go to access information on their employment rights:

There is also the lack of knowledge where to go and ask for information or seek help ...

Other

One key informant said migrants were not getting the information they needed because agents were not passing the information about work rights from INZ to their clients.

5.3 Access to information

5.3.1 Where migrants access information from

When asked where migrants access information on their employment rights from, key informants most commonly mentioned that the first port of call for migrants is their own family or community:

So what they normally do is they would like to see [their] community, they can speak the language, they can ask different questions ...

Other

A few mentioned that word of mouth from friends and work colleagues was the main way migrants hear about their work rights.

Several mentioned that one of the main sources of information for migrants is INZ – both in terms of the website and brochures it produces. However, concerns were raised about the accessibility of this information, including that the INZ website is in only English and is hard to navigate. In addition, one key informant mentioned that people are reluctant to use official websites because they fear being tracked.

A couple of key informants said employers, particularly the larger ones, are good at inducting their workers and providing them with information on their rights. Other sources of information for migrants were unions, the Citizen's Advice Bureau (CAB), social networks, education providers, and associations such as the Hospitality Association.

5.3.2 How migrants prefer to access information

Around half of the key informants said migrants would prefer to access information on their work rights online. However, this was qualified by those key informants who said the information online needed to be in languages other than just English. One key informant said, although online was certainly the easiest way to provide information, some migrants would not have access to computers. It seemed that those most likely to access the information online were students who would be familiar with computers, using them on a regular basis. A couple also mentioned that increasing numbers of migrants were turning to social network sites for their information needs.

A few mentioned migrants would prefer to access information from members of their own community or through ethnic newsletters:

You need people from the community who are key contact points. Who have got the information necessary to advise them.

Other

Advertising in the ethnic media. That one gets straight to them....

Other

A couple of key informants said it was important to provide face-to-face contact for migrants seeking information on their work rights, and that a combination of media should be used to provide information:

A combination of different ways. Some prefer to have a website from the government they can trust. But some people they try and contact friends of people they know...

Other

5.3.3 Information migrants would find useful

When asked what information would be useful to provide to migrants on their employment rights and working in New Zealand, a wide variety of suggestions was made. Most mentioned that basic information on employment rights was needed – on the minimum wage, breaks, holiday pay and the importance of having a written employment agreement. Other suggestions included:

- information about different types of employment arrangements
- simple examples of what exploitative practices look like in a work situation
- the roles and responsibilities of the Labour Inspectorate
- what to do when there is an employment dispute
- the role of the Employment Relations Authority
- contact details for relevant community organisations.

5.4 Employers' awareness and sources of information

5.4.1 Employers' awareness of their employment responsibilities

Key informants were mixed in their perspectives about whether employers were aware of their employment responsibilities. Some felt employers were very well aware of their employment obligations. Breaches of employment legislation were, therefore, deliberate.

I would say they're very aware to the extent that I find so many have the second set of records [for auditing purposes].

Government

On the other hand, several felt employers were not well aware of employment legislation or their obligations towards their workers:

They've worked for someone else as an employee, they want to be their own boss so they just set up a business with an idea and might actually not have much understanding of the law.

Government

Others said some employers had greater awareness of their employment responsibilities than others. Large businesses with human resource departments and those who were members of associations were more likely to be aware of their employment obligations than were small business owners. In addition, a couple of key informants said migrant business owners, particularly recent migrants or those hiring people from their own community, were generally not well informed about their responsibilities:

There are a lot of people, migrants, who come in and who just set up a business or buy a business, particularly in hospitality, they're relatively cheap and they think they're quite easy to run and they're not, and I don't think they really fully understand what the employment rights are ...

Business

5.4.2 Employers' sources of information

Employers obtained information about employment law in a variety of ways. Most commonly key informants mentioned that the Ministry of Business, Innovation and Employment (MBIE) was the main source of information for employers on their employment obligations. Other sources of information for employers were associations such as the Hospitality and Restaurant Associations and Service IQ as well as chambers of commerce. A few also mentioned that employers will use accountants and human resources specialists for this information:

There are two ways to get information based on our experience. One is to get [it] from the Department of Labour website, MBIE. If they are not satisfied with that then they tend to look for an HR [human resources] firm, which provides services to them.

Other

Online was considered to be the way employers tended to prefer to access information. However, it was good to provide this information in a variety of different ways, including hard-copy brochures and people who can be spoken with. It was also considered important that this information was available in several languages for employers who did not speak English very well.

Most key informants were not aware of training for employers about recruiting and working with migrant workers in the hospitality sector. A couple said some training was being offered by associations and community organisations, and one key informant mentioned generic training for employers run by the Inland Revenue Department.

5.5 Ways to improve information

Key informants suggested ways to improve information on work rights, including:

- providing the Immigration NZ website and information for migrants on employment rights in several languages
- developing contacts within ethnic communities who can be conduits for information
- using ethnic newsletters and publications to publicise information about work rights and where to go for help

- using visual means to convey information – this could be DVDs or online
- using social networks to publicise information
- offering workshops to international students, particularly those planning to work
- making information on employment rights available through immigration advisers.

Suggestions were made about initiatives INZ or MBIE is already doing such as providing brochures in different languages, an 0800 number where people can ring up to report exploitation, and information to people when they are issued their visa.

5.6 Where migrants go for help

Key informants were asked where migrants go for help when they feel their employment rights are not being met. A few said they did not know where migrants went or that migrants do not usually access help. However, others gave a variety of responses. Lawyers, including Community Law, and unions were commonly mentioned. A few said migrants tend to seek help from within their own communities, including lawyers from their own ethnic background.

INZ, migrant centres, CAB and education providers were also mentioned as organisations that migrants access for help when they feel their employment rights are not being met.

5.7 Why migrants are reluctant to report exploitative practices

The majority of key informants said fear was at the root of why migrants are reluctant to report exploitative situations. Several mentioned that migrants were fearful of reprisals from their employers, including cases where employees or their families had suffered abuse after reporting exploitative practices. Even if the person had found another job, the employer would still have their contact details and could ‘punish’ them in some way:

Fear that they will ... threaten or abuse or assault their family back home ...

Government

There is tremendous fear though because whatever you start at some point someone is going to talk to your employer.

Business

Migrants on Essential Skills visas, where the visa is tied to a particular employer, were fearful of losing their visa status and being deported:

I think they fear that they will be immediately be sent back to their own country if the employer is not happy with them ...

Other

Students, on the other hand, were worried about losing their jobs because of the financial repercussions.

They [students] desperately need the money and so they’re not going to do anything that’s going to look bad.

Business

A few key informants mentioned that some migrants are reluctant to report exploitative situations because they feel they ‘owe’ their employer for giving them a job:

They feel that these employers, even though they are exploiting us, they have got us here. So it's a privilege to work here.

Other

A couple mentioned migrants are fearful of being ostracised from their community if they speak up about exploitative practices:

They got a lot of pressure from the business side of their ethnic community to shut up. "Shut up, you're exposing, you're letting us down".

Other

Other reasons for not reporting exploitative practices included that the situation in New Zealand was better than in the migrants' home country and migrants had other priorities than ensuring their work rights were met.

Providing information and raising awareness about employment rights and avenues of seeking redress were considered the main ways migrants could be supported to report exploitative situations. Innovative and different mediums need to be found to disseminate the message.

There is a line that they can call, and I think all those measures are very, very good but quite often they don't get to people.

Other

A few key informants mentioned it was important government agencies work with migrant communities and community organisations, because migrants often sought help from these people before approaching government:

Based on our experience they don't normally go to authority straight away. That's why I also agree now with my concern for a centre. If we can ever have a community hub ...where they can have an informal discussion first.

Other

Migrants also needed to be assured they would not be deported if they reported exploitative practices and that reporting would not affect their future prospects of getting other employment in New Zealand.

6 Initiatives

Findings

- Information provision, advice and training are initiatives in place to mitigate vulnerability. However, information could be made more readily available or more accessible.
- The increase in resources for the Labour Inspectorate and its focus on hospitality was commented on positively, but more resources are necessary.
- Greater enforcement and regulation and stronger penalties are needed, including stronger regulations around setting up companies and holding employers to account.
- Stronger collaboration is needed between agencies, non-government organisations and migrant communities, including greater sharing of information between the Inland Revenue Department, the Labour Inspectorate and Immigration New Zealand.
- Unions, particularly Unimeg, are effective in preventing exploitative practices involving migrants.

6.1 Introduction

Key informants were asked if they were aware of current initiatives to prevent temporary migrants being subjected to exploitative practices in the hospitality industry and how effective these were. They were then asked what they thought could be effective interventions to mitigate vulnerability and exploitative practices. While some key informants talked about current initiatives, many answered this question by suggesting what they thought could be effective interventions to mitigate vulnerability and exploitative practices.

6.2 Information, training and advice

Key informants most commonly mentioned information provision, advice and training as initiatives in place to mitigate vulnerability. Most of the information was aimed at migrants in general rather than those working in the hospitality industry. In addition, a lot of training was around work in general, for example how to write a CV, rather than employment rights. However, a few did mention workshops offered on employment law and workers' rights. In addition, some of the workshops were aimed at employers and others at volunteers or advocates working with migrants. Training and workshops were run by unions, associations, community organisations, chambers of commerce and the Ministry of Business, Innovation and Employment (MBIE)¹⁶. Workshops were considered useful even if not attended by vulnerable migrant workers:

¹⁶ MBIE's Settlement Unit provides information sessions for employers and industry organisations through Relationship Managers located throughout New Zealand. In addition Citizens' Advice Bureau is funded by the Settlement Unit to provide information sessions and workshops for migrants.

So even if the actual workers might not necessarily attend, but the community leaders book so it is sort of getting the message out.

Other

Key informants also suggested ways that information provision and awareness of employment rights could be improved. These were mentioned in the previous chapter.

6.3 Labour Inspectorate

The MBIE Labour Inspectorate enforces and monitors minimum employment standards such as the minimum wage, holidays and leave entitlements. The inspectorate defines exploitative, non-compliant business models and systematic breaches of employment as follows:

- *Exploitative conduct* – calculated abusive conduct that marks serious departures from legislated standards (primarily minimum wage, job premiums and unlawful deductions) in respect of vulnerable workers (even if only in respect of individuals or small numbers of workers).
- *Non-compliant business models* – ways of configuring labour arrangements as part of operating a business that do not meet minimum standards (for example, wage averaging, casualising permanent employees, and treating employees as contractors).
- *Systematic breaches* – although they may not have large consequences for individuals when aggregated, they have large consequences for the workplace.

The Labour Inspectorate's priority groups are migrant workers and young workers. It also has a focus on employment practices in sectors, including the hospitality sector and particularly in Auckland.

Several key informants mentioned the role of labour inspectors when asked about current interventions in the area of migrant exploitation. A few were aware that hospitality was a current focus area for the Labour Inspectorate:

We're aware that they have beefed up the inspection service; aware that inspectors are being told to prioritise this as an issue.

Other

The increase in resourcing and focus of the Labour Inspectorate was viewed positively. However, a couple of key informants said more resourcing for the inspectorate was needed to enable it to be more proactive rather than reactive:

I think perhaps more spot checks on various organisations.

Business

6.4 Enforcement and regulation

While a few key informants mentioned they were aware of government initiatives to reduce exploitative practices, including proposed legislative changes, many spoke about the need for greater enforcement and regulation and stronger penalties.

6.4.1 Stronger regulation and monitoring

Around half of the key informants said there needed to be stronger regulations around setting up a company and ensuring employers were meeting their obligations to employees.

A few raised concerns about how easy it is to start up and wind up businesses:

... it's just so easy to start and wind up a company and it costs nothing, it's one of the simplest things to do.

Other

The perception was that businesses facing complaints of exploitative practices can easily go into liquidation and then start up under a new name.

A few key informants suggested people setting up a businesses should attend courses:

... like if you set up a business you would've had to go through some courses like health and safety ...

Other

Others talked about the need for employers to be held more accountable and more closely monitored:

I think employers should be held more accountable because they are in a place of business, they're in the place of making money. They should be more accountable than the employee.

Government

Accountability could occur through greater sharing of information between government agencies, spot checks on employers and a greater presence from the Labour Inspectorate.

6.4.2 Stronger penalties

Several talked about the need for stronger penalties for employers who exploit their workers. In most cases this was heavy fines as well compensation for workers:

I think the employer needs to be fined a lot heavier.

Government

One key informant mentioned a situation where the only penalty on the employer was to pay the employee the money the employee should have received in wages:

The penalty is she gets her money. That's the best you can hope for, so what's the incentive?

Other

6.5 Collaboration between agencies

Several key informants spoke about the need for greater collaboration between agencies, non-government organisations and migrant communities. A few specifically mentioned the need for greater collaboration and sharing of information between Inland Revenue Department, the Labour Inspectorate and INZ. It was suggested that employers who are guilty of not paying all their GST and other tax are likely to also be those using exploitative practices, so a joined-up approach would be much more efficient:

Same businesses that are guilty in that respect [not paying all their GST or PAYE] are likely to be guilty of exploitative practices in terms of employment.

Business

A few key informants also raised the importance of government collaborating with non-government organisations and the private sector. Suggestions included:

- funding and supporting initiatives run by non-government organisations, including the provision of legal advice and education
- providing an 0800 number that is not hosted by government for people to use to report exploitation.

The need to ensure collaboration with migrant communities was also raised as a crucial tool in combatting exploitative practices.

6.6 Unions

Several key informants mentioned the work of unions, in particular UNEMIG – First Union’s Union Network of Migrants, as an effective initiative in preventing exploitative practices involving migrants. UNEMIG is considered very active in offering information and advocacy for migrants who were facing exploitative work situations:

There is a migrant group which is organised through First Union, Unemig. We go to them for help. They’re very useful, very good. We either refer cases on to them or give contacts there a ring about whether they have contacts in any of those communities.

Other

6.7 Visa conditions

A couple of key informants suggested certain conditions could be associated with the issuing of visas to prevent exploitative situations, including:

- migrants coming through Business Migration Policies should be members of relevant trade associations
- students and working holidaymakers should be required to specify their employer if they obtain work.

Additionally, it was suggested that migrants on Essential Skills visas, where the visa is tied to a particular employer, should be able to change employer relatively simply:

Empower the worker ... allow them to change their job.

Other

One key informant stated that hospitality-related occupations should not be on the Skills Shortage List and that the route to residence through the café and restaurant managers occupation for hospitality workers needs to be tightened.

7 Conclusion

This section brings together the analysis of administrative data and interviews with key informants, to better understand the nature and extent of temporary migrant vulnerability in the hospitality industry and effective interventions to address the issues and reduce exploitative practices in the industry.

7.1 Characteristics of temporary migrants working in the hospitality industry

7.1.1 The hospitality industry is a significant employer of temporary migrants

The hospitality industry comprises accommodation (hotels, motels and so on) and food services (restaurants, cafes, takeaways and so on). It is among the top 10 employers in New Zealand (Infometrics, 2012). Hospitality is also an important industry for temporary migrant workers. Around a third of temporary migrant workers worked in the hospitality industry in the 2014 tax year.

A study on the impact of temporary migration on the New Zealand labour market clearly shows the dominance of temporary migrant workers in accommodation and food and beverage services (McLeod and Mare, 2013). Temporary migrants working in accommodation and food and beverage services accounted for a 14 per cent share of all months worked for the 2011 tax year compared with 4 per cent for all industries.

The number of temporary migrants working in the hospitality industry plateaued following the global economic crisis, but has been gradually increasing since 2011. This growth has largely been driven by the Auckland region. In the 2014 tax year, nearly half (46 per cent) the temporary migrants working in the hospitality industry were in Auckland.

7.1.2 Migrants on working holiday or student visas dominate the industry

Jobs in the hospitality industry are often casual, part time and low skilled, attracting particular groups of migrants who are looking for this type of employment. Migrants on working holiday or student visas dominate the hospitality industry, accounting for over half (58 per cent) the temporary migrants working in the industry in 2014.

New Zealand has working holiday schemes with 38 countries that support an annual intake of around 43,000 working holidaymakers. Working holiday schemes are not labour market tested, unlike New Zealand's main labour migration category (Essential Skills). Working Holiday schemes allow young people whose primary intention is to holiday in New Zealand to undertake employment and study during their stay in accordance with their scheme. Since 2008, working holidaymakers have been the largest group of visa holders working in the hospitality industry, and they currently comprise a third of all temporary migrant workers in the industry. Great Britain and Germany were the top source countries for working holiday makers in 2014.

International education is New Zealand's fifth largest export earner, contributing \$2.85 billion to New Zealand's economy every year and supporting 30,000 jobs (Infometrics, 2015). Many international students, including English language students, are permitted to work up to 20 hours a week during term time and full time during term and summer vacations. In the 2014 tax year, students accounted for a quarter of all temporary migrants working in the hospitality industry. In 2014, India and China were the top source countries for students.

7.1.3 Substantial increase in study to work visa holders working in hospitality

International students who have completed their qualification in New Zealand may be eligible for a study to work (StW) visa. The study to work pathway is a two-step process. The post-study work visa (open) gives students up to 12 months to get a job in a field related to their studies. The post-study work visa (employer assisted) relates to a specific job with a specific employer and is for two or three years.

Over the last few years, the proportion of StW visa holders working in the hospitality industry has substantially increased, and most of this growth has been driven by students from India. In the 2014 tax year, they comprised over half of migrants on StW visas working in the hospitality industry.

7.1.4 The majority of essential skills and study to work visa holders in hospitality occupations work as chefs or café and restaurant managers

The Essential Skills work category provides a temporary work visa for migrants with a job offer from a New Zealand employer. Employers must prove no suitable New Zealand workers are available to do the job. A wide variety of occupations was recorded for people approved under the Essential Skills Policy in 2013/14. The top occupation was chef (8 per cent), but café and restaurant manager was also among the top three occupations of Essential Skills workers at 3 per cent (MBIE, 2014a).

About half of Essential Skills visas issued in 2014 for hospitality occupations were for chefs (52 per cent) and 22 per cent were for café and restaurant managers.

7.1.5 Essential skills hospitality workers are high skilled but earn low wages

The ANZSCO occupation classification assigns occupations a skill level from 1 (highest) to 5 (lowest). Generally, skill levels 1 to 3 are considered skilled and receive a three-year work visa. In 2014, three-quarters of Essential Skills and StW visa holders were categorised as being in skill level 2 jobs, predominantly chefs and café and restaurant managers.

However, despite being classified as highly skilled, migrants working in hospitality are very poorly paid. Nearly three-quarters of Essential Skills hospitality workers are earning less than \$3,370 a month (roughly the equivalent of a \$40,000 salary) compared with 40 per cent of Essential Skills workers overall. This raises the question of whether these occupations are appropriately categorised as high skilled. While some migrants working as chefs and café and restaurant managers are no doubt highly skilled and are paid commensurately, it is possible that many are working in jobs that actually require a much lower level of skills and experience. The large number of relatively low-paid hospitality workers could be reflecting this.

7.2 Nature and extent of vulnerability of temporary migrants working in the hospitality industry

7.2.1 Exploitative practices are a significant concern in the hospitality industry

While it is difficult to determine the extent of exploitative practices in the hospitality industry, interviews with key informants and survey data show that exploitative practices involving temporary migrants are a significant concern in this industry. Survey data show that migrants and international students working in hospitality-related occupations are more likely to report poorer working conditions than are migrants working in other industries.

Most key informants said that exploitative practices were a concern in the hospitality industry with half saying the practices were deliberate and sustained. Others commented it was hard to know how extensive the issues were because few migrants are willing to come forward.

Complaints dealt with by the Labour Inspectorate also show that issues involving migrant workers or the hospitality industry are a concern. A quarter of employment standards issues that were triggered by a complaint between July 2012 and December 2013 involved migrant workers, and the top industry group in which these issues arose was the accommodation and food services industry (24 per cent of issues) (MBIE, 2014b).

7.2.2 Many temporary migrants working in hospitality are paid less than the minimum wage

Analysis of administrative data shows that Essential Skills migrants working in the hospitality industry are low paid. They are also more likely than the average Essential Skills worker to be earning less than the full-time minimum wage and/or to be working fewer than the full-time hours required under the terms of the visa. While those earning less than the full-time minimum wage has declined over time, it remains higher than for Essential Skills workers in most other industries. Within the industry, Essential Skills workers from Brazil, women, those who have been less than a year on a visa, and/or those working for firms with fewer than 5 employees or 20–49 employees were identified as being at particular risk of low pay.

Key informants also highlighted concerns that many temporary migrants working in the hospitality industry were not receiving the minimum wage or were working longer hours than they were paid for. In some cases, migrants were working without an employment agreement and being paid in cash; in other cases, fictitious agreements were kept for auditing purposes.

7.2.3 International students and those on a pathway to residence are particularly vulnerable to exploitative practices

Yuan, Cain and Spoonley (2014) state that international students are particularly vulnerable to exploitative situations. They may have limited bargaining power due to inexperience and may be dependent on earnings to fund their studies. While in New Zealand international students must have a certain level of funds, in some cases their study is funded through loans taken out by themselves or their families. A survey of international students showed that a third of Indian students studying in New Zealand funded their studies through loans (MBIE, 2013).

The majority of key informants also indicated that international students were particularly vulnerable to exploitative practices, but, in addition, over half mentioned migrants on a study to work or work to residence pathway as being vulnerable. This latter group of migrants is reliant on the sponsorship of their employer for residence. It appears that in some cases migrants are paying their employers for jobs or are working at less than the minimum wage to secure that sponsorship.

Migrants and students from India working in hospitality were frequently mentioned by key informants as being a vulnerable group. However, several also mentioned those from China and other Asian countries as being vulnerable. Reasons included migrants being desperate for work for financial reasons, including to pay back loans, but also to get residence. A few key informants mentioned that there was an element of migrants being complicit in the exploitation because of these pressures.

7.2.4 Migrants working for ethnic or migrant-owned business may be vulnerable

Key informants indicated that exploitative practices were most common among ethnic and migrant-owned hospitality businesses, particularly where they were employing staff from the same ethnic group as themselves. The analysis of Integrated Data Infrastructure (IDI) data does not support this finding, showing that where employers and staff were migrants from the same ethnic group, workers were less likely to be earning under the minimum wage. However, it is possible that at least some of these employers are operating in the hidden economy, including paying their staff in cash or keeping records for tax purposes that differ from what happens in practice. The IDI includes wages and salary information where tax is being paid.

These concerns were supported by survey data and interviews with key informants. Survey data showed that migrants and international students working in the hospitality industry were more likely than those working in other sectors to say they were working without an employment agreement. About half the key informants said that while the employment agreement might outline that the worker is being paid the minimum wage and receiving all their entitlements this is not what is happening in practice. Agreements are kept to ensure a paper trail for auditing purposes.

7.3 Information sources and awareness of employment rights

7.3.1 Migrants working in the hospitality sector are not well aware of their employment rights

In a survey of international students, two out of five students working in the hospitality industry said they did not know where to go for information about their employment rights. While only a small proportion of students in the survey said they did not know what the minimum wage was, 13 per cent underestimated the minimum hourly rate. This proportion was even higher for respondents to a migrant survey where 28 per cent of migrants working in hospitality underestimated the minimum wage.

These findings are supported by interviews with key informants with the majority saying that temporary migrant workers in the hospitality industry are not well aware of their employment rights. Reasons include language barriers and not knowing where to go for information, but also a lack of interest in knowing what their rights are.

7.3.2 Migrants commonly access information from other migrants

When asked where migrants access information from on their employment rights, key informants most commonly mentioned that the first port of call is the migrant's family and community. However a couple of key informants raised concerns about the pressure migrants can face from their community to keep quiet about exploitative practices.

7.3.3 Some employers are not well informed of their employment obligations

Key informants said that, although some employers are aware of their employment obligations, others are not well aware. In particular, small business or migrant business owners were considered to be not well informed about their responsibilities. This finding is supported by a recent study of ethnic precincts in Auckland in which 31 Balmoral business owners were interviewed (Auckland Council 2015). Most business owners had arrived in New Zealand from overseas (28 out of 31) and around half had migrated from China, many of whom owned restaurants. Some Chinese participants were concerned they did not understand well enough the compliance regulations associated with establishing and maintaining a business in New Zealand.

Associations, for example the Hospitality and Restaurant Associations, provide their members with advice and guidance on different areas of running a business, including employment relations. Auckland Council (2015) found very few business owners in their study belonged to an association. Reasons given by Chinese interviewees for not belonging to an association included that they did not know these associations existed, were too busy or could not see the benefit of joining. An inability to speak English well was also given as a reason for not joining an association.

It is, therefore, important to consider ways of making information readily available to migrant business owners so they are aware of their employment obligations towards their workers. Ethnic business associations may be an important conduit for information for these employers.

7.3.4 Migrants are reluctant to report exploitation for fear of reprisals from employers or losing their job

The majority of key informants said fear was at the root of why migrants are reluctant to report exploitative situations. Several mentioned that some migrants were fearful of reprisals from their employers, including cases where employees or their families had suffered abuse after reporting exploitative practices. Others said migrants are fearful of losing their job and being sent home (where the job was attached to their visa conditions) or losing their main source of income.

In June 2013, MBIE implemented a policy to encourage victims of migrant exploitation to come forward and to protect the immigration status of migrants experiencing exploitation. Pamphlets are informing migrants that they may be eligible to remain in New Zealand while their complaint is being looked at and resolved, even if they have been working without the right visa. This messaging needs to be reinforced, including that migrants who lose their job because of reporting exploitative practices, may be able to look for another job.

7.4 Interventions to mitigate vulnerability and prevent exploitative practices in the hospitality industry

7.4.1 Raising awareness of employment rights and obligations is clearly a significant way to mitigate vulnerability

Empowering migrants through information and education is seen to be a key tool in mitigating vulnerability and preventing exploitative practices. INZ New Zealand produces significant resources for migrants and employers. For example, in February 2013, INZ launched a web-based resource, www.nzstudywork.com, which includes essential information for international students and their potential employers. Among other things, the website covers employment rights and law and health and safety requirements in the workplace. The resource is available in English, Chinese (simplified and traditional) and Korean.

While there are no specific resources for migrants and employers in the hospitality sector, the INZ's Settlement Unit plans to develop a resource similar to guides already developed for other sectors. The findings of this project into vulnerable migrant workers in the hospitality industry will inform the content for guides for the hospitality industry.

Migrant communities are an important source of information for new migrants, so it will be crucial to work with these communities and with migrant business owners to ensure they are aware of New Zealand laws and legislation around employment rights. In addition, polytechnics, universities and private training establishments are important sources of information for international students. Students studying hospitality or taking English language

courses may be at particular risk, so private training establishments offering these courses need to be aware of the issues and be able to provide information about employment rights for these students. Immigration advisers are also considered an important source of information for migrants.

7.4.2 Making information available in different medium and languages

While most migrants tend to access information online, it was suggested that a variety of different media is used to communicate information about employment rights and where migrants can seek help if they are being exploited. Ethnic networks and newsletters were suggested, as were social network sites. Making information available visually (through DVDs or online – for example, on YouTube) was also suggested as a way to reach some migrant groups. People's stories are a powerful way to convey information.

The importance of making information available in different languages was considered crucial. This includes websites as well as brochures.

7.4.3 Call for tougher sanctions and greater accountability

Many key informants raised the need for greater accountability and stronger sanctions for employers who exploit migrant workers. There was a perception that employers know they can get away with treating their workers badly and if they are caught the sanctions are insufficient to act as a deterrent.

There are several new or planned measures to address these issues. The *Immigration Amendment Act 2015* has recently been passed. With these amendments, employers who exploit temporary migrant workers could face a jail term of up to seven years and/or a fine up to \$100,000, and employers who hold a residence visa will be liable for deportation if the offence was committed within 10 years of gaining residence. Search powers for immigration officers have also been enhanced, although these provisions are not yet in force.

In addition, in March 2015 the government approved a package of measures to strengthen the enforcement of employment standards, including tougher sanctions, clearer record-keeping requirements and more tools for labour inspectors. These changes will be reflected in a Bill to be introduced to Parliament this year.

7.4.4 Collaboration between agencies, unions and community organisations is a significant tool in combating exploitative practices

Yuan, Cain and Spoonley (2014) recommended a multi-pronged approach whereby migrants, unions, employer organisations and policy makers work together to develop suitable strategies for dealing with exploitative practices involving migrant workers. This recommendation was echoed by several key informants who commented on the need for greater collaboration between agencies, unions and community organisations. A few specifically mentioned the need for greater collaboration and information sharing between Inland Revenue, the Labour Inspectorate and INZ.

Unions are also crucial in helping to prevent exploitative practices. UNEMIG is First Union's Union Network of Migrants. It is active in providing information and advocacy for migrants facing exploitative situations. Organisation such as Unemig, community law centres and other non-government organisations have an important role to play in combatting exploitative practices in the hospitality industry in New Zealand.

7.5 Conclusion

The research shows that the hospitality industry is a significant employer of migrants, particularly working holidaymakers and international students. However, many migrants on Essential Skills, study to work and family visas are also working in the industry. While it is very difficult to accurately determine the extent of exploitative practices, the research shows exploitative practices in the industry are a significant concern. Students, migrants on a pathway to residence, and migrants working for ethnic or migrant-owned businesses were considered particularly vulnerable.

The Ministry of Business, Innovation and Employment (MBIE) has initiatives in place or in planning to address many of the concerns raised in the research. These include regulatory interventions such as strengthening the enforcement of employment standards and the prosecution of defaulting employers and information interventions for migrants and their employers in the hospitality sector. These initiatives aim to mitigate the vulnerability of migrant workers in the hospitality industry and reduce exploitative situations by informing migrants and their employers about employment rights and obligations and holding employers acting unlawfully to account. However, it is important to continue to monitor the situation to ensure these initiatives work as intended and that the continued demand for migrant workers in the hospitality industry does not result in further exploitative situations.

Appendices

Appendix 1: Methodology

The trends and demographics analysis used the Application Management System (AMS) data set to track changes in the number and nature of Essential Skills migrants in the construction industry in the 2009 to 2014 tax years. Where an individual has multiple non-visitor visas that cover a single financial year, the first valid visa is used as the source of that individual's visa category and demographic information.

The pathways analysis used the AMS data set to track Essential Skills migrants from entry through to three years¹⁷ following entry. Individuals were selected where the Essential Skills visa was their first non-visitor visa and where first entry was during the 2008–2010 calendar years. First entry was defined as the first day the migrant was in the country on that visa (even if the individual was already in New Zealand on a visitor's visa).

The visa category, occupation and occupational skill level were assessed for each individual every 90 days from first entry. Individuals who were absent for less than 90 days while on a valid visa were considered to still be in New Zealand so as to avoid bias from the point-observation method used here.

Data sets

Application Management System

The AMS data set is maintained by Immigration New Zealand and contains information on New Zealand entry visas. Data include border entries and exits, applicant demographics (age, sex, passport nationality) and visa information. For work visas, AMS records information on occupation, skill level and employer.

Integrated Data Infrastructure

The Integrated Data Infrastructure (IDI) is maintained by Statistics New Zealand and is used by government and researchers. The IDI includes anonymised data from a wide variety of government agencies that has been matched between agencies. Inland Revenue Department tax records and AMS data can be matched to estimate the distribution of income across different migrant demographics.

Migrant Survey

The Ministry of Business, Innovation and Employment's Migrant Survey seeks to learn more about the economic and social settlement of migrants. This survey is conducted annually. It samples migrants aged over 18 and admitted under the Skilled Business Migrant, Family Sponsor, or Work Visa schemes. Questions are asked about a wide range of subjects, including education level and language proficiency. In regards to employment, questions are asked about status, terms, fairness, industry, pay rate and frequency.

International Student Expenditure Survey

The International Student Expenditure Survey was conducted by National Research Bureau (NRB) and Infometrics on behalf of Education New Zealand. It gauges the financial behaviour

¹⁷ That is, 1,080 days.

of foreign students studying in New Zealand. The survey was live in 2013 and at MBIE's request included questions on employment and including industry, pay rate and conditions.

Appendix 2: Hospitality-related occupations

The occupations considered to be hospitality-related are:

- baker
- bar attendant
- bar useful or busser
- barista
- cafe worker
- cafe or restaurant manager
- chef
- cook
- fast food cook
- food trades assistants not elsewhere classified
- hospitality workers not elsewhere classified
- kitchenhand
- pastrycook
- pastrycook's assistant
- waiter.

Appendix 3: Interview schedule

Overarching question: What are key informants' perceptions of the nature and extent of temporary migrant worker vulnerability in the hospitality industry?

Reliance on temporary workers

1. How reliant is the hospitality sector on temporary migrant workers?
 - a. Which particular business types are more reliant on temporary migrants than others?
2. To what extent are temporary migrants in the hospitality industry affected by exploitative practices?
 - a. Why might that be the case?
3. Which temporary migrant groups do you think are most vulnerable to exploitative practices in the hospitality industry?
 - a. What are some of the reasons for why those groups are more likely to be affected by exploitative practices?
4. In which types of business in the hospitality industry is exploitation most likely to occur?
 - a. What are some of the reasons for why exploitation occurs in these businesses more than in others?
5. What types of exploitative practices are you aware of in these sectors?
 - a. How common are they?
 - b. To what extent are breaches one-off or are they sustained and deliberate practices?
6. Are these practices more common in some parts of the country than others? Why?
7. How does this compare for other workers, for example, permanent residents or New Zealanders?

Employment arrangements, recruitment practices and employers

8. What are the most common types of employment arrangements used for temporary migrants' in the hospitality industry?
 - a. To what extent are employers changing employment arrangements once migrants have been hired?
 - b. How do the different employment arrangements impact on the vulnerability of migrants in the hospitality sector?
9. What are the main ways of recruiting temporary migrants in the hospitality industry?
10. Have recruitment and employment practices in the hospitality industry changed over the last 10 years or so?
 - a. To what extent has this impacted on exploitation?
11. Are there particular employers who are more likely to exploit migrants than others?
 - a. What are the characteristics of these employers?
 - b. If yes: Why might that be the case? (*Prompt: lack of information*)

Accommodation

12. What issues do temporary migrants in the hospitality industry face with respect to accommodation?
 - a. To what extent are temporary migrant workers living in accommodation provided by employers?

Overarching question: What are key informants' perceptions on temporary migrants' sources of information and assistance in the hospitality industry?

13. To what extent are temporary migrants in the hospitality industry aware of their employment rights?
14. Where do migrants go to get information about minimum employment standards and working in NZ?
15. How do they prefer to access this information?
16. At what stage in the recruitment process do they tend to access this information?
17. Are temporary migrants getting the information they need on employment rights and working in New Zealand?
if no:
18. What might be some of the reasons why some temporary migrants have difficulties getting the information they need?
19. How could this be improved?
20. Where do they go for help if they feel that their employment rights are not being met?
21. Why might some temporary migrants be reluctant to report situations where their employment rights are not being met?
22. What could be done to support temporary migrants to report situations where their employment rights are not being met?
23. To what extent are employers in the hospitality sector aware of their employment responsibilities?
24. Where do employers go to get information about minimum employment standards?
25. How do they prefer to access this information?
26. Is there any training offered to employers in the hospitality industry on recruiting and working with temporary migrants?
 - a. What is the training and who provides it?

Overarching question: What are key informants' perceptions on potentially effective interventions or policies to mitigate temporary migrant vulnerability and reduce migrant exploitation in the hospitality industry?

1. Does your organisation have any initiatives in place to help prevent situations where temporary migrants are subject to exploitative practices the hospitality industry?
 - a. How well are these initiatives working?
 - b. What made them effective?
 - c. What are your lessons learnt?
2. Do you have any initiatives planned?

3. Are you aware of Government initiatives to reduce exploitative practices involving temporary migrants working in the hospitality industry?
 - a. What are these?
 - b. How do you think these initiatives are working?
 - c. What could be improved?
4. Could anything else be done to reduce or prevent exploitative practices involving temporary migrants?

Overarching question: What are some effective ways to access temporary migrants and employers in the hospitality industry?

1. In this first phase of the research we are talking to a range of people in government, businesses, NGOs and migrant communities. Is there anyone specifically you think we should be talking to?
2. In the second phase of the research we would like to talk to temporary migrants working in the hospitality sector about their experiences of working in New Zealand. What are your thoughts on best ways to go about contacting and talking to temporary migrants?
3. We would also like to understand things from an employer's perspective. Do you have any thoughts about the best ways to go about contacting and talking to employers?
4. We are also doing a parallel study on vulnerable temporary migrants in the construction industry in Canterbury. You may or may not be able to comment on this question, but what are your perceptions of the nature and extent of exploitative practices in the construction industry here in [place of interview].
5. Is there anything else you would like to say that hasn't already been covered?

Appendix 4: Informed consent sheet



**Ministry of Business,
Innovation & Employment**

Temporary Migrants working in the hospitality industry: A research study

The Ministry of Business, Innovation and Employment (MBIE) is carrying out a programme of research which aims to understand the experiences of temporary migrants working in the hospitality industry in New Zealand and in particular their vulnerability to exploitative employment practices.

Temporary migrants are in New Zealand on temporary work visas, including students and working holiday makers. The hospitality industry includes food and accommodation services, for example, cafes, takeaways, restaurants and hotels.

Exploitative practices include the failure of employers to meet minimum employment standards (eg paying less than the minimum wage, not paying for holidays). It may also include stopping the person from leaving their employment or NZ. There may also be other forms of exploitative practices including debt bondage.

We are seeking input from a number of key organisations and individuals who have knowledge of the hospitality sector or of migrant communities. Before you agree to an interview you need to be aware that:

- ❖ The research is voluntary. You don't have to answer any question you don't want to, and you can stop the interview at any time.
- ❖ The information you give us will be stored in a safe and secure place and will be destroyed four years after the study is completed.
- ❖ The information you provide us is confidential but if we find out that someone's life is in danger, or that gross violations of human rights are being committed, the interviewer has the responsibility to pass this information on to others. However, we will discuss this with you first.
- ❖ We will be producing a report next year which will include information gathered in these interviews. Your information will be combined with those of other key informants and every attempt will be made to ensure that you are not identified. However, there may be cases where you can be recognised due to the unique position you hold. Where this is the case we will give you the opportunity to review the report before it is published.
- ❖ To avoid taking lots of notes during the interview, we would like to record it. If you agree to the recording, we will provide you with a copy of the transcript of your interview for your review.
- ❖ It is helpful when we write up a research report if we can include some quotes from the interview (without mentioning names). It is your choice to allow us to use quotes from this interview.

Tick the boxes you agree with below:

- I have read or had explained to me the contents of this information sheet and I understand my rights as a participant in the study.
- I agree to take part in the interview for the research on temporary migrants working in the hospitality industry.
- I agree for the interview to be recorded.
- I agree for my anonymised quotes to be used in the report.
- I would like to receive a summary of the final report after it is completed.

My name

My signature:

The date:

My email address: (if you would like to receive a summary of the report this is where we will send it.)

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