



Barriers to employee-sharing in the tourism and hospitality sector

A systems analysis



28 November 2023

Document status:	Final
Version and date:	V 2.5; 55/10/2023
Author(s):	Amy Norris, Anna Apperley, Heloisa Hartuwig De Freitas, Māni Tuki, Otis Boyle, Stuart Beresford
Filing Location:	A+C\NZ - Work\MBIE\2023 Systems analysis and report on barriers to employee-sharing models\04 Deliverables\Reports\4. Final Report
Peer / technical review:	Matt Hall
Verification QA changes made:	Otis Boyle
Proof read:	Matt Hall
Formatting:	Otis Boyle
Final QA check & approved release:	Jacqui Haggland



ALLEN + CLARKE

+64 4 890 7300
office@allenandclarke.co.nz
www.allenandclarke.co.nz



Quality
ISO 9001

Allen + Clarke has been independently certified as compliant with ISO9001:2015 Quality Management Systems



Table of contents

Executive summary	1
1. Identification of system barriers to employee-sharing	4
1.1 Purpose	4
1.2 Scope	5
2. Methodology	6
2.1 Our approach.....	6
2.2 Key informant interviews	6
2.3 Stakeholder engagement.....	6
2.4 Document review.....	7
2.5 Analysis	7
2.6 Strengths and limitations.....	7
3. Setting the scene	9
3.1 Systemic challenges in the tourism workforce	9
3.2 Employee-sharing models.....	10
4. Real or perceived system barriers	19
4.1 Employment regulatory framework	19
4.2 Health and safety	21
4.3 Visa settings	25
4.4 Secondary tax.....	23
5. Real or perceived practical considerations	27
5.1 Administrative and resource burden	27
5.2 Industry alignment and cooperation	30
5.3 Pay parity and skills matching.....	32
5.4 Seasonality and timing	33
6. Māori tourism	36
7. Benefits and opportunities	37
7.1 Potential benefits of employee-sharing	37
7.2 Facilitating employee-sharing	38



Executive summary

The first phase of the Tourism Industry Transformation Plan (ITP) is focused on enabling better work for the tourism and hospitality industry. The Better Work Action Plan (the Action Plan) contains six tirohanga hou (new outlooks, or ways of viewing or thinking) to bring about positive changes and lead to a more regenerative and resilient industry:

1. Recognising quality employers and improving employment standards and practices
2. Fit-for-purpose education and training
3. Embrace the flux, enable the flex
4. Improving cultural competency and ensuring authentic storytelling
5. Lifting technology uptake and innovation to support Better Work
6. Showcasing the great – pathways and people in tourism

The Action Plan identified the seasonal nature of tourism as one of the key challenges for attracting and retaining quality employees. Through conversations with the industry and public consultation on the draft Action Plan, the Better Work Leadership Group (the Leadership Group) identified that employee-sharing might be an opportunity for the industry to collaborate, shift the dial towards better pay and conditions for workers, and provide more stable employment for those that want it. In this context, employee sharing is considered to be the sharing of labour across different businesses.

The Ministry of Business, Innovation and Employment (MBIE), as secretariat of the Leadership Group, commissioned *Allen + Clarke* to undertake a systems analysis of the barriers to employee-sharing in the tourism and hospitality industry. This analysis is intended to improve understanding of what the barriers are (including perceived barriers) and why they exist. The assessment will help the Leadership Group understand whether it is possible, and/or appropriate, to reduce or remove these barriers to holding more than one job at a time. This will help reduce under-utilisation and supporting more stable and reliable employment in Aotearoa New Zealand.

Allen + Clarke used two data sources to conduct this assessment. First, a review of documents provided by MBIE or collected via a desktop review to identify any systemic barriers within the tourism and hospitality industry impacting employee-sharing. Secondly, interviews with a range of stakeholders across the spectrum of the tourism, accommodation, and hospitality.

System barriers

Allen + Clarke worked with MBIE to define the term 'system barriers' for this report:

System barriers refer to structural obstacles or impediments that are inherent within the existing legal, regulatory, and administrative frameworks.

Many of the stakeholders interviewed were interested in employee-sharing although they believed there are several system barriers to the concept. Employers noted that the legislative and regulatory environment has undergone rapid change and as a result, they have become



increasingly risk adverse. The feedback from stakeholders was compared against the findings of the document review to determine if barriers are real or perceived.

New Zealand's employment system encompasses several acts and regulations that govern the rights and responsibilities of both employers and employees. The **employment regulatory framework** is largely designed with conventional relationships in mind. This means employee-sharing is likely to encounter significant legal implications. We heard that creating an employment agreement that enables employee-sharing is likely to be difficult. In areas where there was a collective employment agreement, those agreements were also seen as a barrier to employee-sharing.

Jobs in the tourism and hospitality industry often involve a unique set of **health and safety** risks. Although employers were intrigued by employee-sharing, many expressed concerns around how responsibility and liability for employee safety would be managed amongst different employers. Although the legislative responsibilities cannot be transferred or contracted out to another employer, there are circumstances where more than one person have overlapping duties to manage fatigue-related risks in the workplace. This is particularly relevant in employee-sharing where multiple employers may owe a duty of care to employees to manage and mitigate risks.

People participating in employee-sharing arrangements are required to work out which **secondary tax** code applies to their individual situations. We heard that it is often difficult for employees to predict how much they may earn from secondary employment, resulting in people being placed in the wrong tax code. Employees were put off by the perception that they would have to pay 'extra' tax on a second job.

Some **visa settings** are not conducive to employee-sharing. Around 16 percent of the tourism and hospitality workforce are migrant workers, and they will continue to be necessary to meet demand. Migrant workers expressed a wish to work across different roles to obtain new skills and experience but are often prevented from doing so because of their visa conditions.

Practical considerations

We also heard about practical considerations that would impact employees' and employers' willingness to engage in employee-sharing.

The potential **administration and resource burden** associated with managing and facilitating employee-sharing arrangements was considered a barrier. Employers reported feeling increasingly overworked which deterred them from considering any arrangement which would require further personal resourcing and time: for instance, those associated with developing systems, processes and agreements to enable the safe, effective and responsible sharing of employees. Similarly, some employees reported negative experiences working for two or more employers and stated that managing two employment relationships was a disincentive to engaging in employee-sharing.

Employers and employees also noted the impact employee-sharing could have on pastoral care. They were particularly concerned about the potential for fatigue, burnout and exhaustion associated with working multiple roles.



While employee-sharing was a potential means to ensure steady employment throughout the year, many employees felt disincentivised to participate due to other challenges associated with employee-sharing including travel, inconsistent schedules, time away from other areas of their life, and fatigue. The costs of participating in employee-sharing was also compounded by the increasing cost-of-living (rises in transport costs and rental costs, particularly in expensive tourist locations).

Employers noted that a lack of **industry alignment and cooperation** was a key barrier to employee-sharing. Limited knowledge about the benefits of employee-sharing and concerns about losing a competitive advantage can discourage businesses from participating in collaborative efforts. Many employers expressed reluctance to engage in employee-sharing for fear of losing their employees to another business. Similarly, some employees noted they were discouraged, verbally or contractually, from seeking secondary employment by their employer as they were expected to be available to cover shifts or work long hours where necessary, particularly during peak seasons.

Many employers saw **pay parity and skills matching** as a barrier to employee-sharing. Employers that offered their employees a living wage stated they would be hesitant to engage in an employee-sharing arrangement with an employer who did not pay their employees a similar wage. Some employers were sceptical that employees could be successfully matched with two roles that aligned with their skill sets and expected that employees would require additional training.

Employers noted that **seasonality and timing** could be a barrier to employee-sharing in the tourism and hospitality industry. They reported that tourism operators tend to experience the same seasonal peaks and troughs. Employers in similar industries also tend to require staff around the same time of day which would raise challenges for employee-sharing. They did note that a cross-industry approach could aid in addressing some of these challenges, but many did not have the time, knowledge, or connections to facilitate such arrangements.

Benefits of employee-sharing

While the scope of this work focused on the barriers to employee-sharing, many stakeholders identified possible benefits of employee-sharing. These included:

- Stable employment.
- Better pay and conditions.
- Sharing costs of training employees.
- A more skilled tourism workforce.
- Better use and retention of the existing workforce.
- Increased cooperation and collaboration within the industry.
- Encourage innovative ideas, products, and ways of doing things.
- Encourage employees to take a more active role in their development.



1. Identification of system barriers to employee-sharing

1.1 Purpose

This work has been commissioned in the context of the Government's ongoing work to build a regenerative tourism system that leaves people, communities, and the environment better than before.

Tourism Industry Transformation Plan

The Tourism ITP is a partnership between the tourism industry, Māori, unions and workers, and government to transform tourism in Aotearoa to a more regenerative system – one that gives back more to people and place than it takes.

Better Work Action Plan

The Action Plan is part of the first phase of the Tourism ITP.¹ The Action Plan seeks to address four key systemic challenges for the tourism workforce:

- demand fluctuations
- pay and conditions
- firm maturity and scale, and
- current and future skills gaps.

To address these systemic issues, six tirohanga hou (new outlooks, or ways of viewing or thinking) have been developed, underpinned by 14 initiatives to achieve the outcomes sought. Initiative five is to undertake a systems analysis of barriers to employee-sharing models of work.

MBIE, as secretariat of the Leadership Group, commissioned *Allen + Clarke* to undertake a systems analysis of the barriers to employee-sharing.

With the seasonal nature of tourism identified as one of the key challenges for the tourism workforce, the Leadership Group identified that employee-sharing might be an opportunity for the industry to collaborate and provide more stable employment for those that want it. Through public consultation on the draft Action Plan in 2022, the Leadership Group heard varying views about employee-sharing and wanted to further explore the system barriers to wider adoption of employee-sharing and the practical considerations that might affect employers' and employees' willingness to engage.

The purpose of this analysis is to inform an understanding of the barriers (including perceived barriers) to employee-sharing in the tourism and hospitality industry and why these exist (if applicable). This will help the Leadership Group understand whether it is possible or appropriate to reduce or remove barriers to workers holding more than one job at a time, and

¹ [He Mahere Tiaki Kaimahi – Better Work Action Plan](#)



therefore help reduce under-utilisation and support more stable and reliable employment in Aotearoa New Zealand.

1.2 Scope

This analysis is intended to inform understanding of the range of employee-sharing approaches that businesses already engage or are interested in (see **section 3.2** for an overview of the different approaches to employee-sharing). Employee-sharing can be a progressive work arrangement where businesses collaborate and share their workforce to optimise staffing resources and cater to fluctuating demands more efficiently. For the purposes of this report, it is also considered to include contracting arrangements (where one worker contracts out their labour to multiple organisations), or where a worker decides to enter into multiple employment agreements.

This report is also intended to inform understanding of the system barriers (including perceived barriers) to further uptake of employee-sharing in the tourism and hospitality industry and why they exist. *Allen + Clarke* worked with MBIE to develop the following definition of 'system barrier' for this report:

System barriers refer to structural obstacles or impediments that are inherent within the existing legal, regulatory, and administrative frameworks.

We heard about practical considerations that would impact employees' and employers' willingness to engage in employee-sharing. The findings reveal that participants consistently identified challenges linked to broader employment patterns within the tourism and hospitality industry.

While the analysis has focused primarily on barriers to employee-sharing, stakeholders also shared the benefits of this practice and, in some cases, offered possible options to address the barriers they identified.

The identified barriers are likely to be similar across a range of industries in Aotearoa New Zealand. Where appropriate, the findings can be considered from a cross-industry perspective. However, any barriers identified that have no impact on the tourism and hospitality industry are out of scope.



2. Methodology

2.1 Our approach

Allen + Clarke has undertaken two streams of data collection to support this assessment – a document review and stakeholder engagement. The data collection process was underpinned by the Project Plan, Stakeholder Engagement Plan, and interviews with key informants.

The Stakeholder Engagement Plan identified key stakeholder groups including representation across age brackets, tourism employers/operators of different sizes, tourism employees with different levels of experiences, and Māori employers and employees. Our engagement approach was centred around inclusivity, ensuring that individuals with diverse contexts and circumstances are accommodated. We recognised that stakeholders come from different backgrounds such as those with limited time availability, individuals working non-traditional schedules, those who may not feel comfortable attending in-person workshops, or people with disabilities. To address these needs, we adopted a multi-faceted approach that included flexible scheduling options, virtual participation opportunities, and physical locations with wheelchair access. This approach ensured stakeholders could meaningfully contribute, regardless of the unique circumstances or challenges they may face.

2.2 Key informant interviews

Allen + Clarke completed eight key informant interviews between 8 May and 2 June 2023. An initial stakeholder interview list was supplied by MBIE, which contained key personnel from MBIE and the Leadership Group and included representatives from the tourism industry and trade unions.

Allen + Clarke followed up with key informants by email or phone call to explain the work and the objectives of the engagement, and to organise a time for an interview. We explained that information collected in the interviews would be non-attributable and obtained consent from interviewees prior to starting the interview.

2.3 Stakeholder engagement

Workshops, drop-in sessions and one-on-one interviews

Eighteen in-person workshops and six online workshops were held between 26 May and 9 June 2023. Two in-person workshops were held in each of nine regions – one targeted at employers and one at employees. Workshop participants were able to register for the workshop of their preference through Calendly, an online registration platform. A schedule of workshops was included on a flier published on MBIE's social media accounts and distributed by email by *Allen + Clarke*, MBIE and key tourism industry groups.

The workshops were designed and facilitated to solicit responses to the questions in the Stakeholder Engagement Plan. All online workshops were conducted on Zoom.

To maximise engagement, *Allen + Clarke* adopted a flexible approach to engagement and reinforced the workshops with open drop-in sessions and offered one-on-one interviews with



stakeholders that could not attend the scheduled workshops. A total of 86 participants attended the workshops (see **Error! Reference source not found.** below).²

Written feedback

Some stakeholders that could not attend the workshops provided written feedback on the barriers to employee-sharing. A total of 17 written submissions were received.

2.4 Document review

Allen + Clarke undertook a document review to support the analysis. An initial set of documents on employee-sharing models was provided by MBIE. This was supplemented by an additional search for relevant legislation and documents related to barriers to employee-sharing in New Zealand and international models of employee-sharing.

Guided by the issues raised in stakeholder interviews, *Allen + Clarke* performed an in-depth analysis of these documents. The document review excluded any material that did not relate to barriers to employee-sharing and non-English language sources.

2.5 Analysis

Following the data collection phase, information from the workshop notes was reviewed and key themes were identified across each of the completed workshops. Information gathered as part of the document review was then used to validate stakeholder feedback for the final report.

2.6 Strengths and limitations

The project teams approach offered several strengths:

- We used a mix of methods to seek evidence from a variety of sources. The primary data source was qualitative information from a diverse mix of stakeholders from various areas and levels in the industry. The data obtained from the interviews was complemented by a document review. This provided for robust findings based on multiple data sources.
- The semi-structured style of interviewing enabled the *Allen + Clarke* engagement teams to respond fluidly as conversations progressed and to properly unpack participants explanations to fully understand the barriers being discussed and thoughts that were shared.
- A te ao Māori lens has been applied to all aspects of the evaluation through the inclusion of a culturally skilled Māori researcher in our team.

The methodology also has some limitations:

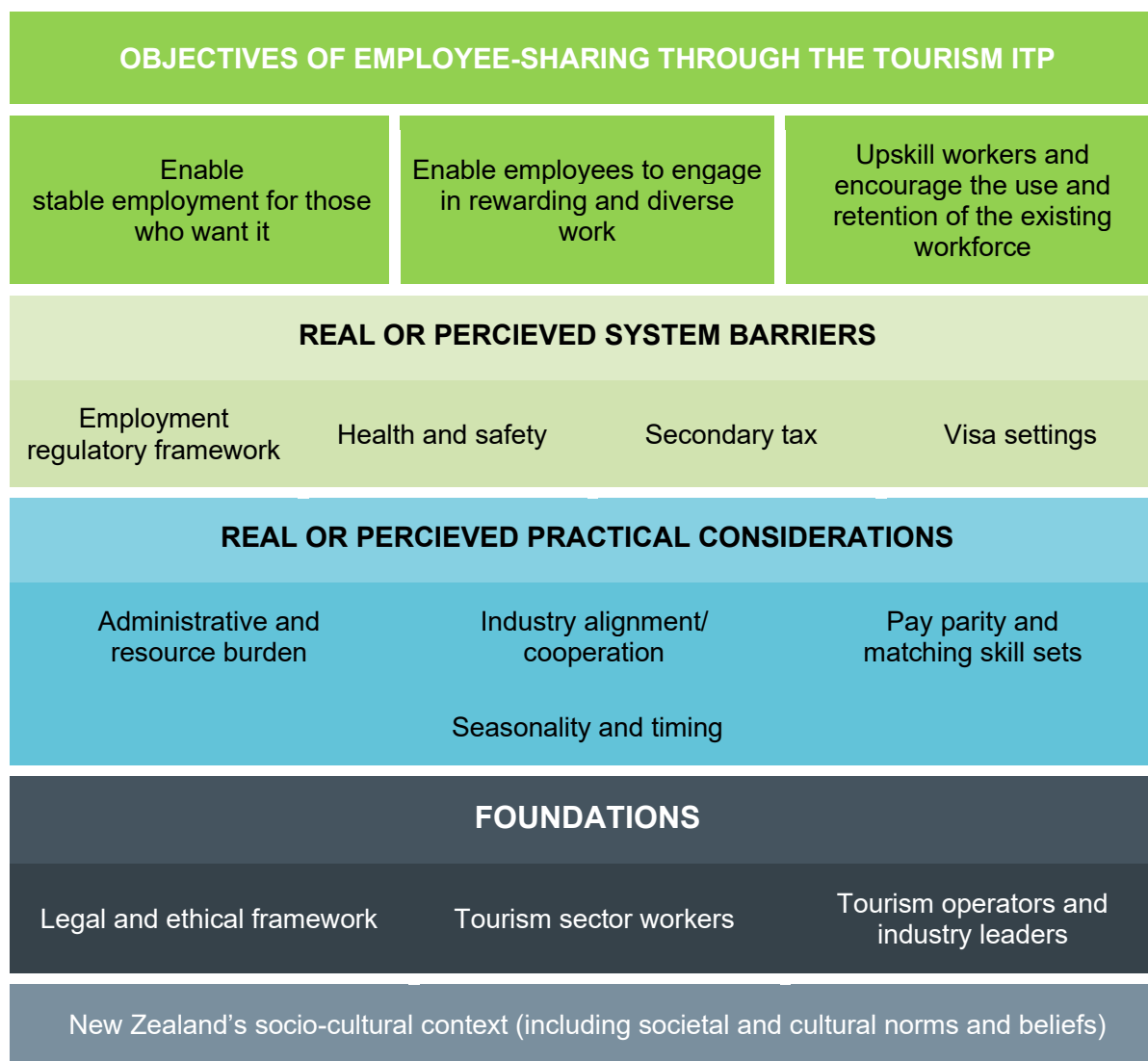
² During the workshops, we requested participants provide their demographic information. However, a significant number of participants chose not to disclose this information. As a result, we were unable to gather sufficient data to report definitive demographic statistics. While we respect and understand the decision of participants to withhold their demographic details, the absence of this information limits our ability to provide comprehensive demographic insights.



- The short notice period for in-person engagements meant some people could not attend, particularly people in regions where workshops were held at the beginning of the engagement period. The option to engage online was offered to participants. While uptake for the online sessions was not particularly high, some people chose to send in comments by email.
- Some face-to-face workshops were impacted by inclement weather, which resulted in lower attendance than expected. The engagement teams were flexible and offered drop-in sessions which were successful in encouraging participation.
- Some stakeholders reported being fatigued from previous government consultations about issues in the tourism and hospitality sectors, so chose not to attend.
- More of the engagements were with employers rather than with employees. However, our teams spoke to union representatives as well as students who are also employed in the tourism and hospitality sector. This provided unique perspectives from those who work, have worked or are looking to work, in the industry. While this reinforced the relevance of the finding, those engaged represent only a small portion of the industry.
- Engagement with Māori was very low (one person). While there was no specific reason for this, it can be assumed that the above reasons (short notice period, inclement weather, and consultation fatigue) as well as awareness, availability and preparation for the winter season are the main contributing factors for the low participation.



3. Setting the scene



3.1 Systemic challenges in the tourism workforce

Demand fluctuation has been identified in the Action Plan as one of the key systemic challenges facing the tourism and hospitality industry and its workforce. This is caused by the seasonal nature of tourism as well as the shifts in demand over the week, meaning that workers can lack job security and are at times under-utilised or overworked. Compounding factors impacting the workforce and retention of staff include:

- The perception of tourism as a career.
- The industry is composed of mostly small and medium size firms.
- A higher proportion of roles in tourism are at the lower end of the pay scale.
- New Zealand's unique workforce makeup.
- Pressures on cost of living, particularly in tourism dense regions.



Changes to the systems that guide and govern the tourism and hospitality industry are also affecting the workforce. Examples of this include changes to immigration settings and fair pay agreements that include employer obligations to employees.

Several regulatory systems that interact with the tourism and hospitality industry, including those raised above, have been considered and explored as part of this systems analysis to build a comprehensive overview of the real and perceived barriers to employee-sharing.

Overseas, employee-sharing arrangements have seen significant benefits for employers, employees, industry, and the economy as a whole and have been identified as a way to embrace seasonality.³ The anticipated benefits of employee-sharing include sustainable employment opportunities, greater access to specialised staff, higher staff retention, cross industry cooperation and a more resilient workforce and tourism and hospitality industry.

3.2 Employee-sharing models

Although the concept of employee-sharing has been around for a while, there have been limited studies on its use. One study defined employee-sharing as “*an arrangement that typically involves employees being temporarily loaned from one employer to another then returned to their original employer.*”⁴ Another study defined it as the “*joint hiring of one worker by several employers which take joint juridical responsibility for payment of salary.*”⁵

Different types of employee-sharing models have been identified, including strategic and ad hoc models, as well as informal arrangements. These are explained in the next three sections.

Academics have concluded that employee-sharing has both benefits and risks for employers, employees, and local communities. For employers, the benefits consist of flexible access to specialised staff not needed on a full-time basis, avoiding the termination of agreements when staff are needed in the future, reducing the cost of training, and enhancing cross-industry cooperation. The risks for employers include the disruption of workflows, employee reliability, and the potential disclosure of proprietary information about the business (such as financial data, marketing information or confidential business agreements). For employees, the benefits include job security, higher income, equal treatment, and greater career flexibility and mobility. Potential challenges for employees include stress due to workplace rotation and the pressure to excel in different organisations. The societal benefits include improving the local labour market (by upskilling shared employees) and the local economy (through higher wages).

³ De la Mora Velasco, E., Huang, A., & Haney, A. (2021). An employee sharing model for the tourism and hospitality industry. *Tourism and Hospitality*, 2(2), 190-194. The authors note that during the COVID-19 pandemic several overseas companies that had a surplus of employees formed agreements to share their staff with companies facing labour shortages. For instance, Hema Xiansheng (a Chinese grocery retailer) hired 5000 furloughed employees from other industries as delivery drivers. A similar agreement occurred in Germany, where the grocery chain Aldi absorbed furloughed workers from the fast-food chain McDonald's. In Japan, short-term agreements between grocery chains and restaurants were also made during the pandemic.

⁴ Gardner, T.M. Human resource alliances: Defining the construct and exploring the antecedents. *Int. J. Hum. Resour. Manag.* 2005, 16, 1049–1066.

⁵ Marica, M.E. Employee sharing: A new type of employment, opportune in a globalized context. *Proc. Int. Conf. Bus. Excell.* 2020, 14, 1187–1195.



3.2.1 Strategic employee-sharing models

Strategic employee-sharing involves the joint hiring of one worker by several employers who coordinate the sharing of job functions. The employers share responsibility for salary, leave, pastoral care, and professional development. In these agreements, employees alternate between two or more participating employers based on agreements and arranged schedules.

The most common example given for strategic employee-sharing was the Recognised Seasonal Employer (RSE) scheme, which allows approved employers to submit joint applications to recruit RSE workers from offshore to work in the horticulture and viticulture sectors. Costs of recruitment and transport to and from New Zealand are generally shared by the employers. However, RSE workers enter individual employment agreements with each employer, who are also responsible for the workers' pastoral care during the employment period. RSE workers will be allocated to the employer requiring their labour first and will then move to another employer.

Some stakeholders considered that the Jobs for Nature programme could be considered an example of strategic employee-sharing. The Jobs for Nature programme was designed to provide nature-based jobs to communities and industries that had been impacted by the COVID-19 pandemic. The programme has since adapted to the needs of regional communities including funding projects that target iwi and youth unemployment. A Jobs for Nature project on the South Island's West Coast involved the Department of Conservation partnering with businesses to allow them to retain their workforce by temporarily redirecting workers into nature-based projects. The project aimed to ensure that highly skilled workers such as skydive instructors and glacier guides were retained in the region and that key tourism businesses were able to continue to trade.⁶ Given the organisational support provided by central agencies for Jobs for Nature, some viewed it as strategic employee-sharing, even though the employment agreement sat with the original 'tourism' employer.

3.2.2 Ad hoc employee-sharing models

In contrast, ad hoc employee-sharing arrangements refer to the temporary sharing of employees to equilibrate human resource needs between two companies: for instance, when one has a staff surplus (for instance, because of low workload) and the other a staff shortage. These arrangements are generally organised by businesses with a primary focus on supporting their needs.

⁶ Department of Conservation, 'Jobs for Nature investment to provide 50 jobs in South Westland', at: <https://www.doc.govt.nz/news/media-releases/2020-media-releases/jobs-for-nature-investment-to-provide-50-jobs-in-south-westland/>, 20 July 2020; Ministry of Business, Innovation and Employment, South Westland Jobs for Nature Outcomes Assessment: Evaluation Report at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-projects/tourism-industry-transformation-plan/phase-1-better-work-he-mahere-tiaki-kaimahi/implementation/south-westland-jobs-for-nature-outcomes-assessment/>, 19 May 2023.



Ad hoc employee-sharing models are usually temporary with no contractual implications, where employees return to their original company once the temporary work is completed. They are the most common form of employee-sharing models. In most cases, participants referred to employee-sharing arrangements that occur between businesses that are part of the same chain, where employment agreements are held by the parent (or a subsidiary) company. When labour was being shared with another business within the same chain, an employee would be expected to submit timesheets to the parent (or a subsidiary) company who would be responsible for the payment of salaries or wages.

Tourist activity in the Franz Josef region of the West Coast of the South Island is seasonal, with limited numbers during the winter months impacting the hotels in the area. To ensure qualified staff are kept busy, the manager of one of the hotels in the area has entered employee-sharing arrangements with other businesses in the same hotel chain. As tourist numbers pick up, the staff return to Franz Josef. The staff submit timesheets to the corporate offices of the hotel chain, who look after their other entitlements.

Ad hoc employee-sharing also applied where businesses were closely linked but not part of the same parent company. In many cases, the primary employer would pay their staff for the hours they work for both businesses, invoicing the other business for the services of their staff. This would mean that GST would need to be paid on the cost of the services provided.

In some cases, the second employer would enter an employment agreement with the employee for a fixed term. This means they needed to offer a minimum number of guaranteed hours per week for the duration of the term. Consequently, this model was not used when the need was temporary or intermittent.

A significant tourist attraction in Dunedin is the albatross colony on the Otago Peninsula. Tourists can either view the albatrosses at the observatory or as part of a cruise, which is operated by a separate business. Participants noted there are employee-sharing arrangements between these businesses when guides are ill or otherwise unavailable. Both businesses provide tourists a commentary about the local wildlife, history, and geology. To avoid cancellations, one of these businesses will send the other a qualified staff member who is not rostered to work that day and is willing to pick up an extra shift, and later invoice them for their services.

In a few instances, an employer would not charge the other business for the services of their staff but would expect a reciprocal arrangement at a later stage. This occurred when a business was experiencing a low workload and instead of sending their staff home, the manager would contact neighbouring businesses to ask whether they needed additional staff. The business would pay their staff for the hours worked at the neighbouring business but would expect the favour to be returned when their business was busy. This model relies on good relationships between the businesses, which need to be similar in nature and offer comparable pay rates to their staff.



3.2.3 Informal employee-sharing models

Informal employee-sharing models involve a worker actively searching for multiple job opportunities at once.

A few informal employee-sharing models were discussed. In most cases, the employee would sign an employment agreement with each of the employers who offers them work. While this model ensures they have a minimum number of guaranteed hours with each employer, the employee would need to ensure that the right tax code is applied to their secondary source of income to avoid having too much, or too little, tax deducted.

Contracting can also be considered employee-sharing. A contract worker invoices each of the businesses they provide services to. This model was preferred by employees who offer their services to a range of businesses on an intermittent or temporary basis, such as mountain bike guides.

In a few instances, informal arrangements were made by an employee with multiple employers and various incentives are offered to compensate them for their time. For instance, an employee may be paid 'under the table' or compensated in non-monetary ways (such as receiving a free meal and drinks). While this removes the bookkeeping hassles of registering and calculating Pay As You Earn (PAYE), paying ACC levies, keeping wages records and all the other compliance issues, employers paying cash to casual employees are not adhering to their legal requirements. If caught, they will not only have to front up with the PAYE payments but may also be liable for late payment penalty fees, ACC levies plus penalties, and possible prosecution, which could lead to imprisonment or fines.

Employees were also shared across businesses through labour hire or contracting firms. These are companies that partner with tourism businesses to supply workers for both short and long-term placement. This does not require any level of coordination between tourism businesses, rather between individual tourism businesses and the labour hire agency.

Real or perceived barriers to employee-sharing: An overview

We identified a range of the real or perceived system barriers to employee-sharing in the tourism and hospitality industry.

Employment regulatory framework



New Zealand's employment system encompasses several acts and regulations that govern the rights and responsibilities of both employers and employees. The legislative framework is largely designed with conventional relationships in mind which raises several issues for employee-sharing arrangements. Employee-sharing is likely to have significant legal implications. We heard that creating an employment agreement that enables employee-sharing is likely to be difficult

In areas where there was a collective employment agreement, those agreements were seen as a barrier to employee-sharing.

Health and safety



Although employers are responsible for ensuring the health and wellbeing of their employees, they fear losing oversight of these aspects if their employees were engaged in multiple roles. There was a lack of understanding around which employer would be responsible for health and safety, and who would be liable should an incident occur due to employee fatigue or ill-health while engaged in employee-sharing.

Secondary tax



People participating in employee-sharing arrangements are required to work out which secondary tax code applies to their individual situations. It is often seen as difficult to work out how much they may earn from secondary employment, resulting in people being placed in the wrong tax code. Employees were put off by the idea that they would have to pay 'extra' tax on a secondary job.

Visa settings



A large proportion of tourism and hospitality businesses hire migrant workers, and they continue to be necessary to meet demand. Migrant employees would like to have the option to work across multiple employers, for some, their visa conditions often prevented them from working across different roles.

We also observed some broader real or perceived practical considerations that would impact employees' and employers' willingness to engage in employee-sharing.

Administration and resource burden



Systems, processes, and agreements need to be in place to enable safe, effective, and responsible sharing of employees. As employers were stretched, setting up new systems, processes and agreements would be burdensome.

The costs of participating in employee-sharing was compounded by the increasing cost-of-living (rises in transport costs and rental costs, particularly in expensive tourist locations). Employees may struggle with other challenges associated with employee-sharing including travel, inconsistent schedules, time away from other areas of their life, and fatigue.

Industry alignment and cooperation



Low trust between businesses and between employers and employees was reported as a key barrier to employee-sharing. Businesses in the tourism and hospitality industry may have different or competing goals that make it challenging to align interests and incentives for employee-sharing. Additionally, employees were discouraged, verbally or contractually, from seeking secondary employment by their employer as they feared the employee would leave or a second job would impact their performance.

Pay parity and skills matching



Pay parity considerations were seen as a potential barrier. Some employers would not want to share employees with an employer that did not pay a living wage. Alternatively, some employers were concerned about losing employees to an employer that offered higher wages.

Seasonality and timing




The peaks and troughs of tourism demand pose challenges for employee-sharing. These fluctuations result in dynamic staffing needs, with periods of high demand requiring a larger workforce while slower periods necessitate reduced staffing levels.

4. Real or perceived system barriers

The regulatory systems, within which employee-sharing arrangements sit, are complex and robust. The obligations employers have towards their employees go far beyond the employment system, touching on a range of other legislative frameworks including taxation, immigration, and health and safety. The different models are impacted by several complex areas of law, many of which were not designed to cater for employment arrangements between multiple employers.

The interactions and implications of these complex legislative requirements were a cause of significant confusion and apprehension for stakeholders.

4.1 Employment regulatory framework



The employment system is largely designed with conventional relationships in mind which raises several issues for employee-sharing arrangements. Employee-sharing is likely to have significant legal implications. Creating an employment agreement that enables employee-sharing is perceived to be incredibly difficult.

Context

New Zealand's employment system encompasses several legislative instruments that govern the rights and responsibilities of both employers and employees. A conventional employment relationship is one between employee and employer. The system is largely designed with these conventional relationships in mind which raises several issues for employee-sharing arrangements.

The Employment Relations Act 2000 establishes the foundation for all relationships between employees, employers, and unions. A wide range of rights and protections are afforded to employees, including the right to fair compensation, leave entitlements (e.g., annual, sick and bereavement leave), and health and safety safeguards.

In the absence of collective agreements for a particular role, individual employment agreements set out the terms, conditions, scope, and expectations of the role and may provide greater entitlements to employees than minimum statutory entitlements. A key issue that could arise with employee-sharing would be how employers provide for an employee's rights and entitlements such as annual leave, sick leave, and bereavement leave as typically employment agreements are between one employer and one employee.

New Zealand employers can legally prevent their employees from pursuing secondary employment or holding multiple roles so long as those restrictions are explicitly outlined in the employment agreement. Employers can also require that an employee seek consent before working for another employer. To justify such a limitation, employers must provide a valid reason based on reasonable grounds such as protecting sensitive business information or assets. These legislative and contractual requirements may have implications for employee-



sharing, particularly informal models where employees seek other employment on their own accord. That is, if employees wish to seek positions outside of their primary employer, they may need pre-approval or be unable to do so contractually.

Even if an employment agreement does not explicitly provide conditions around secondary employment, employees are still subject to good faith obligations, which would have implications for employee-sharing. For example, employees cannot deceive their employers or act in a way which may harm their employer's business. They also cannot breach confidentiality by using information obtained while working in one role to assist another employer.

These obligations would mean that an employee working across multiple businesses need to ensure their other roles do not impact their ability to fulfil duties for each employer. They also need to take reasonable care of their own health and safety to not put themselves or others at risk in the workplace. They are required to be open and honest with their primary employer about other jobs and the extent and nature of their roles.

Contracted hours

In 2006, legislation was introduced to tackle unfair employment practices. The changes were aimed at prohibiting zero-hour employment agreements, which refers to a practice particularly common in the hospitality industry where employees were required to be available to work but did not have any guaranteed hours of work or compensation for being on 'stand-by' should they be required to work. Although employers are still allowed flexibility when administering rosters (through the inclusion of 'availability clauses' in employment agreements), employers are required to include the hours of work that have been agreed between the employer and employee. The employment agreement must also include the days of the week the work is to be performed, start and finish times and any flexibility to these arrangements.

Collective agreements

The Employment Relations Act provides a framework for collective bargaining which may impact the ability of large employers to move staff between roles that operate under different collective agreements. A collective agreement sets out the terms and conditions of employment of persons covered by the agreement. Like individual employment agreements, they must include a provision setting the rates, wages, or salaries of employees, as well as the type of employees and jobs to be covered by the agreement. Employees may be tied to specific hours, rest periods or working conditions as part of their collective agreements – which employers will have to account for, should they wish to share those employees.

What we heard

Some employee-sharing arrangements were seen to be difficult under current employment law frameworks.

Employers said drafting employment agreements that contain sufficient flexibility to enable employee-sharing is incredibly difficult. They said the employment system is constructed around the traditional employment relationship between a single employer and employee. In their view, this notion is largely outdated and impedes many employers from even considering



the possibility of employee-sharing. We also heard that it was also necessary to ensure employers and employees understand their legal obligations and requirements should they choose to engage in such arrangements.

Increased legislative change and complexity has made employers risk adverse.

Employers and industry representatives noted the employment system has changed significantly in recent years and added layers of legislative complexity have made employers increasingly risk adverse. Employee-sharing was perceived to present a few novel risks, particularly in relation to employers' legislative obligations and responsibilities. Employers were hesitant to engage in employee-sharing out of fear of doing something 'wrong' or 'illegal'. They said the perceived legal and practical complexities would take time and resource to resolve.

Collective agreements were seen as a potential barrier to employee-sharing.

Both employers and industry representatives noted that collective agreements are often unique to specific roles within an organisation. Sharing employees between businesses where they are subject to different collective agreements may present a few issues particularly if there are differences in terms and conditions. These might include, for instance, rosters, overtime conditions and whether secondary employment has been explicitly allowed. As one employee stated, "*The issues could be due to differences in terms and conditions: for instance, if one collective agreement has time-and-a-half, does this mean that the person is entitled to this if they work elsewhere in the company?*"

Analysis

Although New Zealand's employment framework presents barriers to employee-sharing, these laws were enacted for the purpose of 'promoting good faith in all aspects of the employment environment and of the employment relationship'.⁷ The Employment Relations Act acknowledges the inherent inequality of power in employment relationships and aims to protect the integrity of individual choice. Although certain legislative requirements may pose challenges in engaging in employee-sharing (particularly for informal models of employee-sharing), many of these systemic considerations are in place to ensure employees and employers are treated equitably and safely.

4.2 Health and safety

Employers are responsible for ensuring the health and safety of their employees but may not have complete visibility of staff participating in employee-sharing arrangements. Employees are also responsible for taking reasonable care of their own health and safety to not put themselves or others at risk in the workplace.

⁷ [Employment Relations Act 2000](#)



Context

The Health and Safety at Work Act 2015 (HSW Act), and related regulations, set out the key principles and obligations for managing safety in the workplace. The legislative framework requires that workers and others are given the highest level of protection from workplace health and safety risks. This includes risks to both physical and mental health.

The HSW Act provides that an employer must eliminate risks arising from work so far as reasonably practicable. If a risk cannot be eliminated, then it must be minimised so far as reasonably practicable. While the HSW Act places health and safety obligations on employers, it also requires employees to take responsibility over their own health and safety. This means workers involved in employee-sharing arrangements must ensure the hours they work, and the nature of their roles do not cause fatigue, risking harm to themselves or others.

In an employee-sharing context, employers and employees may need to manage risks that arise from fatigue.⁸ This can include:

- managing work schedules to allow for quality rest, monitoring and placing limits on overtime worked, and ensuring tasks are scheduled suitably throughout a work period, particularly critical jobs, and
- designing rosters to allow for good sleep opportunity and recovery, and minimising disruption to natural sleeping rhythms.

What we heard

Employers were concerned that staff may experience fatigue if they worked more than one role, and they would not have visibility of this.

We heard that the demanding nature of juggling multiple responsibilities could lead to exhaustion, increased stress levels, and compromised physical and mental wellbeing. Employers explained that if their employees are spread too thinly across different roles, their ability to concentrate, make sound decisions, and respond effectively to critical situations could be compromised, raising concerns about safety hazards and accidents in the workplace.

Jobs in the tourism and hospitality industry often involve a unique set of health and safety risks. For example, employees engaged in adventure tourism or outdoor activities may encounter risks associated with extreme weather conditions, wildlife encounters, or challenging terrains. Employers commented that a fatigued or distracted employee not only jeopardises their own safety but also poses a risk to the wellbeing and safety of their colleagues, underscoring the need to address the potential health and safety implications associated with employee-sharing.

Employers commented that they are responsible for ensuring the health and safety of their employees but would not have visibility of this if their staff participated in employee-sharing arrangements. Conversely, it was unclear which employer would be responsible for health and safety and who would be liable should an incident occur due to employee fatigue or ill-health.

⁸ [986WKS – 5 work place related fatigue quick guide](#)



One participant works for a tour company in Dunedin that takes clients around the Otago/Southland region. Drivers are required to take a continuous break of at least 10 hours between shifts. However, some drivers have taken a second job to supplement their income, often working in the evenings. Although the company does not prohibit staff holding more than one job, they have encountered issues with drivers turning up to work tired as their second job unexpectedly finished late. In such cases, they have had to stand the driver down and call in a replacement driver, often at considerable expense. This has forced the business to reassess its approach to employee-sharing.

Analysis

Given the nature of employee-sharing, and roles in tourism, employees participating in such arrangements may be exposed to fatigue which will have consequences for their health and safety, as well as the people around them. To keep workers safe and healthy, businesses and individuals engaging in employee-sharing should learn the risks for fatigue-related events, identify the sources of fatigue and work together to develop strategies to prevent and manage fatigue.

Where two or more businesses share employees, they must work together, alongside the individual, to manage risks that arise from fatigue. This should include managing work schedules and designing rosters to allow for quality rest and recover. Employers can make reasonable arrangements with another business to fulfil their duties and account for the level of influence or control each employer has over the work being carried out.

Another important element is that employees are also responsible for managing their own workplace fatigue. Workers must take responsible care of themselves, which includes being open with their employers about their other work commitments.

4.3 Secondary tax

It can be difficult for employees to work out how much they may earn from secondary employment, resulting in people being placed in the wrong tax code. The perception that they may have to pay 'extra' tax was often cited as a reason not to take a secondary job. However, steps have been made to improve the system. Inland Revenue monitors, and can proactively suggest, a suitable tax code and employees can apply for an individualised tax code where secondary tax is a concern for them.

Context

Taxes in New Zealand are levied on personal and business income, and on the supply of goods and services. The Income Tax Act 2007 and the Tax Administration Act 1994, along with associated regulations and guidelines, establish the legal framework for tax administration



and compliance. New Zealand has a progressive income tax rate regime where the amount of tax on each additional dollar earned rises as overall annual income rises.

Employers play a crucial role in the tax system. They are responsible for deducting tax from their employees' wages or salaries through the PAYE system. Employers are required to register with Inland Revenue and provide each employee with a tax code declaration form to determine the appropriate tax rate for deductions. They must also keep accurate payroll records and submit regular employer returns to Inland Revenue, reporting the total earnings and deductions for each employee.

When an individual has multiple jobs, they are subject to secondary tax rules. Secondary tax is an additional tax rate that applies to income earned from multiple jobs or sources to account for the increased income. Secondary income tax codes are included as part of the tax system to ensure that the correct amount of income tax is paid, regardless of whether an individual pays income tax through one job, or multiple jobs.

What we heard

Employees were put off by the idea that they would have to pay 'extra' tax on a secondary job.

Many said they were surprised by the amount of secondary tax they were charged when taking a second job to help keep on top of the increasing cost of living. As one employee said, once student loan and child support payments are deducted, they only receive 40 percent of the hourly rate associated with the second job. However, many of these employees acknowledged that their views of secondary tax were based on memories of a time when tax was applied to second jobs at a range of different, higher rates.

One employee working in the hospitality sector in Wellington regularly works at multiple venues in the capital. They said it was difficult to work out how much they would earn from secondary employment in any given year, so needed to pay a flat tax rate of 30% on their secondary income. While they were aware they would get a refund from Inland Revenue at the end of the financial year, they had bills to pay, which could not wait until the refund was paid into their account. They would prefer to work more hours from their primary employer (or work under the table) than engage in employee-sharing arrangements where they would be exposed to secondary tax.

Working out the secondary tax rates is difficult and may deter employers from engaging in employee-sharing arrangements.

Employers noted that the secondary tax framework requires employees participating in employee-sharing arrangements to work out which secondary tax code applies to their individual situations. It can be difficult for them to work out how much they may earn from secondary employment, especially if the work is dependent on tourist or customer demand. If they select the wrong secondary tax code, this exposes them to paying either too much or not enough tax. Employers said they and/or their accountants spend considerable time adjusting the secondary tax codes of shared staff.



Analysis

There is a perception that secondary tax is unfair because tax is deducted from a person's earnings from a second job at a higher rate than their first job. However, this is due to a misunderstanding of the tax system. For individuals who use a secondary tax code, Inland Revenue will calculate total income and tax a person (or provide a refund of overpaid tax) based on their individual tax bracket at the end of the year. Individuals can also apply for a tailored tax code to more accurately tax for their total income over a year. Inland Revenue also monitors the tax paid by wage and salary earners through the year. If it appears that an individual is being over (or under) taxed, Inland Revenue will proactively contact individuals and suggest a more suitable PAYE tax code.

4.4 Visa settings

Some types of visas have conditions that restrict the ability of migrant workers to engage in employee-sharing. Where job descriptions are narrowly described, they can prevent employee-sharing, including within the same business.

Context

Migrant workers make up a key demographic of the tourism workforce. According to the Better Work Action Plan, 16 percent of the workforce were migrants in the first quarter of 2022 (which is a drop of six percent from the previous two years, COVID-19 being a key factor).⁹ Given the workforce attraction and retention issues facing the industry, many participants felt that the tourism and hospitality industry will remain reliant on a migrant workforce in the short to medium term. Immigration settings, including the conditions of certain visas, mean that a small portion of the tourism workforce is unable to engage in employee-sharing.

Businesses who hire migrant workers have several legal obligations. These include verifying the employment eligibility of their employees and ensuring they comply with the conditions specified in their visa. They need to monitor visa expiry dates and notify immigration authorities if any changes occur in the employment relationship. Employers must comply with employment laws and provide migrant workers the same employment rights and entitlements as domestic employees.

There are different visas available that allow people to work in New Zealand, and each visa type is subject to unique conditions and timeframes. Some of the visa types include:

- People on a working holiday visa may work for the period specified on the visa (usually 12 months), although the time they may work for a specific employer may be limited (for instance, under the Portugal working holiday visa people may not work for the same employer for more than three months).

⁹ A similar figure was reported in a 2021 Restaurant Association survey, which reported that 15% of the hospitality workforce is composed of employees on temporary work visas.



- People on a student visa are expected to study full-time in New Zealand, although can work part-time up to 20 hours a week while studying or full-time during the holidays.
- A person may apply for an accredited employer work visa if they have a job offer for at least 30 hours per week from an accredited employer and possess the necessary skills and qualifications for the job. The visa will be valid for up to three years and is tied to the employer who offered the person the job. If the person's situation changes, such as obtaining secondary employment, they will need to vary the conditions of their visa or apply for a new visa.

What we heard

Visa restrictions limit migrant workers' abilities to engage in employee-sharing.

Employers and industry representatives considered that employee-sharing would be attractive to migrant workers as it would allow them to get work experience in different regions or industries. However, they felt that the conditions associated with some visas were a barrier to employee-sharing. They said the conditions did not reflect the fluctuating nature of the industry which meant that many employers could not guarantee a set number of hours per week. Union representatives agreed that attaching visas to a single employer makes employee-sharing impossible for some migrant workers.

One employer said the conditions prevented them deploying their employees to another role within their own organisation unless that role fell within the job description specified in the original visa application. The application process requires a level of precision when describing the tasks, a worker will be required to perform. While it may be possible to generalise some aspects of their role, it is not possible to factor in all the circumstances they may encounter during the length of the visa (such as, employee-sharing opportunities).

A few migrant employees were intrigued by the idea of employee-sharing but knew they would be unable to engage in such arrangements given this would breach their visa conditions. They would like to have the option to work across multiple employers to obtain skills and experience across different roles, industries, or regions. They noted that to account for fluctuations of demand across workdays and seasons, some employers have given them broad roles to enable them to be deployed across different arms of the business as necessary.

Analysis

The immigration system places restrictions on the ability of some migrant workers to engage in employee-sharing. While these settings may inadvertently discourage employers from employing migrant workers, they are intended to safeguard the rights and well-being of migrant workers and avoid their exploitation. Nonetheless, adjusting visa restrictions to allow greater ease of movement between businesses may support employers to share underutilised migrant workers during down periods, particularly in sectors impacted by seasonality (as well as empower them to leave exploitative employees).



5. Real or perceived practical considerations

Many participants raised practical ‘non-regulatory’ considerations that were likely impact employees’ and employers’ willingness to engage in employee-sharing.

5.1 Administrative and resource burden

The administrative and resource burden associated with managing and facilitating employee-sharing arrangements was perceived to be an issue. Employers reported feeling increasingly overworked and understaffed, deterring them from considering any arrangement that would require further personal resourcing and time.

Context

Whether they work in the tourist activities, accommodation, hospitality or events sectors, all businesses have administrative responsibilities. These include overseeing the day-to-day functions of the business; monitoring accounts, managing budgets and financial planning; managing staff; interviewing and training new staff; promoting and marketing the business; ensuring customer satisfaction and dealing with customer complaints or queries; and keeping up to date with emerging industry trends. These administrative responsibilities take time and consume business resources. The administration burden is also experienced by employees, who also need to manage the relationships and the logistics of their schedule between employers.

What we heard

While employee-sharing could be financially or professionally beneficial, some employees were put off by the logistical, monetary, and personal challenges associated with working for multiple employers.

Employees expressed concern about the impact employee-sharing would have on their work-life balance and relationships with colleagues, friends, and family. The tourism and hospitality sector is often associated with unsociable hours. Employees noted that their work already has a detrimental impact on their private life, particularly those with dependants, and many said this would be exacerbated by employee-sharing.

We heard about challenges that employees faced engaging in informal employee-sharing arrangements, particularly those associated with managing rostered shifts and relationships with multiple employers. Employees were expected to manage the relationships and the logistics of their schedule between both employers themselves. Juggling employers and workplaces required them to constantly talk with managers about rostering decisions and many experienced issues or misunderstandings about the expectations of different employers. Many employees had negative experiences working for two or more employers and, as a result, were unlikely to consider trying this again. A breakdown in communication and trust between employers and employees appeared to be the key barrier.



Wellbeing was a common consideration raised by employees. There was a perception that employee-sharing may create or encourage unhealthy habits, with many employees saying that stress and existing mental health conditions may be exacerbated if they took on another job, despite the financial incentives. Some employees who had engaged in employee-sharing previously reported that these arrangements had left them feeling “burnt out.”

We heard that the financial and non-financial costs associated with employee-sharing, such as travel costs, managing multiple rosters, managers and personalities alongside personal commitments, would be a challenge for their success. There is a transaction cost for being in an employee-sharing arrangement, which was unappealing for employees (and employers). In general, employees indicated that they would prefer to work one role with more hours than two roles with the same or slightly more hours.

The costs of participating in employee-sharing was compounded by the increasing cost-of-living (rises in transport costs and rental costs, particularly in expensive tourist locations). Employee-sharing often requires an employee to travel between workplaces. It is expensive to run a car and public transport is often unreliable or there are limited services. If an employer organised transport for staff, they would be more inclined to take on a second role. Alternatively, financial compensation for the mileage and time spent travelling between roles would help encourage employees to participate in employee-sharing arrangements.

One participant works 30 hours per week for a fast-food outlet near Queenstown. They would like another role to cope with the rising costs of living but have been unable to find a second job in the local area. There is work available in the centre of Queenstown, which is seven kilometres away. They do not have a car so are reliant on public transport (which is unreliable and often arrives late due to traffic congestion) or Uber (which is expensive).

We heard that the potential for rostered hours to be extended at short notice made it difficult for employees to participate in informal employee-sharing arrangements. To manage their schedule effectively, they must reliably know their available hours in advance which was not always possible. Employers largely dictated their working hours and there was little flexibility in when or how they could work the multiple roles. For many roles in the tourism and hospitality industry, working hours were not standardised from week to week, and staff were regularly asked to stay late often without warning. This would lead to shift clashes, or conflicts with personal commitments.

A hospitality worker in Rotorua currently works full-time for a business in the region. They previously had a part-time second job but ended up leaving as their former manager did not listen when they told them of the hours they could work. The manager rostered them to work at times when they were unavailable due to their other commitments. They ended up leaving that role, deciding to prioritise their full-time job.

Employers were also conscious of their pastoral care obligations. They raised concerns about losing oversight of this if their employees were engaged in multiple roles. They would have no visibility over the health and safety protocols of other businesses. Workplace culture can



contribute to, or compromise staff health and wellbeing. They were also concerned that employee-sharing might expose their staff to toxic workplace cultures.

Some employees reported being actively discouraged, either verbally or contractually, from taking a second job due to the perceived impact this may have on their availability, health, and wellbeing, as well as their ability to meet personal and work commitments. They considered that a supportive workplace and an understanding manager was important, and they valued maintaining these relationships over potentially damaging them by taking on extra work elsewhere.

There was a perception amongst employers that setting up the systems, processes, and agreements associated with employee-sharing would be burdensome.

Systems, processes, and agreements need to be in place to enable the safe, effective, and responsible sharing of employees. These include invoicing or PAYE processes, rostering, induction and sharing of information such as how the employee-sharing agreement works. Developing these new ways of working would take time and consume valuable resources at a time when businesses are already stretched.

We heard that owners of small- and medium-sized business usually work in multiple roles to support their business. They saw managing an employee-sharing arrangement as an additional administrative burden. Although business management systems are available that enable employers to do things more quickly, these can be expensive to buy or complicated to create themselves.

Employers feared inadvertently doing something unlawful.

Employee-sharing has significant legal implications. These span from directly related areas of law such as employment law and health and safety, to other more removed areas of law that impact the ability of employers to engage employees in sharing arrangements such as immigration law.

Some employers said they did not know how, or thought it impossible, to set up employment agreements with terms that enable employee-sharing in a safe and easy way that also distributes costs and responsibilities fairly between employers. Concerns were raised about who would be responsible for holiday pay, health and safety, and pastoral care, and how to deal with invoicing and tax obligations in the most cost-effective way. Industry representatives explained that, particularly for small business owners, the complexity of creating agreements to enable employee-sharing is costly, time intensive, and requires legal oversight.

We heard that for employee-sharing to be a viable solution to address the fluctuations experienced by the tourism and hospitality industry, employers need to feel empowered to engage in employee-sharing without the fear of reprimand or sanction. Fear of doing something illegal was seen as a major inhibitor to engaging with employee-sharing arrangements.




The owner of a small Far North tourist venture spends considerable time in the nitty gritty daily grind of running their business, such as keeping the books in order, payroll, recruitment, managing leave entitlements etc. While they hire the services of an HR specialist for complicated matters, they would like to focus on the bigger picture, such as promoting the tourist services they offer. They have not participated in employee-sharing arrangements to date. For employee-sharing to be considered, they would need absolute clarity (from the Government) around risks and responsibilities as an employer. For instance, what kind of relationship would they have with the other business, how does leave work, etc? Without this information they would be reluctant to engage in employee-sharing.

Analysis

Employee-sharing requires additional resource, time, and knowledge to understand, set up and engage in. This may dissuade employers from exploring employee-sharing opportunities.

While tourism is attractive to workers due to the flexible nature of the industry and its social lifestyle, the additional demands of employee-sharing associated with juggling multiple roles may impact on the ability of employees to meet personal commitments.

5.2 Industry alignment and cooperation



The lack of industry alignment and cooperation in the industry creates challenges for employee-sharing. Businesses were apprehensive about participating in such arrangements due to their limited knowledge about the benefits of employee-sharing and concerns about losing their competitive advantage.

Context

The tourism and hospitality industry is comprised of multiple types of businesses including accommodation providers, hospitality venues, visitor attractions, activity providers and festivals/events. Most businesses operate independently and competitively, and this lack of industry alignment and cooperation limits options for employee-sharing.

What we heard

Some employees were discouraged from gaining secondary employment either through the insertion of prohibitive provisions in their employment agreement or indirectly through workplace culture.

Some employees said their employers had an expectation that staff needed to be available to cover shifts or work-long hours where necessary, particularly during peak seasons, which would make them unavailable for employee-sharing. Employees who were not explicitly discouraged from seeking secondary employment still feared negative reactions from their



employers because this could be perceived by their employer as a desire to leave the company.

Some employers were concerned their staff may be ‘poached’ by other businesses if they engaged in employee-sharing.

We heard that the fear of losing employees was driven by ongoing staff shortages in the tourism and hospitality sector, as well as competitiveness and lack of trust between businesses. However, some employers did not see competition as a barrier to employee-sharing. Rather, they viewed it as motivation to be the best employer to keep their top-performing staff.

We also heard that employers also discouraged staff from seeking a second job for other reasons, such as employee fatigue, which was a particular concern where the nature of the job might incur safety risks, such as driving or operating dangerous machinery.

One participant who manages a tourism venture in Rotorua noted that their company spends considerable time and energy training staff, building up their skills so that they are effective at their job and deliver the best experience for their clients. They are reluctant to share their staff with other companies as they are ‘petrified’ of losing their people. Many businesses in the sector are highly competitive and poaching frequently occurs, where staff are offered better wages and other working conditions. In their view, employee-sharing would only work if the relationships between businesses were strong.

Employee-sharing could promote a stronger tourism and hospitality industry but involves time and effort.

We heard that the implementation of employee-sharing could promote a sense of cooperation and collaboration within the tourism and hospitality industry. It was felt that in areas where employee-sharing was successful, businesses had established stronger relationships and a supportive network, but this involved time and effort to do. Conversely, such arrangements were unlikely to be successful if businesses were concerned about losing their competitive advantage or had conflicting objectives.

A participant working in the tourism sector in Rotorua previously worked two jobs as part of an employee-sharing arrangement between local businesses. This arrangement worked as they made sure both employers were on the same page about their availability. However, they were responsible for communicating this with their employers. It was not something the businesses discussed between themselves. From their experience, employee-sharing will only work if there was a good working relationship between employees and employers, built on trust and reliability.

Some employers agreed that employee-sharing could aid in retaining staff as these arrangements provided employees with diversity and variety of work. They also stated that employee-sharing may give them the ability to offer workers sufficient hours to adequately sustain themselves where a single employer was unable to do so. They said employees often



showed significant improvements in their attitude and performance when shared across two businesses. The variety and challenges of two roles had a motivating effect on the employee.

Analysis

A key barrier to employee-sharing will be the limited knowledge amongst employers and employees about the benefits of employee-sharing and awareness of potential partners for collaboration. For businesses that are aware of employee-sharing, there may be a resistance to change and a fear of losing control over employees. The existing industry culture may prioritise individual success and competition over collaborative efforts. This lack of trust and resistance to change may impede the willingness of businesses to engage in employee-sharing and hinder the development of a collaborative environment.

5.3 Pay parity and skills matching

For employee-sharing to work there needs to be pay parity between the participating businesses, and employees need to be matched to positions that align with their qualifications and skill sets.

Context

Tourism and hospitality make a considerable contribution to New Zealand's economic growth and employment creation, especially in population groups that can experience greater difficulty in accessing the job market, such as women, young people, and immigrants. However, employment in the sector is also categorised by some negative features, including long unsociable hours, unfavourable pay and working conditions, poor wages, shift work, and narrow job functions. Within the industry, average wages are lower for some types of function, such as hospitality workers, and different skills are required for different aspects of the sector. These features are likely to make employee-sharing challenging.

What we heard

Employers were reluctant to engage in employee-sharing arrangements with businesses that did not pay their employees at the same rate.

The lack of pay parity was considered a significant barrier to employee-sharing. Employers that paid their staff a living wage expressed reluctance to engage in an employee-sharing arrangement with businesses that did not pay staff the same. On the other hand, employers were concerned about losing staff to other employers should they be offered higher wages.

A tourist operator in Queenstown offers tours and other activities throughout the year. They have supported business involved in the winter ski season during their off-season by offering work to their staff through employee-sharing arrangements. To encourage them to take on these roles, they have had to offer them more money than their full-time staff, which has created a range of issues for their business.



Employers were doubtful that employees could be successfully matched to a complimentary role that matched their skill sets and availability.

The demand and time of day that staff are needed in certain roles is the same across the industry – for example, housekeepers are usually required in the middle of the day. However, there is potential for employee-sharing across different roles, although this may require further training in some cases due to mismatched skill sets.


Employees were also concerned that their professional development would suffer if they participated in employee-sharing arrangements.

Employees were uncertain if they should focus on one job to get development opportunities to the detriment of the other and whether this would have negative consequences for their relationship with their employers.

Analysis

Pay parity and skills matching are likely to be a barrier for some employers and employees to engage in employee-sharing. This is linked with the issue of business alignment and cooperation. If businesses are willing to engage collaboratively, they are more likely to pay shared employees at the same rate as their primary employer and find roles that match their skills.

5.4 Seasonality and timing



Tourism operators tend to experience the same seasonal peaks and troughs. Employers in similar industries also tend to require staff around the same time of the day and week. These issues will raise significant challenges for employee sharing.

Context

Seasonality is one of the most important features of tourism demand and has a significant effect on many aspects of the tourism and hospitality industry. The number of visitors in New Zealand is highest in the summer season. During the shoulder and low seasons, tourist destinations with high seasonal fluctuations face various challenges, such as overcrowding, high prices, inadequate infrastructure in peak seasons, as well as a lack of services and job opportunities.

What we heard

Seasonality poses a unique challenge for employee-sharing as it often requires employees to be mobile.



We heard that employees who are part of a seasonal employee-sharing arrangement may need to leave an area if they did not have guaranteed work between seasons. However, this may be difficult due to accommodation and travel issues (e.g., the time and costs associated with travelling between locations).

A mountain bike guide on the West Coast of the South Island works close to full-time during the summer months. During winter, there is a significant drop in the number of tourists visiting the area, so they are only able to work for their firm a few days per month. Their manager arranged for them to work for a similar tourist operator in Queenstown during the off-season. However, they have struggled to find suitable accommodation in the area.

The unpredictability of the seasons and work demand makes it difficult for employers to effectively roster employees, which makes employee-sharing challenging.

We heard that it was difficult to guarantee hours when there is low demand, and harder to find staff at short notice to meet unexpected demand. Employees who have other jobs are less available to meet this unexpected demand should it occur, further stretching resourcing. Even if they did not have hours to offer on any given day, employers like to know they have the resource available should work become available through unexpected demand or staff illness. Employee-sharing may impact that assurance.

Throughout the summer months several cruise ships visit New Zealand ports. One participant who manages a Christchurch tour company discussed the impact that this has on the sector, especially when multiple ships visit the area. On days when this occurs, most tour operators in the Canterbury region are stretched to overflowing. There is very little fat in the system if a tour guide or driver gets sick. When this has occurred, they have had to bring in people at short notice (often at great expense) to avoid cancelling the trip, which would impact their reputation with the cruise ship industry.

We heard about similarity of peaks and troughs of the seasons, particularly in regions with comparable tourism activities (for example, water-based adventure activities such as kayaking, rafting and river boarding). As one employer said, “all the peaks are the peaks for everyone”.

We were also told that unpredictable weather, adverse weather events, changes to national transport routes and transport unreliability make demand for tourist services unpredictable. The disruptions caused by these events makes employee-sharing difficult. For instance, we heard that flights to the West Coast of the South Island are regularly cancelled requiring people to be bussed to their destination (a five hour journey). Employers need to be available to cater to tourists once they arrive.

Analysis

The peaks and troughs of tourism demand (seasons, weeks, and days) pose significant challenges for both employers and employees wishing to take part in employee-sharing. These fluctuations result in dynamic staffing needs with periods of high demand requiring a larger workforce while slower periods necessitate reduced staffing levels. The rapid shifts in



workload and staffing requirements, which are compounded by the same 'seasonality' issues, will make it challenging to establish consistent and stable employee-sharing arrangements.



6. Māori tourism

The views captured in this section come from one person who has over 20 years of experience in tourism as both an employee and employer for both Māori and non-Māori businesses. This section should not be generalised to cover Māori tourism, but rather represents one person's experience working in Māori tourism.

Many of the barriers raised by this participant as impacting Māori tourism were similar to many of the issues set out in the sections above. These include:

- secondary tax and the lack of education on tax changes
- health and safety as well as disputes as to who would be responsible for training staff
- confidentiality and the protection of intellectual property
- false perceptions of payroll burdens
- competitiveness and the mindset that employers might not have access to staff, and
- lack of communication between the employers and employees which creates administration and resource burdens.

The lack of understanding of the experiences and worldviews of Māori have deterred some employers from entering employee-sharing arrangements with Māori businesses.

This participant said not all employers acknowledge the different experiences and worldviews Māori may have and what they are able to offer. In their view, this is a barrier to employee-sharing, particularly around the use of rangatahi Māori working for Māori businesses, who are often overlooked for roles in favour of people with formal qualifications despite not having relevant lived experience. This participant commented that many rangatahi grow up on their marae and learn essential skills including how to be of service. They have the customer service skills required by the tourism and hospitality sector; however, they are often overlooked for employee-sharing roles as they do not have the formal qualifications, recognised work experience, or industry references required for the position.

Another perceived barrier was the lack of communication and innovation about the “bigger picture”. Some people failed to see how employee-sharing could allow for more productivity in business and how it could have a positive impact in communities and the workforce.

Many employers in the tourism and hospitality industry have existing rigid habits or processes to employment which they have used for a long time and are scared to change. These mindsets maintain employment models that are arguably outdated and need to be adapted to suit the workforce of today. A further barrier to overcoming this mindset is the lack of guidance or templates from Government that would enable employers to change their systems or run a more streamlined approach to employee-sharing. In their opinion this guidance needs to consider: *“How does this impact whānau, or community as a whole? How does it impact the national workforce? How does a person learning a new skillset come into play? How does it leverage and lift our community who are at the bottom of everything?”*

7. Benefits and opportunities

7.1 Potential benefits of employee-sharing

While the scope of this work focused on the barriers to employee-sharing, many stakeholders were able to see the benefits of employee-sharing.

Stable employment

One of the notable benefits of employee-sharing in the tourism and hospitality sector is the promotion of stable employment for workers. By facilitating the sharing of employees between tourism businesses, the workforce can maintain a consistent level of employment throughout the year. This also allows businesses to meet varying workload demands and accommodate employees seeking additional hours. Providing opportunities for stable employment fosters employee satisfaction and loyalty, leading to a more engaged and motivated workforce.

Sharing costs of training employees

Implementing employee-sharing arrangements allows for the shared costs of training between participating businesses. By pooling resources and collaborating on training initiatives, businesses can reduce individual training expenses. This shared investment in employee development not only minimises financial burdens but also fosters a sense of collective responsibility and collaboration among businesses within the industry.

A more skilled tourism workforce

Employee-sharing promotes the cultivation of a more skilled workforce. Through exposure to diverse roles and responsibilities across different businesses, employees gain valuable cross-functional experience and knowledge. This enhances their skill set, making them more versatile and adaptable. As a result, businesses benefit from employees who possess a broader range of competencies, leading to increased efficiency and effectiveness in meeting the evolving demands of the tourism and hospitality industry.

Better pay and conditions

Some stakeholders felt employee-sharing could provide an opportunity to improve pay and working conditions for employees. With a more stable and better trained workforce, employee-sharing could foster an environment where businesses are more incentivised to create attractive compensation packages and improved working conditions. Further, by collaborating to share their workforce, tourism businesses could better distribute labour costs and resources, leading to increased financial stability and profitability.

Better use and retention of the existing workforce

Tourism has one of the lowest rates of labour productivity in New Zealand. Employee-sharing arrangements enable businesses to optimise the utilisation of their workforce. By effectively matching employee availability with fluctuating demands, businesses can avoid underutilisation or excess labour capacity. This enhanced workforce management contributes



to improved staff retention as employees are more likely to be engaged and satisfied when their skills and time are utilised effectively, reducing turnover and associated recruitment costs.

A more cooperative and collaborative tourism and hospitality sector

The implementation of employee-sharing arrangements promotes a sense of cooperation and collaboration within the tourism and hospitality industry. By actively sharing resources, knowledge and best practices, businesses establish stronger relationships and a supportive network. This cooperative environment fosters a positive industry culture, enabling businesses to collectively address challenges, share insights and work towards common goals, ultimately benefiting the industry as a whole.

Encourage innovative ideas, products, processes and ways of doing things

Employee-sharing arrangements can stimulate innovation within the tourism and hospitality industry. Through exposure to different business environments, employees gain diverse perspectives and insights, allowing for the cross-pollination of ideas. This exchange of knowledge and experiences can inspire creativity and foster a culture of innovation. By encouraging collaboration and learning from different contexts, employee-sharing arrangements lay the groundwork for the generation of new ideas and improved practices.

Employees can take a more active role in their development

By participating in employee-sharing arrangements, employees are afforded the opportunity to take a more active role in their professional development. Through exposure to a variety of duties and roles across different businesses, employees can expand their skill set, explore new areas of interest, and gain a deeper understanding of the industry. This increased autonomy and variety of experiences empower employees to shape their career trajectory, fostering personal growth and satisfaction.

7.2 Facilitating employee-sharing

There are a range of practical actions that could facilitate employee-sharing. Stakeholders were keen to offer suggestions to overcome the barriers they identified.

Facilitate better business-to-business relationships

Others noted that relationships between employers could be facilitated to promote clearer lines of communication and information sharing, helping to promote innovation and better ways of doing things within the industry.

Promoting and facilitating better business-to-business relationships is vital to enabling employee-sharing arrangements. Networking events, industry forums, and workshops dedicated to employee-sharing create opportunities for businesses to establish relationships, build trust and explore potential partnerships.



Provide resources, information, guidance and best practice examples

Both employees and employers seemed to lack time and resource to engage in anything new and found engaging with legislation difficult. Industry representatives noted there is an opportunity to support employee-sharing by creating tools that make employee-sharing easy to set up.

Establishing resources, information, guidance, and best practice examples could play a role in supporting businesses' adoption of employee-sharing arrangements. Materials could outline the benefits, processes, legal considerations, and success stories of employee-sharing. Additionally, sharing best practices and case studies can inspire businesses to explore innovative approaches to employee-sharing, fostering a culture of knowledge exchange and continuous improvement within the tourism and hospitality industry.

Employees and employers agreed there is potential for employee-sharing to be effective if there is an easier way for employees to schedule rosters for two jobs. The most common suggestion was a platform or app that would allow employees to choose individual shifts or second employers.



ALLEN + CLARKE

+64 4 890 7300
office@allenandclarke.co.nz
www.allenandclarke.co.nz