



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

Vulnerable Temporary Migrant Workers: Canterbury Construction Industry

July 2015



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Executive summary

Introduction

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

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

The research shows rapid growth in Filipino migrants working in the Canterbury construction industry. While it is difficult to determine the extent of exploitative practices, the research shows that some migrants were experiencing exploitative situations. Most commonly mentioned were the excessive fees paid to recruitment agencies, but other breaches of employment standards and poor employment practices were evident. Workers particularly vulnerable to exploitative practices were Filipino migrants and those working for labour hire companies and small businesses.

Characteristics of migrants working in the Canterbury construction industry

Rapid increase in the number of temporary migrants working in the Canterbury construction industry

The number of temporary migrant workers in the construction industry has increased rapidly since 2012. This growth has been driven by the Canterbury rebuild, particularly by migrants on Essential Skills and working holiday visas.

Essential skills workers in Canterbury are most likely to come from the Philippines and to be working as carpenters and joiners and painting trades workers

In 2014, construction-related occupations accounted for 15 per cent of all Essential Skills visa holders, an increase from 5 per cent in 2009. Over half of these visas were issued for construction jobs in Canterbury. The top source countries for construction Essential Skills workers across New Zealand are Philippines, United Kingdom, Ireland and Fiji. However, Filipino workers dominate the Canterbury construction industry as do migrants working as carpenters and joiners and painting trades workers.

Construction workers tend to be well paid compared with average Essential Skills workers

Construction workers tend to be well paid compared with the average Essential Skills workers. In Canterbury, this pattern is even stronger. Construction workers from United Kingdom,

Ireland and the Philippines tend to have high incomes relative to Essential Skills workers overall.

Nature and extent of temporary migrant workers' vulnerability in the Canterbury construction industry

Migrants working in construction unlikely to be earning less than the minimum wage

Migrants working in the construction industry are unlikely to be earning less than the minimum wage and the proportion earning less than this threshold has declined over recent years. However, some Essential Skills construction workers may be more vulnerable than others in this respect – this includes women, migrants from Brazil, and migrants working for small firms or where the employer is a migrant from the same country as the worker.

Some temporary migrants working in the Canterbury construction industry are affected by exploitative practices

While it is difficult to determine the extent of exploitative practices in the construction industry, survey data and interviews with key informants show that at least some migrants in the industry are experiencing exploitative situations. Survey data showed that migrants working in the construction industry were less likely to have a written employment agreement than migrants working in other occupations.

The majority of key informants thought temporary migrants in the Canterbury construction industry were affected to some extent by exploitative practices. However, they were divided on the extent of the issue – some felt it was happening relatively frequently, others felt only a few migrants were affected by it.

Variety of exploitative practices mentioned

A variety of exploitative practices were mentioned – most common were the excessive amount of money charged by recruitment agencies in the Philippines and situations of contract substitution. Others mentioned situations where employers were not meeting minimum employment standards or where there were poor employment practices. Some key informants also raised concerns around the use of the 90-day trial when recruiting from overseas.

Filipino migrants particularly vulnerable to exploitative practices

Key informants said migrants who are most vulnerable to exploitative practices in the Canterbury construction industry are migrants who do not speak English well, come from countries where employment standards are not high, and have financial commitments. Filipino workers were often mentioned as being a particularly vulnerable group for all of those reasons. In addition, migrants were considered to be in a vulnerable position when their visa was tied to a specific job.

High demand for workers in Canterbury a contributing factor to exploitative practices

The high demand for workers in the Canterbury construction industry has resulted in the growth of labour hire companies and small businesses. These companies have grown exponentially because of the rebuild and often do not have the systems and processes necessary when employing staff. Key informants said that migrant workers employed by these businesses were more at risk of exploitative practices than were migrants employed directly by larger companies. In addition, migrants were being enticed to move on to self-employed contracts with no understanding of the legal implications of these contracts.

Information sources and awareness of employment rights

Migrants are not well aware of their employment rights

The majority of key informants said migrants were not well informed or aware of their employment rights. The main reasons for this lack of awareness included migrants' inability to understand the information provided to them, the lack of accurate pre-departure information provided by agents, and the low level of interest by migrants in knowing their rights.

Migrants tend to access information through informal networks

Migrants tend to access information and assistance on issues relating to their employment rights through informal networks. These networks are primarily the migrants' church or community, but also friends and colleagues.

Small employers and subcontractors are not well informed about their employment obligations

Some employers, particularly large employers, were considered well aware of their employment responsibilities towards their workers. On the other hand, key informants thought small employers were not well informed. This was because of both ignorance of the law and the business models they operate under.

Migrants reluctant to report exploitative practices because of cultural reasons and fear of losing their jobs

The majority of key informants said temporary migrants working in the construction industry in Canterbury were reluctant to report exploitative practices because of cultural factors or fear of losing their jobs. Cultural factors included respect for authority, which means people are unlikely to challenge their boss. Lack of information about exploitative practices and where to go for help was another significant reason.

Variety of initiatives suggested to mitigate migrant vulnerability

Key informants mentioned a variety of possible initiatives to mitigate migrant vulnerability and prevent exploitative situations. These included pre-departure workshops for migrants tailored to the Canterbury construction industry, collaboration between agencies, and guidelines and codes of practices for employers in the area of migrant recruitment.

Conclusion

MBIE has initiatives in place or planned to address many of the concerns raised in this research. These initiatives include regulatory interventions such as strengthening enforcement of employment standards, prosecutions of defaulting employers, informational interventions such as dedicated information guides for new migrant construction workers (translated into Tagalog) and for their construction sector employers, and funded workshop activities through third-party providers for workers and for employers. A guide for New Zealand employers recruiting workers from the Philippines is being developed. In addition, from December 2014, New Zealand is a 'no placement fee' country.

These initiatives aim to mitigate the vulnerability of migrant workers in the Canterbury rebuild and reduce exploitative situations by informing migrants and their employers and by holding employers acting unlawfully to account. However, it is important to continue to monitor the situation to ensure these initiatives work as intended and that the continued demand for migrant workers in the Canterbury rebuild does not result in further exploitative situations.

1 Introduction

1.1 Background

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

Following a workshop with MBIE stakeholders a decision was made to undertake the next phase of the research programme with a focus on temporary migrant workers in the Canterbury construction sector. Parallel research of temporary migrant workers in the hospitality sector was also agreed and will be reported on separately.

1.2 Why a focus on Canterbury?

While the literature review and analysis of quantitative data did not identify vulnerable temporary migrant workers in the construction industry to be a significant issue in New Zealand, stakeholders considered it to be an emerging issue. Following the destruction caused by the earthquakes, the Canterbury rebuild is expected to require a large number of new construction industry workers over the next decade. It is expected that a significant proportion of these workers will be migrants.

Recent media reports note some migrants working in the Canterbury construction industry are experiencing issues related to their employment. These issues include:

- disputes over wages or the non-payment of wages
- accommodation concerns
- visas being 'tied' to an unsatisfactory employer
- the absence of employment agreements
- breaches of minimum wage provisions and the *Holidays Act 2003*.

The nature and extent of these experiences is not well documented. Stakeholders agreed targeted research was required to find better evidence of the nature and scale of the experiences of vulnerable migrant construction workers in the Canterbury rebuild.

1.3 Purpose of the research

1.3.1 Part of a coordinated approach

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

- educating, empowering and incentivising migrant workers and their employers to understand and act on their rights and obligations

- strengthening operational responses
- strengthening the regulatory framework
- increasing knowledge of the problem and effective responses.

This programme of research contributes directly to the fourth priority area and contributes to the other priority areas by increasing our understanding of drivers of vulnerability and effective interventions to reduce vulnerability. Moreover, the research programme provides valuable insights into the impact of the increasing demand for labour in Canterbury on the vulnerability and exploitation of temporary migrants in the region.

1.3.2 Broad research questions

The research addresses the following questions:

- What are the characteristics of temporary migrants in the construction industry in Canterbury and the businesses/employers who hire them?
- What is the nature and extent of temporary migrant worker vulnerability and exploitation in the construction industry in Canterbury?
- What are the experiences of vulnerable temporary migrant workers in the construction industry and specifically in the Canterbury region?
- How does the increased need for labour in post-earthquake Canterbury impact on the vulnerability and exploitation of temporary migrants?
- What are some potentially effective interventions or policies to address temporary migrant vulnerability and reduce migrant exploitation in the construction industry?
- What are the high-level differences between the Canterbury construction industry and other major centres in New Zealand (particularly Auckland) regarding the characteristics of temporary migrants, the businesses that hire them and the extent of temporary migrant worker exploitation?

1.4 Project context

1.4.1 A definition of vulnerability and ‘exploitation’

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

Exploitative practices such as employing migrants on terms below the minimum employment standards give employers a commercial advantage. By avoiding the full costs of employing workers on a lawful basis, the commercial advantage gained through exploitative practices can drive compliant business out of the market.

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

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

Also included in the *Immigration Act* are examples where the employer takes action with the intention of preventing or hindering the employee from:

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

These provisions apply only to unlawful workers. The Immigration Amendment Bill being considered by Parliament seeks to extend these provisions to those in New Zealand on temporary work visas¹.

This research on vulnerable temporary migrant workers takes account of the definition in the *Immigration Act* but also includes other aspects of exploitation, for example, debt bondage and contravention of the *Health and Safety in Employment Act 1992*. While the *Immigration Act* outlines that exploitation includes “serious” breaches of various Acts, the research also examines the continuum of minor breaches to more serious breaches of employment legislation and the extent to which minor breaches are indicative of more serious breaches of minimum employment rights.

1.4.2 Temporary migration

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

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

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

The Student Policy aims to facilitate the entry of genuine students by focusing on attracting and developing students who have the skills and talents New Zealand needs. This policy also aims to increase global connectedness, support sustainable growth of export education capability, earn foreign exchange and strengthen New Zealand education while managing risks

¹ The Immigration Amendment Act received Royal Assent on 6 May 2015.

to New Zealand. Many students are allowed able to work for up to 20 hours a week during term time and full time during holiday breaks. Work rights were extended to English language students in 2013. Former students who have the skills and talents New Zealand needs are encouraged to move to work or residence through the Study to Work Policy.

1.4.3 Changing face of the construction industry

The New Zealand construction sector includes commercial and residential building, roading and network services. Internationally, this sector was seen as (ILO, 2010, p 88):

an industry that offered above-average wages to compensate for arduous and dangerous work, with relatively large employers making considerable investments in their relatively highly skilled workers and taking responsibility for training them. It has also, historically, been an industry with fairly high levels of unionization, at least in the developed countries.

The International Labour Organization (ILO, 2010) stresses, however, that conditions in the construction sector have undergone significant change (“a profound transformation”, p 88) following a surge in subcontracting and high levels of privatisation. Self-employment has become common, and vertically integrated construction firms manage contracts and subcontract labour suppliers to provide project workers. As a result, work in construction has become increasingly temporary and insecure, and “workers’ protection, where it formerly existed at all, has been eroded” (p 89). The ILO found that domestic workers do not regard construction as “decent work ... [b]ecause of high rates of injury, frequent lay-offs and substandard housing” (p 89). As such, domestic workers are tending to withdraw from construction jobs and “migrant workers without adequate protection and training are [being] drawn into the labour force in increasing numbers” (p 89).

McLeod and Maré (2013) point out that the New Zealand construction industry is not particularly reliant on migrant labour.² However (Yuan, Cain and Spoonley, 2014, p 60):

There are developments that might change the presence of temporary labour in this industry. The need for migrant participation in the construction industry is likely to increase as the Christchurch rebuild gains momentum and the increasing demand for housing in Auckland continues.

1.4.4 Construction sector in Canterbury

Currently, employment demand is strong for construction activities in Canterbury with job vacancies continuing to grow. The increased labour supply is being sourced from migrants and beneficiaries moving off benefits. According to the December 2014 quarterly labour market report, the national unemployment rate was 5.7 per cent but for Christchurch it was 3.5 per cent. Consequently, there has been a steady increase in the number of temporary migrants to work on the rebuild. In June 2014, the Philippines was the largest source of rebuild migrant labour.³ Other main source countries of Essential Skills construction-related visa arrivals were United Kingdom and Ireland. The main occupations seen in Essential Skills

² However, the data may undercount migrant workers who participate in the construction industry’s hidden economy (that is, receiving cash payments ‘under the table’).

³ When measured according to the number of Essential Skills visas issued for construction-related occupations. Later in the report we look at wider evidence about migrant labour provided through other types of visa.

construction-related visa arrivals were carpenters and joiners and painting trades workers (MBIE, 2014b).

Nationwide, employers in the construction sector (83 per cent) were more likely to use contractors or sub-contractors compared with all employers (MBIE, 2014a).

1.4.5 Other MBIE-related activities

The Immigration Amendment Bill (No 2) has been reported back from the Select Committee and is awaiting its second reading⁴. The Bill makes the exploitation of migrants on temporary entry class visas an offence. It also makes employers who hold residence class visas liable for deportation, if they exploit migrant workers or knowingly employ migrant workers without work rights.

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

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

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

The work being carried out by WorkSafe New Zealand is of particular significance to this project. As the health and safety regulator, WorkSafe's role in ensuring Canterbury is rebuilt safely requires it to have a particular interest in ensuring the safety of at-risk workers. The work of the WorkSafe Canterbury Rebuild Programme Team is an important component of a broad approach to improving the work conditions of vulnerable migrant construction workers in Canterbury.

Furthermore, MBIE's Labour Inspectorate is monitoring employment rights (for example, holidays, minimum wages, and employment agreements, as well as wage and time records) during the Christchurch rebuild. The Labour Inspectorate acknowledges that the rebuild poses a risk for migrant exploitation. To minimise the risk of exploitation, Christchurch businesses are being given a once only warning to meet their minimum employment obligations. In the case of non-compliance with employment law, businesses face considerable financial penalties. The Labour Inspectorate is undertaking a programme of proactive audits of companies associated with the rebuild. These audits cover all aspects of minimum standards as well as a joint workplace compliance programme with WorkSafe and Immigration New Zealand.

In 2013, Immigration New Zealand's Settlement Unit led the development of two settlement guides for migrant workers and their employers in the construction sector (Immigration New Zealand, 2013a, 2013b). These guides fit within MBIE's broader work programme on skilled and safe workplaces, particularly concerning issues around the treatment of temporary migrants in the labour market. The project involved key industry stakeholders, such as the Construction Safety Council and the Building and Construction Industry Training Organisation. Groups across MBIE, particularly Health and Safety and the Labour Inspectorate have

⁴ The Immigration Amendment Act received Royal Assent on 6 May 2015.

contributed content to these guides. The Settlement Unit is funding the Canterbury Employers Chamber of Commerce to deliver workshops, seminars and one-on-one support for new migrants working on the rebuild and their employers. Some activities are focused on Filipino workers and their employers. In addition, and not only focused on the construction sector in Canterbury, the Settlement Unit is developing a resource for employers recruiting offshore workers from the Philippines.

1.5 Structure of the report

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

2 Research approach

2.1 Introduction

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

2.2 Analysis of quantitative data sources

Analysis of data from Statistics New Zealand's Integrated Data Infrastructure (IDI)⁵ and Immigration New Zealand's Application Management System (AMS) aimed to determine the characteristics of temporary migrants working in the construction industry and the businesses they work for. In addition, findings from the 2013 Migrant Survey and International Student Expenditure Survey are also used in this report.

We define construction workers in two ways in this report. Firstly, according to industry, and secondly, on an occupation basis. Each of these approaches has strengths and limitations. Integrated data from the IDI links individuals to employers, allowing us to identify the industry in which they work. If someone works for a construction company (even in an administrative or management role), they will be identified as being a construction worker. However, if they work for a professional services company, possibly as an architect or engineer, or for a labour supply company, they will not be identified as a construction worker.

In other data sources, such as administrative records on skilled migrants from the Application Management System, and survey responses, occupation information is more consistently recorded than industry information. For these data sources, we identify workers in construction-related occupations, including architects and engineers, but possibly leaving out some construction jobs where it is unclear which industry they are in (such as labourers). Truck drivers are included as construction workers, because many truck drivers in Christchurch are directly involved in the rebuild. However, in other regions these workers are much more likely to work in the road transport industry.

Information from the IDI is protected by randomly rounding values and suppressing small counts in accordance with Statistics New Zealand's confidentiality rules. The rounding methods used in this report include random rounding to base 3. Within each table the values are rounded independently. This means counts may not sum to totals, and tables with percentages may not sum to 100.

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

2.3 Interviews with key informants

Semi-structured interviews with key informants from government agencies, businesses and other organisations, including non-government organisations and community advocates, were conducted in Christchurch and Wellington (a copy of the interview schedule can be found in Appendix 3). Eighteen interviews with 25 individuals were conducted. Interviews have been grouped into the following categories: Business (three interviews with five people); Government (seven interviews with seven people); and 'Other' (eight interviews with 13

⁵ See Statistics New Zealand (2014) for more information about the IDI.

people). 'Other' includes unions, non-government organisations, migrant organisations and community advocates. Participants were told that no identifying information would be presented in the report and so specific agencies and individuals are not identified.

Interviews were approximately 60 minutes in length. All interviews except for one were recorded and later transcribed. Extensive notes were taken during the interview that was not transcribed. Before the interviews, question areas were sent to participants. A software package for the analysis of qualitative data – NVIVO – was used to analyse interviews. All interviews were undertaken by two researchers who and also met to discuss themes.

2.4 Ethics

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

2.4.1 Informed consent

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

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

2.4.2 Confidentiality

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

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

2.4.3 Vulnerable participants

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

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

2.5 Challenges and limitations

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

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

3 Temporary migrants working in the construction industry

Key findings

Temporary migrants in the construction industry

- The number of temporary migrant workers in the construction industry has increased since 2012, driven by a marked increase in the Canterbury construction sector.
- Temporary migrants working in the Canterbury construction industry are most likely to:
 - be on an Essential Skills or Working Holiday visa
 - come from United Kingdom, Ireland or the Philippines.

Essential Skills workers in the construction industry

- There has been large growth in Essential Skills visas for construction occupations driven largely by a significant increase in the Canterbury region.
- Essential Skills workers in the construction industry are:
 - increasingly in medium-skilled jobs and younger than in the past
 - most likely to come from the Philippines, United Kingdom, Ireland and Fiji
 - most likely to be working as carpenters and joiners.
- In Canterbury, Essential Skills construction workers are more likely than Essential Skills workers in the rest of New Zealand to:
 - be working as carpenters and joiners and painting trades workers
 - come from the Philippines
 - be medium skilled.
- Lower-skilled Essential Skills visa holders are less likely to transition to residence and more likely to remain on a temporary visa than are higher-skilled visa holders.

Labour market outcomes of Essential Skills construction workers

- Construction workers tend to be well paid compared with the average Essentials Skills worker. Until 2012, this was less likely to be the case in Canterbury. However, in 2013, the situation reversed and slightly more high-income construction migrant workers were in Canterbury than in the rest of the country.
- Construction workers in high-skilled occupations tend to be well paid compared with high-skilled Essential Skills workers in other industries.
- Construction workers from United Kingdom Ireland and the Philippines tend to have higher incomes compared with Essential Skills workers overall.

3.1 Introduction

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

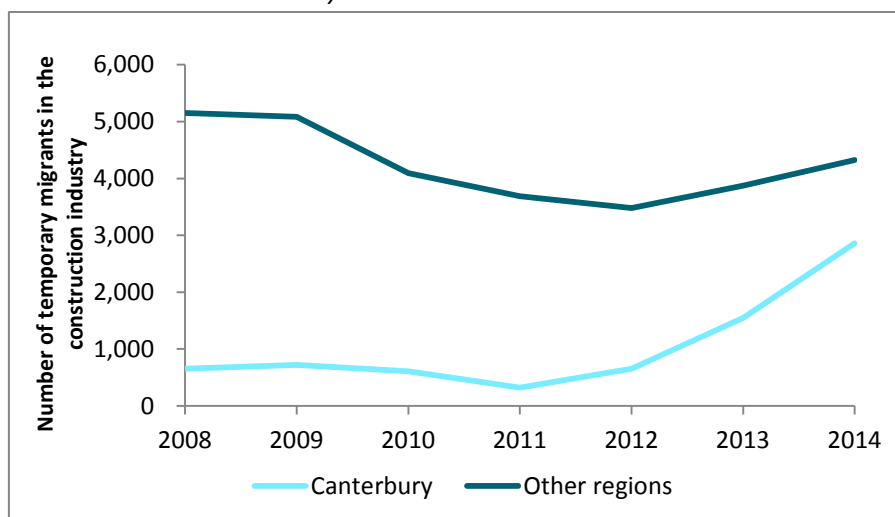
3.2 Characteristics of temporary migrants working in the construction industry

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

3.2.1 Trends in temporary and permanent migration

Figure 3.1 shows the trend in the number of temporary migrant workers in the construction industry over recent years, both in Canterbury and in the rest of New Zealand. The number of temporary migrants decreased across New Zealand in the 2010 and 2011 tax years⁶ following the global economic crisis. However, they rebounded from the 2012 tax year (in Canterbury) and from 2013 elsewhere in the country with the beginning of the Canterbury rebuild and the economic recovery. The number of temporary migrants working in construction in Canterbury has accelerated over recent years, and the region accounted for 40 per cent of all temporary migrant construction workers in New Zealand in the 2014 tax year.

Figure 3.1 Temporary migrant trends in the construction industry, Canterbury and other regions, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

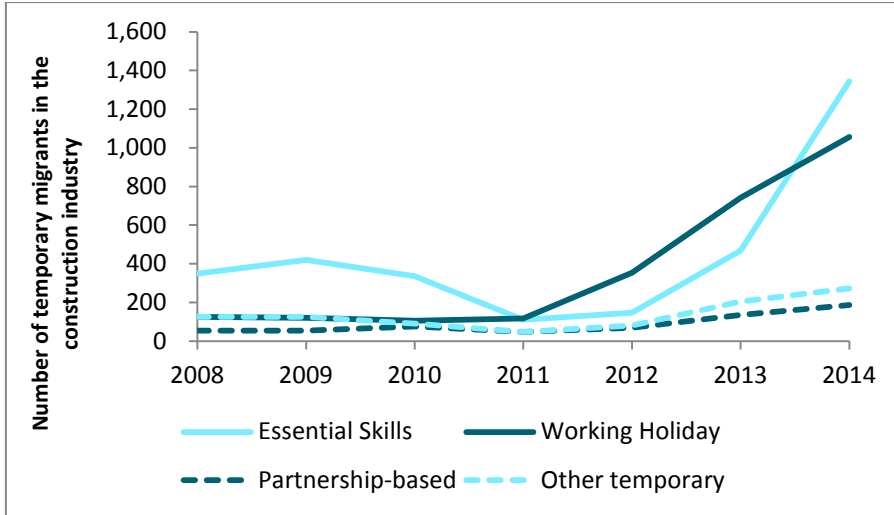
3.2.2 Type of temporary visa

While the Essential Skills visa is designed to fill specific skills shortages in the New Zealand labour market, many migrants are granted other temporary visas that also allow them to work in New Zealand. Figure 3.2 describes temporary migrant employment in the construction industry in Canterbury according to the type of visa issued. Historically, the largest category of migrants working in the industry is the Essential Skills Category. With the onset of the rebuild

⁶ Tax years run from 1 April to 31 March.

following the Canterbury earthquakes, however, the Working Holidaymaker Category was the first to respond with numbers of workers through the category increasing considerably in the 2012 and 2013 tax years. In 2013 and 2014, however, the number of Essential Skills workers also increased, overtaking the number of working holidaymakers in the latter year.

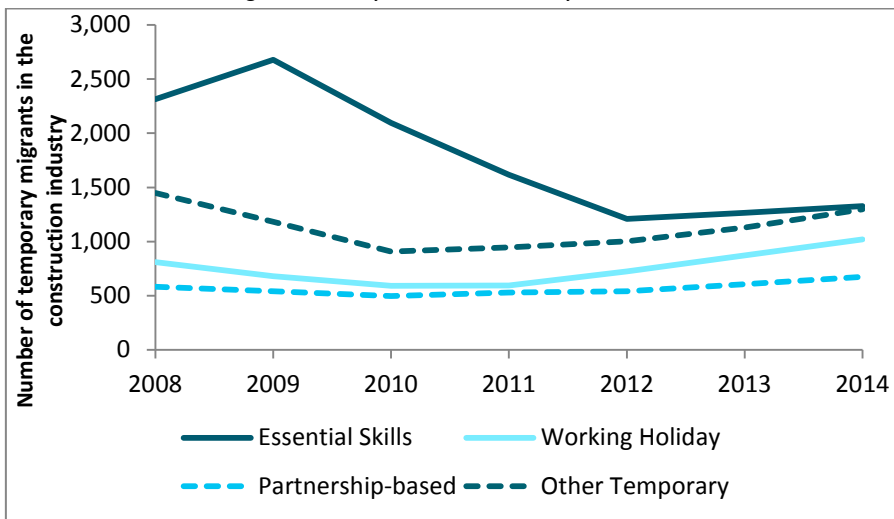
Figure 3.2 Temporary migrants in the construction industry in Canterbury by visa type and tax year, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

Figure 3.3 shows the trend in temporary migrant employment in construction for regions outside Canterbury. The impact of the global economic crisis is clearly evident, with a decrease in the number of construction workers from the 2010 tax year onwards, especially through the Essential Skills category. While the number of Essential Skills workers has declined, there have been gradual increases in construction workers using other visa categories over recent years.

Figure 3.3 Temporary migrants in the construction industry by visa type and tax year, all New Zealand excluding Canterbury, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

3.2.3 Source country

Migrants working in construction in the Canterbury region are drawn from a narrower range of countries than are migrants working in construction in the rest of New Zealand, as illustrated in Table 3.1. In 2014, almost two-thirds of migrants working in construction in Canterbury were from United Kingdom, Ireland or the Philippines compared with 42 per cent in other regions. There were considerably fewer Fijian migrants working in construction in Canterbury than elsewhere, and fewer from other countries such as China, India and Tonga.

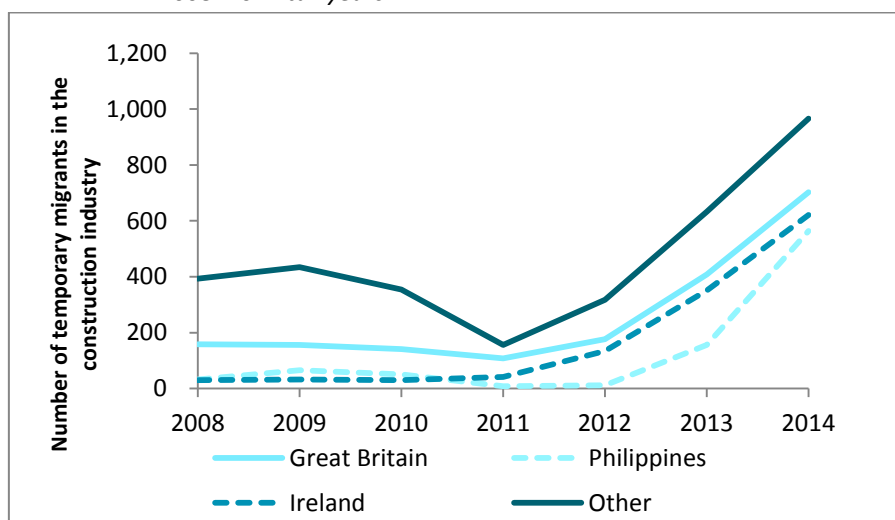
Table 3.1 *Migrants in the construction industry by source country, Canterbury and other regions, 2014 tax year*

Source country	Canterbury	Other regions
United Kingdom	24.6%	22.4%
Ireland	21.8%	9.9%
Philippines	19.8%	9.3%
Brazil	3.4%	2.9%
Germany	2.2%	2.4%
Fiji	2.0%	9.8%
Other	26.3%	43.2%
Total number	2,853	4,305

Source: Statistics New Zealand, Integrated Data Infrastructure.

Figure 3.4 highlights the development of the migrant construction workforce in Canterbury over time according to country of origin. The largest single source country continues to be United Kingdom and the number of British construction workers increased considerably between 2011 and 2014. However, increases in the number of workers from Ireland and the Philippines have been even more pronounced with Irish migrants increasing from 42 to 621 between 2011 and 2014 tax years, and Filipino migrants increasing from 12 to 564 over the even shorter period 2012 and 2014 tax years.

Figure 3.4 Migrants in the construction industry by country of origin and tax year, Canterbury region, 2008–2014 tax years



Source: Statistics New Zealand, Integrated Data Infrastructure.

3.3 Characteristics of Essential Skills workers in the construction industry

3.3.1 Introduction

This section looks at one particular group of temporary migrants, Essential Skills visa holders working in the construction industry. The total number of Essential Skills work visas approved for construction occupations increased from 2,309 in 2009 to 4,701 in 2014. As a proportion of all Essential Skills work visas approved over the 2009–2014 financial years construction occupations increased from 5 per cent to 15 per cent.

3.3.2 Definition of key terms

Essential Skills work category

The Essential Skills work category provides a temporary work visa for migrants with a job offer from a New Zealand employer. Essential Skills work visas are usually issued with a maximum duration of three years for higher skilled occupation or five years if the occupation is at the highest skill level with a base salary of at least \$55,000.⁷ Essential Skills work visas for lower-skilled occupations are granted for a maximum duration of one year.⁸

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

⁷ Five-year Essential Skills work visas can be obtained only once. On cessation, new applications may be applied for with a three-year maximum duration.

⁸ In May 2015 the Government agreed to extend the maximum duration of Essential Skills visas for lower-skilled occupations in Canterbury from one year to three years for applications received between July 2015 and December 2016.

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

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

Skill level classification

Immigration New Zealand uses the Australian and New Zealand Standard Classification of Occupations (ANZSCO) as part of the work visa application assessment. ANZSCO is a standard list of occupations providing general information about the skill level, tasks and duties and the level of qualifications and/or work experience generally required.⁹

ANZSCO assigns occupations with a skill level from 1 to 5 (1 being the highest skilled and 5 being the lowest). Generally, skill levels 1–3 are called higher skilled and receive a three-year work visa. Skill levels 4 and 5 are considered lower skilled and receive a one-year work visa. Workers at skill level 3 dominate the construction sector, and their outcomes are considerably different than those of skill level 1 and 2 workers. Therefore, throughout this report we refer to workers as high skilled (skill levels 1 and 2), medium skilled (skill level 3) and low skilled (skill levels 4 and 5).

All industries have a variety of occupations at various skill levels. In the construction industry, for example, there are lower-skilled occupations such as building labourers through to highest-skilled occupations such as construction project managers.

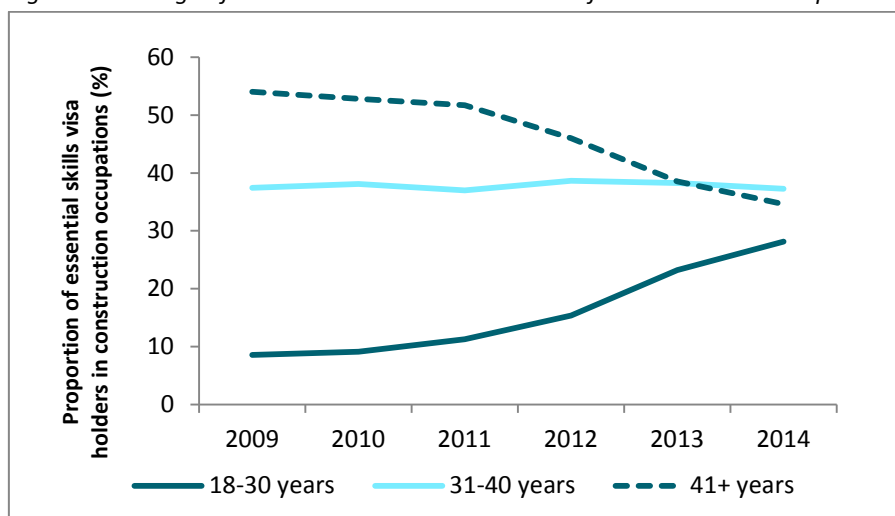
3.3.3 Gender and age

Figure 3.5 shows a substantial increase in Essential Skills workers aged 18–30 (from 9 per cent in 2009 to 28 per cent in 2014). On the other hand, the proportion of workers aged 41 and over has been decreasing.

Essential Skills construction workers were almost all men (98 per cent).

⁹ More information about ANZSCO can be found on the Australian Bureau of Statistics website (Australian Bureau of Statistics, 2013).

Figure 3.5 Age of Essential Skills work visa holders for construction occupations, 2008–2014 tax years



Source: Ministry of Business, Innovation and Employment (MBIE).

3.3.4 Country of origin

Table 3.2 shows some variance in source countries over time. In 2009, the top source countries were Fiji (22 per cent) and United Kingdom (16 per cent). In 2014, the top source countries were the Philippines (22 per cent), United Kingdom (20 per cent), Ireland (14 per cent) and Fiji (13 per cent). Over 2009–2014, Ireland had the greatest percentage increase (1,239%; from 49 to 656 visa recipients) followed by the Philippines (603 per cent; from 144 to 1,012 visa recipients).

Table 3.2 Source country by year, 2009–2014 tax years

Source country	2009	2010	2011	2012	2013	2014
Philippines	6%	6%	5%	5%	10%	22%
United Kingdom	16%	16%	17%	18%	19%	20%
Ireland	2%	3%	6%	10%	15%	14%
Fiji	22%	26%	27%	24%	18%	13%
ESANA ¹	10%	10%	9%	10%	10%	10%
South Africa	9%	9%	8%	7%	5%	4%
Brazil	5%	4%	4%	4%	4%	4%
China	3%	3%	4%	5%	4%	3%
Pacific	5%	5%	5%	4%	3%	2%
India	2%	2%	2%	2%	2%	2%
Other	19%	16%	13%	12%	10%	8%
Total number	2,309	2,790	2,524	2,327	2,999	4,701

Source: MBIE.

Note

1. ESANA usually covers the rest of Europe (excluding the United Kingdom and Ireland), South Africa and North America. In this case South Africa is excluded, because it is represented separately.

3.3.5 Occupations

A range of diverse occupations were included in our definition of construction occupations – these included occupations that were clearly construction related (for example, construction managers and structural steel construction workers) as well as those that cross a variety of industries. This is particularly the case with truck drivers. Although some truck drivers will be working in the construction industry, others will be involved in the road freight transport industry.

Table 3.3 shows the top occupations remain similar from 2009 to 2014 but with some variance. In 2009, the top occupations were carpenter and joiner (20 per cent), truck driver (16 per cent) and electrician (9 per cent). In 2014, the three top occupations were carpenter and joiner (25 per cent), painting trades worker (13 per cent) and truck driver (13 per cent). Painting trades workers in particular have increased substantially over this time period.

Table 3.3 Top occupations by year, 2009–2014 tax years

Occupation	Skill level	2009	2010	2011	2012	2013	2014
Carpenters and joiners	3	20%	19%	17%	17%	19%	25%
Painting trades workers	3	3%	4%	5%	5%	10%	13%
Truck drivers	4	16%	18%	22%	23%	18%	13%
Electricians	3	9%	9%	9%	8%	7%	6%
Plasterers	3	3%	3%	3%	4%	4%	5%
Bricklayers and stonemasons	3	4%	4%	4%	5%	5%	5%
Construction managers	1	4%	3%	4%	5%	5%	4%
Structural steel construction workers	4	4%	3%	3%	3%	4%	4%
Plumbers	3	5%	5%	5%	4%	4%	4%
Architectural, building and surveying technicians	2	4%	4%	4%	4%	4%	3%
Total number		2,309	2,790	2,524	2,327	2,999	4,701

Source: MBIE.

Table 3.4 shows that a greater proportion of those from the Philippines work as Carpenters and joiners or painting trades workers than those from United Kingdom or Ireland.

Table 3.4 Source country and occupation, 2014 tax year

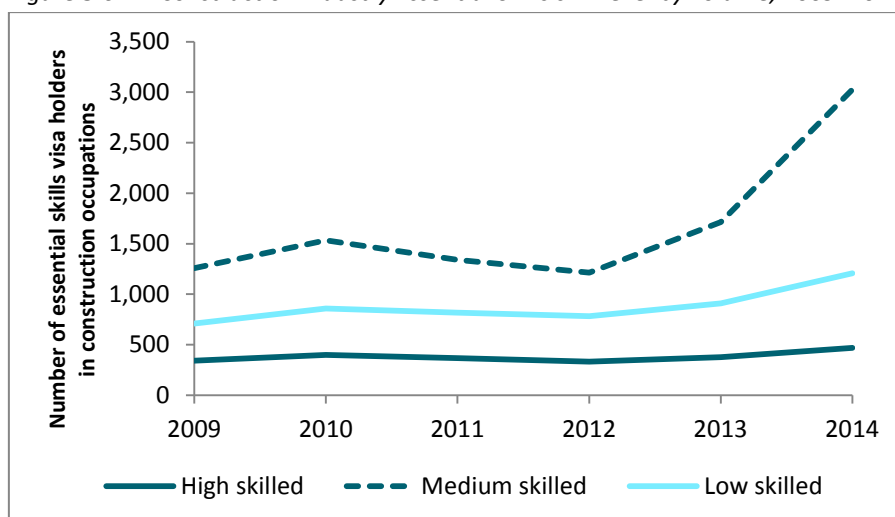
Source country	Carpenters and Joiners	Painting Trades Workers
Philippines	41%	22%
United Kingdom	24%	10%
Ireland	30%	10%
Total	25%	13%

Source: MBIE.

3.3.6 Skill level

Figure 3.6 shows the changing skill level of Essential Skills workers' occupations in the construction industry over time. While the proportions of low-skilled and high-skilled workers have increased since the 2009 tax year (by 70 per cent and 37 per cent respectively), most of the growth has been in medium-skilled jobs (largely trades-related occupations), which increased 141 per cent between 2009 and 2014. Almost two-thirds of Essential Skills construction workers were medium skilled by 2014, up from 54 per cent in 2009.

Figure 3.6 Construction industry Essential Skills skill level by volume, 2009–2014 tax years



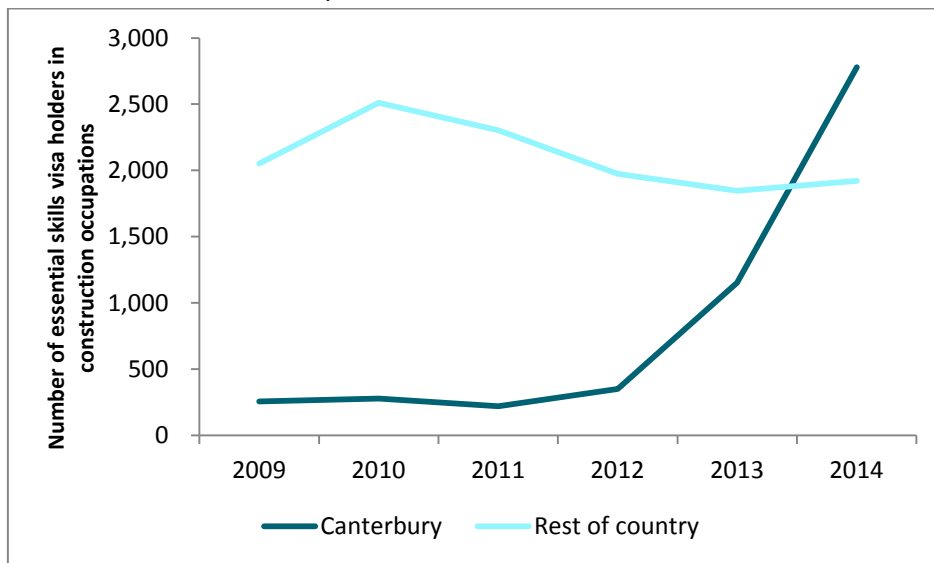
Source: MBIE.

A similarly high proportion of Essential Skill visa holders from the Philippines and Ireland were medium skilled (77 per cent and 73 per cent respectively), while those from United Kingdom were more likely to be in high-skilled jobs (15 per cent compared with 8 per cent and 3 per cent for Ireland and the Philippines respectively). Twenty per cent of Filipino and Irish construction workers were in low-skilled construction occupations compared with a quarter of Essential Skills construction workers from the United Kingdom.

3.3.7 Essential Skills workers in the Canterbury construction industry

As mentioned, the total number of Essential Skills work visas for construction occupations increased between 2009 and 2014. Figure 3.7 shows this increase has been driven by a large growth in Essential Skills workers in the Canterbury region (from 258 people in 2009 to 2,780 people in 2014).

Figure 3.7 Essential Skills work visas for construction occupations, Canterbury and rest of the country, 2009–2014 tax years

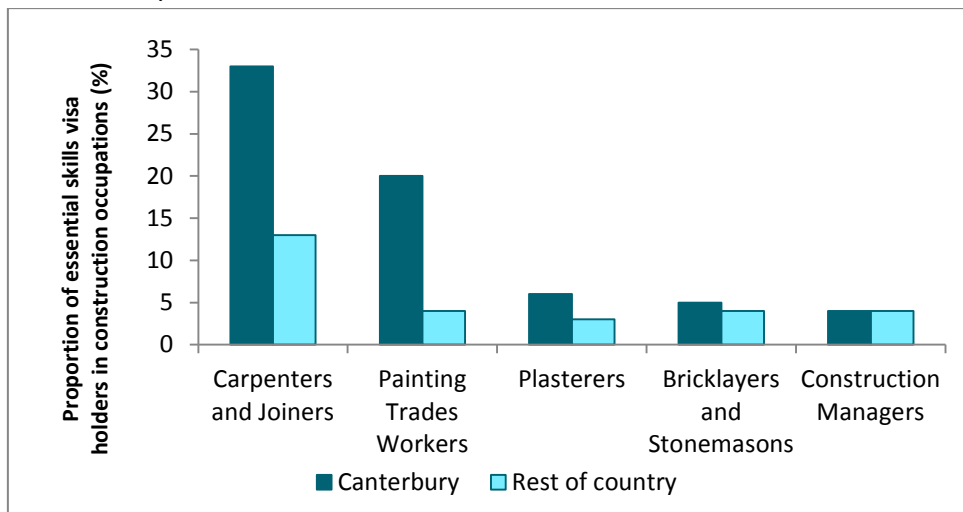


Source: MBIE.

In 2014, the majority (59 per cent) of those receiving Essential Skills work visas for construction occupations worked in Canterbury compared with 11 per cent in 2009.

Figure 3.8 shows that some top construction occupations such as Bricklayers and Stonemasons and Construction Managers occurred in similar proportions in Canterbury and across the rest of the country in 2014. However, Essential Skills workers working as carpenters and joiners account for 33 per cent of the total Canterbury Essential Skills construction workforce compared with 13 per cent in the rest of the country. Painting trades worker is the second top occupation in Canterbury making up 20 per cent of the Essential Skills construction workforce compared with 4 per cent in the rest of the country. Essential Skills workers working as truck drivers make up a quarter of construction occupations outside Canterbury. However, as stated earlier, not all of these truck drivers will be working in the construction industry.

Figure 3.8 Top construction occupations in Canterbury compared with the rest of country, 2014 tax year



Source: MBIE.

More Filipino Essential Skills construction workers are working in Canterbury than from other top source countries. They make up a third of all Essential Skills construction workers in Canterbury. In 2014, 88 per cent of Essential Skills construction workers from the Philippines were working in Canterbury compared with 74 per cent of those from Ireland and 64 per cent of those from United Kingdom.

In addition, Essential Skills workers in the construction industry in Canterbury are more likely to be medium skilled than Essential Skills construction workers in the rest of the country (75 per cent compared with 49 per cent). When looking at skill level by nationality, Filipino Essential Skills construction workers in Canterbury were more likely than Irish or UK workers to be medium skilled (85 per cent compared with 75 per cent and 69 per cent). On the other hand only 1 per cent of Filipino construction workers in Canterbury were in jobs classified as high skilled compared with 7 per cent of Irish workers and 12 per cent of workers from the United Kingdom. Fourteen per cent of Filipino workers and 19 per cent of Irish and UK Essential Skills workers in Canterbury were in jobs classified as low skilled.

Essential skills construction workers in Canterbury were more likely to be younger (30 per cent compared with 26 per cent were aged 18–30) than Essential Skills construction workers in the rest of the country.

3.4 Pathways of Essential Skills workers in the construction industry

3.4.1 Transition to residence

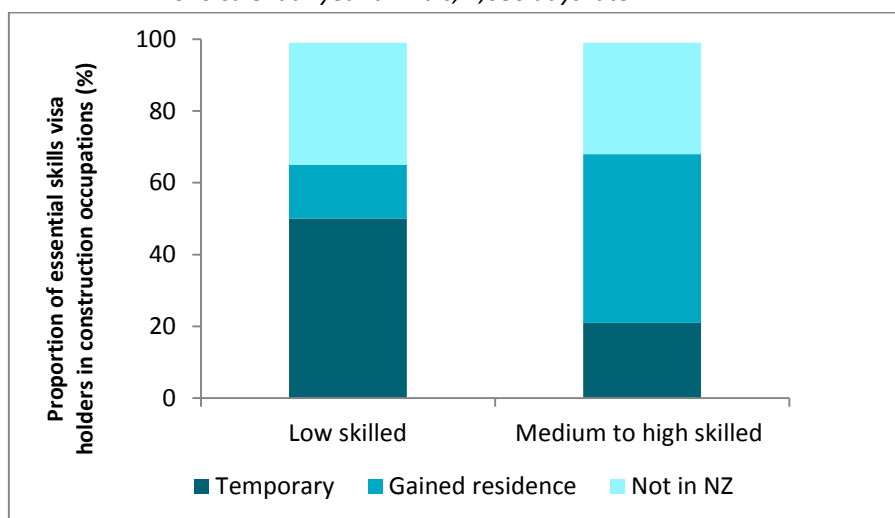
Data for 16,278 migrants receiving an Essential Skills work visa were analysed at a point in time three years after their first visa was granted.¹⁰ The following sections present the analysis of transitions to residence by skill level and occupation.

Of the 16,278 migrants, 1,333 were working in construction occupations. These migrants were as likely to be in high or medium skilled occupations compared with those working in other occupations (70 per cent compared with 74 per cent).

Figure 3.9 shows that medium-to high-skilled Essential Skills construction workers were much more likely to transition to residence than were low-skilled construction workers (47 per cent compared with 15 per cent). Both groups were similarly likely to leave New Zealand. Low-skilled workers were more likely to remain on a temporary visa (50 per cent) compared with medium- to high-skilled workers (21 per cent).

¹⁰ The point in time was entry during the 2008–2010 calendar years at 1,080 days (approximately three years) after visa approval. Trend data is analysed at 90-day intervals.

Figure 3.9 Visa transitions by skill level of Essential Skills construction workers visa holders, 2008 to 2010 calendar year arrivals, 1,080 days later



Source: MBIE.

3.4.2 Transition to higher skilled occupations

Skill level transition was analysed to know more about transitions from lower- to higher-skilled occupations. Low-skilled workers in the construction industry are less likely to transition to higher-skilled occupations than are those working in other industries. Twenty-three per cent of low-skilled workers across all industries had transitioned to a medium- to high-skilled occupation after three years compared with 10 per cent of those in the construction industry.

Low-skilled workers in the construction industry are also more likely to remain on low-skilled work visas than those in all industries (42 per cent compared with 23 per cent).

Industry transition was also analysed to know more about movements across industries. Within the construction industry, those working in medium- to high-skilled occupations are more likely to remain in that industry than are their lower-skilled counterparts (50 per cent compared with 40 per cent).

3.5 Labour market outcomes

3.5.1 Approach

We used the IDI to look at the average monthly income of Essential Skills workers between the 2008 and 2014 tax years. Data was incomplete for 2014, so has been excluded from this analysis. We then created income cut-offs in such a way that 20 per cent of Essential Skills migrants fell between each cut-off. These groups are known as quintiles. Table 3.5 shows the quintile cut-offs for each year, adjusted for inflation and reported in 2014 dollars.

In 2008, the 20 per cent of Essential Skills workers with the lowest monthly earnings earned less than \$2,324 per month while the 20 per cent with the highest earnings earned more than \$5,210. By 2014, the bottom 20 per cent were earning less than \$2,675 while the top 20 per cent earned more than \$5,303. None of the quintile cut-offs showed a very strong movement over time, although the bottom two quintile cut-offs showed a steadily increasing trend in most years and the largest increases overall across the period.

Table 3.5 Essential Skills workers income quintile cut-offs (inflation adjusted in 2014 dollars), 2008–2014 tax years

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

Source: Statistics New Zealand, Integrated Data Infrastructure.

Note

1. There is no cut-off for quintile 1, because all workers earning less than the quintile 2 cut-off fall into quintile 1. Workers earning between the quintile 2 and quintile 3 cut-offs fall into quintile 2, and so on. All workers earning more than the quintile 5 cut-off fall into quintile 5.

3.5.2 Income of workers in the construction industry over time

Because of the way the cut-offs were constructed, 20 per cent of all Essential Skills workers are in each income quintile. We can compare subgroups of Essential Skills workers with the overall group by seeing what proportion are in each quintile. The percentage of workers in the construction industry that falls into each quintile each year is reported in Table 3.6.

Table 3.6 Essential Skills construction workers in each Essential Skills income quintile by year, 2008–2014 tax years

Tax year	Quintile				
	1	2	3	4	5
2008	9%	13%	21%	37%	20%
2009	9%	12%	21%	35%	23%
2010	11%	12%	21%	33%	22%
2011	11%	14%	20%	33%	22%
2012	11%	16%	20%	30%	22%
2013	13%	15%	19%	29%	25%
2014	11%	16%	19%	30%	23%

Source: Statistics New Zealand, Integrated Data Infrastructure.

Table 3.6 shows that construction workers are more likely than the average Essential Skills worker to be in either of the top two income quintiles (that is, more than 20 per cent are in each of these quintiles). This is consistent with the industry largely employing skilled trades

workers who earn less than the skilled professionals employed in some industries, but more than the relatively unskilled workers employed in some others. Only around a quarter of construction workers were in the bottom two income quintiles. This had increased to 27 per cent by 2012, consistent with an increase in lower-skilled workers over this period, and has remained at a similar level.

Table 3.7 presents the same figures, but this time just for construction workers working in the Canterbury region. The patterns identified above tend to hold in Canterbury. However, the proportion of low-income (quintiles 1 and 2) workers has generally been lower than elsewhere in the country. The Canterbury construction industry is characterised by large numbers of relatively high earning migrants (quintile 4), and slightly fewer very high earners (quintile 5) than elsewhere in the country.

Table 3.7 Essential Skills construction workers in each Essential Skills income quintile in Canterbury by year, 2008–2014 tax years

Tax year	Quintile				
	1	2	3	4	5
2008	5%	7%	17%	45%	27%
2009	3%	6%	13%	36%	42%
2010	4%	9%	11%	38%	39%
2011	7%	17%	21%	45%	10%
2012	9%	16%	19%	44%	13%
2013	4%	6%	29%	43%	19%
2014	4%	10%	26%	45%	16%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.5.3 Skill level

Table 3.8 looks at whether skill level is an important predictor of earnings for Essential Skills construction workers (as would be expected). Skill levels are categorised as high, medium and low, where high skilled is defined as skill levels 1 and 2, medium skilled as skill level 3, and low skilled as skill levels 4 and 5.

As we would expect, construction workers in high-skilled occupations tend to be well paid compared with the average Essential Skills worker; almost half were paid in the top Essential Skills income quintile in the 2013 tax year. Around 15 per cent of high-skilled workers fall into the two lowest income quintiles, however. Very little difference exists between the incomes of low- and medium-skilled workers. In fact, low-skilled workers have slightly higher incomes than medium-skilled workers. The former includes jobs such as structural steel worker and truck driver, while the latter is largely made up of tradespeople such as painters, carpenters, electricians and plasterers (see Table 3.3 for other examples).

Table 3.8 Essential Skills construction workers in each Essential Skills income quintile, by skill level, 2014 tax year

Skill level	Quintile				
	1	2	3	4	5
Low	7%	9%	20%	47%	17%
Medium	8%	14%	25%	37%	16%
High	4%	11%	12%	25%	48%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.5.4 Country of origin

The income profile of Essential Skills workers in the construction industry and other industries are given in Table 3.9 for the four main source countries for construction workers. Consistent with the general pattern, construction workers from United Kingdom, Ireland and the Philippines tend to have high incomes relative to Essential Skills workers overall. Fijian workers have a wider income spread. However, around a third have earnings that place them in the second to top quintile. Few Fijian construction workers work in Canterbury. Almost half of Irish, British and Filipino construction workers have earnings in the second to top quintile, while around a third of British and Irish construction workers earn in the top quintile.

When compared with Essential Skills migrants from these countries working in other industries there are some clear differences. Filipino, Irish and Fijian construction workers are far more likely to earn in the top income quintiles than migrants from these countries working in other industries. While British construction workers are less likely to be in the bottom two income quintiles than other British migrant workers, they are also less likely to be in the top income quintile.

Table 3.9 Essential Skills workers in each Essential Skills income quintile, by source country and industry, 2014 tax year

Source country	Quintile				
	1	2	3	4	5
Construction industry					
United Kingdom	2%	6%	14%	45%	32%
Ireland	0%	8%	6%	47%	39%
Philippines	2%	9%	37%	43%	8%
Fiji	17%	19%	17%	33%	14%
Other industries					
United Kingdom	11%	11%	12%	21%	44%
Ireland	10%	12%	17%	31%	30%
Philippines	13%	24%	31%	26%	7%
Fiji	29%	26%	21%	18%	6%

Source: Statistics New Zealand, Integrated Data Infrastructure.

3.5.5 Time in New Zealand

A possible indicator of vulnerability is a persistent period on a temporary visa, especially if this is coupled with persistent low income. Table 3.10 breaks down Essential Skills visa holders according to whether they are recent (that is, having arrived in New Zealand in the last five years) or long term for both those working in the construction industry and those working in other industries.

There is very little difference between the income profiles of recent and long-term Essential Skills workers in the construction industry. However, those who have been in New Zealand for longer are somewhat less likely to be earning in the third income quintile (24 per cent compared with 15 per cent), and somewhat more likely to be earning in the higher quintiles. Long-term visa holders are slightly more likely to be earning in the lowest quintile, but this difference is not so marked as to suggest a particular risk of vulnerability among long-term visa holders. Across other industries recent visa holders are somewhat more likely to be high earners in the top income quintile, but there are few other differences.

Table 3.10 Essential Skills workers in each Essential Skills income quintile, by visa category and industry, 2013 tax year

Visa category and time in New Zealand	Quintiles				
	1	2	3	4	5
Construction industry					
Recent Essential Skills	8%	13%	24%	37%	19%
Long-term Essential Skills	9%	13%	15%	41%	23%
Other industries					
Recent Essential Skills	21%	21%	19%	17%	22%
Long-term Essential Skills	21%	20%	24%	22%	13%

Source: Statistics New Zealand, Integrated Data Infrastructure.

4 Nature and extent of temporary migrant worker vulnerability

Key findings

- Migrants have a lower accident compensation claim rate for workplace injuries than non-migrants working in similar construction occupations.
- Migrants working in the construction industry are very unlikely to be earning less than the minimum wage, and this proportion has declined over time. Those working in Canterbury may be less likely to be low paid than those working in Auckland. Nevertheless, some migrants in the sector were more likely than others to receive very low pay either through being paid less than the minimum wage or through not consistently working full-time hours, which could indicate vulnerability.
- Migrants employed by a firm operated by a migrant from the same country or a firm with fewer than five employees seem to be particularly at risk. There is also evidence that female migrants are at greater risk, despite making up only a small proportion of employees in the industry.
- The construction sector in Canterbury is increasingly reliant on migrant workers, and this situation is not likely to change in the next few years.
- Key informants were divided on the extent of exploitative practices in the construction sector in Canterbury – some felt exploitation was happening relatively frequently, others felt only a few migrants were affected by it.
- Migrants in the Canterbury construction industry were affected by a variety of exploitative practices. Most commonly mentioned were:
 - excessive amounts of money charged by recruitment agencies in the Philippines
 - contract substitution or situations where terms and conditions of a migrant’s contract were not met
 - situations where migrants were subjected to practices that were not in breach of minimum standards but were considered poor employment practices
 - situations where employers were not meeting minimum employment standards
 - concerns about the use of the 90-day trial when recruiting from overseas.
- Migrant workers hired by labour hire companies or small businesses were considered particularly vulnerable to exploitative practices.
- Migrants who are most vulnerable to exploitative practices in the Canterbury construction industry are migrants who do not speak English well, who come from countries where employment standards are not high, and who have financial commitments. In addition, migrants were considered to be vulnerable when their visa was tied to a specific job. Filipino workers were often mentioned as being a vulnerable group.

4.1 Introduction

This chapter draws on information from the 2013 Migrant Survey¹¹ and Integrated Data Infrastructure (IDI) and interviews with key informants.

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

4.2 Quantitative evidence on the extent of temporary migrant vulnerability

4.2.1 Employment conditions of migrant workers

While the number of respondents to the 2013 Migrant Survey who were working in the construction industry was not large,¹² some potentially indicative trends emerged. Migrants working in the construction industry were more likely to be on temporary visas than migrants working in other industries (83 per cent compared with 62 per cent). With respect to their employment rights, migrants in the construction industry were more likely to report not having a written employment agreement (12 per cent compared with 4 per cent) and were considerably more likely to be working on a trial period (74 per cent compared with 51 per cent). Migrants working in construction occupations were generally more likely to be satisfied with their work than were migrants working in other occupations. These results are based on small sample sizes, however, and the reported differences are not statistically significantly different. This means the differences could be due to random chance.

In addition, as earlier analysis has also shown, migrants working in construction were substantially more likely to be earning higher incomes than migrants in other occupations. About half earned \$20 an hour or more compared with a quarter of other migrants. This difference is statistically significant at the 1 per cent level, backing up the earlier results from the IDI.

4.2.2 Migrant workers and workplace injury

This section looks at the difference between the propensity of migrant¹³ and non-migrant workers in the construction industry to make a work-place injury related accident

¹¹ The Migrant Survey is an annual survey conducted on behalf of Immigration New Zealand to investigate the economic and social settlement of migrants. The Migrant Survey asks about a wide variety of experiences that migrants might encounter while settling in New Zealand. Of particular relevance to the present report are questions about employment status, industry of employment, terms of employment, pay rates and pay frequency, level of education, perceptions of employer fairness, and language proficiency.

¹² Out of 1,635 respondents who reported the industry in which they were employed, 107 reported working in construction.

¹³ Migrant workers are defined as people working for salaries and wages who are either in receipt of a temporary visa (either a work visa or student visa) or who were granted residence in New Zealand in the previous five years (they may have been in New Zealand longer than five years if they were in receipt of a temporary visa before being granted residence).

compensation claim. The likelihood of making a claim is viewed as one potential indicator of vulnerability in the labour market.

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

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

Table 4.1 breaks down the construction sector¹⁴ by sub-industry. As with the overall picture across all industries, migrants generally have a slightly lower claim rate than non-migrants have, although claim rates are almost identical in the building structure services and building installation services industries. Differences may relate to migrants working fewer hours or to a lower probability of migrants making a claim once injured. However, given the small proportion of international students and working holidaymakers working in construction, the latter may be a more plausible explanation. Alternatively, migrants may work for employers who have better health and safety practices, so be less likely to experience an injury.

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

Industry	Claims		Months worked		Claim rate*		Claim rate difference
	Non-migrant	Migrant	Non-migrant (000)	Migrant (000)	Non-migrant	Migrant	
Residential Building Construction	4,101	216	174.6	10.7	282	243	-39
Non-Residential Building Construction	1,500	123	96.9	9.9	186	150	-36
Heavy and Civil Engineering Construction	2,232	186	297.3	34.8	90	64	-26
Land Development and Site Preparation Services	1,347	54	87.1	3.8	186	170	-15
Building Structure Services	1,380	90	67.2	4.3	246	248	2
Building Installation Services	4,263	492	307.3	35.2	166	168	1
Building Completion Services	2,091	222	133.1	12.9	189	207	19
Other Construction Services	2,115	201	109.9	10.0	231	242	11
Total construction	19,029	1,584	1,273.5	121.5	179	156	-23
Total all industries	132,096	16,440	19,062.1	2,869.2	83	69	-14

Source: Statistics New Zealand, Integrated Data Infrastructure. * The claim rate is the number of claims per 1,000 years (12,000 months) worked.

¹⁴ The construction sector is defined as division E, Construction, in the Australian and New Zealand Standard Industrial Classification.

4.2.3 Low income and migrant workers

Essential Skills work visa requirements include a full-time job offer, where full time is considered to be 30 hours per week or more. If someone is earning less than 30 times the minimum hourly wage, then they are likely to be either being paid less than the legal minimum hourly wage¹⁵ or working fewer hours than required by the rules of the visa or both. As we do not have information on the number of hours worked each month (only taxable earnings), we cannot tell which of these is occurring, but it nevertheless provides a useful indicator of vulnerability. For the 2012 and 2013 tax years, around 2 per cent of Essential Skills workers in the construction industry were earning less than a 30-hour minimum wage per month (2.3 per cent and 2.1 per cent respectively). In the 2014 tax year, this proportion declined to 1.2 per cent. These are lower than the 3 per cent to 4 per cent figures for Essential Skills workers overall, indicating that problems of very low pay for migrant workers are less prevalent in construction than in many other industries.

To tease out the most important predictors of a worker earning less than the full-time minimum wage (as defined above), we ran statistical models¹⁶ using a variety of predictors – occupation, country of origin, region of employment, sex, age, time on visa, migrant status of employer, and the size of the employing firm. In the construction industry few of these variables were predictive of differences. However, there were exceptions. All reported differences were significant at least at the 5 per cent level. Those that were significant at the 5 per cent level are indicated with a single asterisk (*), while those significant at the 1 per cent level are indicated with two asterisks (**).

- Where the employer was also identifiable as a migrant and came from the same country as the employee, they were 6 percentage points (ppt)* more likely to earn less than the full-time minimum wage in 2012, 6 ppt** more likely in 2013 and 3 ppt** more likely in 2014 than where the employer was not identified as a migrant.
- Similarly, workers in firms with fewer than five employees were 4 ppt* more likely than those in firms with 50 or more employees to earn less than this threshold in 2012. Differences of 5 ppt* and 3 ppt** were observed in 2013 and 2014 respectively.
- In 2013 and 2014, being female was associated with a 14 ppt** and 8 ppt* respective increased likelihood of earning less than the full-time minimum wage compared with being male. In these years, younger people (aged 20–23) were also significantly more likely than those aged 26–30 to earn below the full-time minimum wage (by 2 ppt** and 1ppt* respectively).
- Construction workers in Canterbury were significantly less likely (by 2 ppt* in 2013 and 2 ppt** in 2014) to earn below the full-time minimum wage than those in Auckland.
- Other differences were significant in single years. Being on a visa for two years or longer was associated with a 3 ppt** difference in 2013, while in 2014 migrants from Brazil were 6 ppt* more likely than migrants from United Kingdom to earn less than the full-time minimum wage.

¹⁵ 'Minimum wage' relates to the minimum wage level for that year.

¹⁶ We ran logit models for each tax year (2012, 2013 and 2014), first with individual predictors and then with all predictors entered together. Marginal effects were calculated at means for ease of reporting and interpretation.

While these indicators were independently predictive of low earnings, models with all predictors included together showed few significant results. It is likely that many of the characteristics shown above are correlated with each other (for example, small firms may also be likely to be owned by migrants) and as a result each factor contributes little when all other predictors are included. Overall, the results suggest some factors may be predictive of migrant vulnerability in the construction industry. Workers who may be at risk of low wages or insufficient work hours to meet their immigration requirements include those working in small firms or working for another migrant employer from the same country and female workers. Workers in Canterbury seem to be at slightly lower risk than those in Auckland.

Occupation was not predictive of below full-time minimum wage employment in the construction industry, while country of origin and time on visa were significant in only one of the years analysed.

4.3 Interviews with key informants

4.3.1 Reliance on temporary migrant workers

The majority of key informants said the construction sector in Canterbury was very reliant on temporary migrant workers:

Extremely, there are no construction companies that are in a growth period that aren't hiring new migrants.

Business

However, several key informants also indicated that some parts of the construction sector were more reliant than others. The housing rebuild was seen to be particularly reliant on temporary migrants, especially the finishing trades and semi-skilled and lower-skilled positions (for example, painting and plastering). A couple of key informants also said temporary migrants were being used for the demolition work, including dangerous work involving asbestos:

They are being enticed to do that asbestos removal because nobody wants the job.

Other

4.3.2 Extent of exploitative practices

The majority of key informants thought temporary migrants in the construction industry were affected to some extent by exploitative practices. However, they were divided in their perspectives on how common these practices were. Around half of these key informants thought it was an uncommon occurrence:

A few migrants are affected by exploitative practices but it is not the majority.

Other

Others thought it was more common:

It's very hard to say ... a minority, but enough definitely to be a reasonably strong minority.

Government

It's extremely common ...

Government

A few said that they did not know the extent to which temporary migrants working in the construction industry were affected by exploitative practices:

Nobody really knows to be honest. We don't know what we don't know.

Government

4.3.3 Types of exploitative practices

Key informants were informed that exploitative practices included the failure of employers to meet minimum employment standards as set out in the legislation. This included paying less than the minimum wage and not paying for holidays. They were also informed that there may be other forms of exploitative practices, including preventing the person from leaving their employment or leaving New Zealand and debt bondage. When key informants were asked what types of exploitative practices they were aware of in the construction sector in Canterbury, they mentioned a wide range of practices.

Debt and financial commitments

The majority mentioned that situations putting migrants at risk of exploitative practices begin in their home country. Most frequently mentioned was the excessive amount of money charged by recruitment agencies in the Philippines – from \$8,000 to \$15,000. Most migrant workers go into debt to raise this money then come under pressure not only to repay the loan but also to support families in their home countries. One participant said it would take at least a year to pay back this amount of debt. Debt and financial commitments meant migrants could not afford to lose their job or walk away from exploitative situations.

However, it was not just recruiters in the Philippines who were making money by providing labour to the Christchurch rebuild – a couple of key informants mentioned local recruiters working in relationship with recruiters in the Philippines, each 'clipping the ticket'.

One participant also mentioned employees being bonded to employers to prevent them leaving for other employers:

It [the rebuild] also gives employees more job opportunities, so then we see these bonding arrangements crop up.

Government

Contract substitution

Around half of the key informants mentioned contract substitution or situations where the terms and conditions of a migrant's contract were not met. Several key informants mentioned that workers were receiving contracts in the Philippines that met New Zealand immigration legal requirements and then another one on arrival in New Zealand:

So they make the workers sign up a contract for the POEA [Philippines Overseas Employment Administration] and Immigration [New Zealand] on the understanding that when they get to New Zealand they are going to sign another contract that has all the deductions in it ...

Government

New contracts commonly included migrants being paid less than what was stipulated in their initial contract, working different hours to what had been agreed, or doing jobs they were not hired for:

We had one case come through where the client was provided with what initially seemed like a really good positive employment contract, fair rate of pay, and then

little by little was presented with another contract and another contract that reduced the level of pay and essentially bonded them to the employer.

Other

A couple mentioned that some migrants are being paid less than what was set out in the contract, because the migrants do not have the experience or skills they had indicated at the outset:

So they employ them on a pay rate but when they get to New Zealand they kind of go ... "You're not what we thought you were, so we are not going to pay you at that rate".

Other

Minimum employment standards not met

About a third of key informants also mentioned situations where employers were not meeting minimum standards set out in the *Employment Relations Act 2000* and *Holidays Act 2003*. This included paying less than the minimum wage, lacking employment contracts and miscalculating holiday pay:

There are things we don't want to have here ... and people being paid \$5 an hour or stuff like that or ... giving back cash to their employers ...

Business

\$26 was meant to be his hourly rate. What they did was they took 8 per cent off that and said, "well this is your hourly rate plus holiday pay so that makes it \$26, when in fact the agreement that he had very clearly stated was that his hourly rate was \$26 and that it should have been plus the holiday pay on top of that.

Other

Issues concerning the 90-day trial

A trial period is voluntary and must be agreed to by the employer and employee in writing as part of an employment agreement. For a specified and agreed number of days but no more than 90 calendar days, the employer can dismiss the employee without the employee being able to take a personal grievance for reasons of unjustified dismissal.

The use of the 90-day trial when recruiting from overseas was a significant concern for several key informants, especially where migrants had invested a lot of money to come to New Zealand:

[Talking about the 90-day clause] If you are recruiting immigrant labour from overseas we think there should be a higher level of standard around that bargain you made with them.

Other

In addition, several key informants said the 90-day trial was being abused in different ways. This included reclassifying the job to pay the migrant worker less than was initially agreed to and using the trial period as an easy way to dismiss migrant workers. This may be because the employer had not done their planning and forecasting to ensure the work was available or because the migrant had not met up to their expectations.

Poor employment practices

Around half of the key informants mentioned that migrant workers were being subjected to practices that were not in breach of minimum standards but were considered poor

employment practices. For example, a few key informants mentioned that migrant workers, in particular Filipino workers, were being paid less than other workers:

So one thing that we know and we're starting to understand is that, particularly Filipino workers, are paid \$4 to \$5 less than resident workers.

Other

Other practices included some employers expecting migrants to work long hours or to work public holidays or weekends when other workers were not willing to work.

Deductions and withholding of wages

Several key informants raised concerns about situations where migrant workers are paying back some of their wages to the employer or deductions are being made from their pay. In a couple of cases, migrants were told that the money was being withheld for a 'rainy day' or in case they were sick. In some cases, no reasons were given for the migrant having to pay back the money:

One of the cases we handled is, the company is paying them like, \$19 and when they get paid the owner would say, you have to return those \$4 back to me in cash, after they put it in the payroll, you give me back the \$4.

Other

One key informant mentioned situations where migrants are paying an employer for jobs, and another mentioned situations where an employer is charging migrants a fee if they want to leave their employment.

Health and safety concerns

Key informants were mixed about whether the health and safety of temporary migrant workers was a concern in the Canterbury construction industry with around half indicating that there were significant concerns. A few key informants mentioned that health and safety issues were particularly related to poor levels of English:

[A low level of] English is the biggest health and safety risk that New Zealanders can take.

Other

I don't consider a one-day OH&S [occupational health and safety] course to be conducive to the needs of someone who comes from an English as a second language background.

Government

Health and safety concerns were also related to different practices, in particular lower standards in the migrants' home countries.

A few key informants talked about poor practices related to migrants and asbestos removal, including the lack of protective gear. Where a worksite has significant hazards that could result in harm to an employee, the employer must provide suitable protective equipment and/or suitable personal protective clothing at no cost to the employee. However, one key informant mentioned that some employers are charging migrants for their health and safety gear.

However, some key informants mentioned that changes to health and safety and the formation of WorkSafe meant these issues were being taken seriously in workplaces. The Canterbury Safety Charter Steering Group and Safe Rebuild Champions were mentioned as working hard to increase the capacity of health and safety in the sector.

Other

Accommodation issues

The majority of key informants raised issues about accommodation for temporary migrant workers. Around half discussed situations where employers are renting houses to migrants often resulting in overcrowded conditions with several people sharing a bedroom, a lack of facilities (showers and toilets), and lounges and other rooms turned into makeshift bedrooms. Three to four people per bedroom was commonly mentioned. Several key informants also mentioned that some employers are taking the opportunity of the current rental market in Christchurch to make money by buying houses and renting them to their workers. A few said some employers make more money renting houses to migrants than from their core business:

Employers will place [migrant workers] in a house and the employers will set the rental ... somewhere between \$150 and \$250 ... and employers are getting a very quick return and a very large return. If you've got 10 people paying \$200 each a week that's \$2,000 a week coming in ...

Other

Several key informants talked generally about the substandard level of accommodation, overcrowding and high rents in Christchurch. However, it was also acknowledged that this was an issue facing others in Christchurch not just migrants. A few said migrants are willing to accept accommodation supplied by their employers despite unfavourable conditions, because of some of these difficulties in the housing market. In addition, some said that many migrants prefer communal living and that enables them to send more money home to their families. However, employer 'control' over accommodation was seen by a few to put migrants in an even more vulnerable position.

4.3.4 Impact on vulnerability of increased demand for workers in Canterbury

Most key informants said the high demand for workers in the construction industry Christchurch was a significant contributing factor to the exploitative practices that were emerging in the region. The high demand created the perception of a 'gold rush' in Canterbury with both employers and migrants taking advantage of the opportunities:

It allows businesses [that] wouldn't normally get contracts to actually get contracts ...

Government

In particular, key informants said the high demand for workers had resulted in the growth of labour hire companies and small businesses. They said that migrant workers employed by these businesses were more at risk of exploitative practices than migrants employed directly by the larger companies. However, key informants also mentioned that some migrants were taking advantage of the situation in Christchurch by moving on to self-employed contracts, which was in breach of their visa conditions if they were on an Essential Skills visa.

Growth of labour hire companies

One of the significant impacts of the increased demand for workers in Canterbury was the growth of labour hire companies. Because of low domestic unemployment, many of these labour hire companies are sourcing labour from overseas and are effectively the employer of these migrants. Where labour hire companies have workers on their register, the standard business model is to charge the business they are hired a premium per hour worked and only to pay the workers for the hours they work.

Migrants hired by labour hire companies were seen to be particularly vulnerable to exploitative practices. One of the main issues was around the lack of guaranteed work. Labour hire companies rely on a pool of workers who they place with an employer only for the period required. While under the Essential Skills Policy, employers must be able to demonstrate that they can pay the worker for a minimum of 30 hours of employment a week, key informants said this was not always happening when migrants were employed by labour hire companies. This then meant migrants were in breach of their visa conditions but also they were not earning the money they had expected to earn. Several key informants raised this as a concern:

They get here and they've got a full-time job but the nature of their job is that they only work when the agency can get them work, and if the agency can't get them work well ... they don't get paid.

Business

One government key informant indicated labour hire companies were filling a necessary niche in the Canterbury labour market, but the employment of temporary migrants by labour hire companies needed to be managed well and regulated:

Labour on hire business models fills a niche in the market and provides a service if it can be managed well. There is no regulation of that industry.

Government

Small businesses

Key informants said small employers – what one termed the ‘man in the van’ type of employer – had grown exponentially because of the rebuild and the demand for workers. Over half believed that migrants working for these employers were particularly vulnerable and at risk of exploitative practices. These small businesses often did not have the existing processes and system necessary when hiring staff. These included human resource systems and structures for employing people, but key informants also referred to insufficient financial resources to pay people in down periods (for example, when it rains and they cannot work).

Because they just don't have the resources in my view to be able to deal with it – and a lot of them are getting more workers than they have ever had in their lives.

Other

Self-employed contracts

Several key informants indicated that migrants are being enticed by offers of more money to move on to self-employed contracts, but the migrants have no understanding of the legal implications of this. Not only are self-employed migrants in breach of their Essential Skills visa conditions, but they are also then responsible for their own ACC levy, sick leave, taxes and so forth.

Filipinos don't understand what they're engaging in when they sign a subcontracting agreement, that they are responsible for their taxes, all they see is that its \$28 not \$22.

Business

4.3.5 Most vulnerable temporary migrants

When asked which groups of temporary migrants were most vulnerable to exploitative practices in the construction sector in Canterbury, the majority mentioned that migrants from the Philippines were particularly vulnerable. A few also mentioned South American workers, Asian migrants in general, and those on a work permit.

Several reasons were given as to why these groups were particularly vulnerable compared with other temporary migrant groups. Most commonly mentioned were factors relating to language, including that poor English resulted in migrants' lack of understanding and knowledge of their employment rights in New Zealand:

They don't know how to speak English and they are not aware of the law and don't know what their rights are.

Other

However, a couple of key informants also mentioned that this was not so much a language issue, but rather because migrants are coming from countries with different employment laws. Cultural factors were also raised by several key informants, including respect for and unwillingness to challenge authority:

Anyone with a position of power is in a place where they can tell you what and how to do things. And you do not question anyone who's in a position of power.

Government

Several respondents also mentioned that the money some migrants invest to come to work in New Zealand renders them very vulnerable:

A lot of them are too frightened to speak out because they are frightened they are going to lose their job, they're going to lose their visa, they are going to be sent back home ... A lot of them have invested a lot of money in the process.

Other

Another factor considered to put Essential Skills workers in a vulnerable position was the visa being tied to a specific job. This is expected to make it difficult for migrants to report or walk away from situations of exploitative practice:

With Essential Skills the visa clearly says they have to work at employer 'x'. So the employer can say he/she will send them home if they complain.

Other

5 Information sources and awareness of employment rights

Key findings

- Immigration New Zealand emails new visa holders approved for work in construction with information about living and working in New Zealand, working in construction and workers' rights in New Zealand.
- Most key informants considered that migrants are not well informed or aware of their employment rights. The main reasons include an inability to understand the information provided to them, a lack of accurate pre-departure information provided by agents, and low levels of interest in knowing what their rights are.
- Migrants tend to access information and assistance on issues relating to their employment rights through informal networks. These are primarily their church or community but also friends and colleagues.
- Large employers were thought to be well aware of their employment obligations towards their workers. This was generally not the case for small employers and subcontractors.
- Pre-departure seminars for migrants tailored to the New Zealand work environment were recommended by key informants as a way to improve information for migrants. In addition, it was suggested that information needs to be presented in a language and manner that is culturally appropriate, and that key contacts in migrant communities need to be a conduit for information on employment rights.
- Most key informants said temporary migrants working in the construction industry in Canterbury were reluctant to report exploitative practices because of cultural factors or fear of losing their jobs. Lack of information on what were exploitative practices and where to go for help was another significant reason.

5.1 Introduction

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

Immigration New Zealand emails new visa holders approved for work in construction with information about living and working in New Zealand, working in construction and employment rights information, which is available in 13 languages. Each week the tailored 'settlement emails' are sent to new migrants who have been approved for certain visas or who have arrived in the country for the first time on certain visas. One set of these emails is tailored to migrants working in the construction industry.

To determine new migrant visa holders who work in the construction industry, Immigration New Zealand examines the client's occupation as listed on their visa against a list of 65 construction-related occupations.

Immigration New Zealand also produces significant tailored information resources for migrants and for their employers. In 2013, it developed two settlement guides for migrant workers and their employers in the construction sector (Immigration New Zealand, 2013a, 2013b).¹⁷ The guide for migrant workers is available in English and Tagalog (which is the language spoken by most Filipino workers) and covers all aspects of living and working in New Zealand, including information on employment rights and about the construction workplace. The guide for employers was distributed to 6,500 construction-related workplaces when launched, and the Canterbury Employers' Chamber of Commerce distributes it to employers in Canterbury.

Immigration New Zealand's Settlement Unit funds the Canterbury Employers Chamber of Commerce to deliver workshops, seminars and one-on-one support for migrants working on the rebuild and for their employers. Some activities are dedicated specifically to Filipino workers and to their employers. In addition, and not only focused on the construction sector in Canterbury, the Settlement Unit is developing a guide for employers recruiting offshore workers from the Philippines.

5.2 Migrants' awareness of their employment rights

The majority of the key informants considered that temporary migrants were not well informed or aware of their employment rights. However, a few key informants indicated that some employers provide good inductions and information for their migrant workers.

Various reasons were given for migrants' lack of awareness of their employment rights. These reasons include the inability to understand information provided to them, the lack of accurate pre-departure information (particularly that provided by agents), and low levels of interest in knowing what their rights are.

Several mentioned that migrants have difficulties understanding the information given to them, including in their contracts. For example, one government participant said that some temporary migrants are being offered more money to become self-employed or set up as a subcontractor without understanding the implications of this:

They don't understand that they have to pay their own tax, their own ACC [accident compensation], and they're actually in breach of their visa.

Government

Lack of understanding may be due to low levels of English proficiency (and particularly English literacy), difficult legal terms or employment laws that differ to those in their home country:

Those [who] come from non-English speaking background ... it's harder for them to pick up ... written or verbal material about their rights.

Government

Several key informants commented that the information presented to migrants by foreign governments and immigration agents before arriving in New Zealand does not present an

¹⁷ The development of these guides was collaborative and drew significantly on Canterbury organisations and businesses for content. In addition to Immigration New Zealand and MBIE, the organisations involved were the Canterbury Earthquake Recovery Authority, the Industry Training Federation, the Building and Construction Industry Training Organisation, the Canterbury Development Corporation, the Canterbury Employers' Chamber of Commerce, the Construction Safety Council, and Victoria University of Wellington's Language in the Workplace Project.

accurate picture of working in New Zealand. In some cases, the information given, particularly by agents, raised unrealistic expectations about life or working in New Zealand.

Even the placement agencies in the Philippines they don't let them know that these are the costs that are going to come with that salary ...

Other

A few mentioned that migrants are not really interested in knowing about their employment rights until a problem arises. Migrant workers focus on getting a job, settling into a new country and sending money back to their home countries to support their families. One participant talked about migrants having "information overload" in the early stages of arriving in New Zealand. A couple also mentioned that migrants do not seek out information on their employment rights for fear of 'rocking the boat' or because of the vested interest they have in the job.

A few key informants said migrants need further support to be able to understand the written information available on employment rights. This may include presenting the information orally or having seminars where their rights are explained in their own language.

5.3 Sources of information and assistance

The majority of key informants said migrants tend to access information and assistance on issues related to employment rights through informal networks. These informal networks tend to primarily be their church or community, but several also mentioned that migrants will approach friends or colleagues for advice if they come up against difficulties. These friends or colleagues tended to be New Zealanders or people who had been in New Zealand a bit longer than themselves. A few key informants also mentioned that migrants mainly get information through their employer and that while some employers provide good information to their workers not all do:

But it takes a good employer to distribute that and to support it and sit down and explain it and I encourage all my employers to do that, but ... it just depends ...

Business

Several key informants said migrants did access information on their employment rights through more formal networks. This was predominantly through the Canterbury Employers' Chamber of Commerce and the Christchurch Migrant Centre. However, only a few key informants, mainly those from government agencies, mentioned the information produced by the New Zealand government. This included settlement information and guides provided by Immigration New Zealand, information provided by the Christchurch City Council and the Canterbury Employers' Chamber of Commerce, and an 0800 number for the Labour Contact Centre to report problems in the workplace. However, with respect to this information one participant stated:

We can pat ourselves on the back and say we give them all this stuff but how much they understand it and how useful it is, I'm not sure we know that.

Government

The Immigration New Zealand guides for migrants and employers working in the construction industry are available in Tagalog and include information on employment rights and responsibilities for both workers and employers. However, when asked, some key informants were unaware of these guides but said they would be very useful for workers and employers.

A few key informants mentioned that some migrants use the media as a forum for complaining about employment rights without thinking of the consequences of such action. A few also said that stories reported in the media also do not necessarily reflect the reality of the situation. A couple of key informants also said that lack of clarity around information and employment contracts can lead to misunderstandings between employers and employees with situations being incorrectly viewed as exploitative.

A few key informants from the 'Other' category said migrants simply do not know where to go for information and they are not sure they are aware of organisations such as Citizens Advice Bureaux or Community Law Centres.

A lot of them actually don't know and they just deal with it and they just look for another job until they find another.

Other

5.4 How well informed employers are about their rights and responsibilities

When asked about the extent to which employers in the construction sector in Canterbury were aware of their employment responsibilities, key informants said this varied depending on the employer. Some employers, particularly the large employers, were very aware of their employment responsibilities towards their workers. One business participant said that employment relations issues would damage the reputation of their business.

On the other hand, small employers and subcontractors were generally not well informed of their responsibilities towards their workers. This was because of both ignorance of employment law and the types of business model these employers operate under.

those cowboy start-up companies who have started running before they would walk and they are quite ignorant about those things ...

Other

I would think the labour and hire industry they're not as aware, because they have a business model that is completely different to what a normal employer runs, because they only outsource temp workers ...

Government

Around a third of key informants said information on employment rights and responsibilities was readily available for employers. Some said it was an employer's responsibility to understand the law and comply with it, and if they did not comply it was an issue of negligence rather than lack of information:

If you are in business the starting out point is to get everything right. You do all your due diligence before you go into business.

Government

The Christchurch Chamber of Commerce was a key source of information for employers. Community Law Centres, the Inland Revenue Department, ACC, industry associations and Immigration New Zealand were also mentioned as sources employers use to attain information on employment rights and obligations. In addition, nearly half of the key informants mentioned Immigration New Zealand-funded training and seminars held for employers. However, a couple of participant said that while the seminars are very good:

It's compliant employers [who] turn up for seminars. It's the ones that really need the information that don't go.

Government

5.5 How information could be improved

Around half of the key informants suggested that information on employment rights needs to be given to temporary migrants before their departure from their home country. This included providing migrants with a simple brochure when the visa is issued as well as offering seminars on life and work in New Zealand.

Brochures should include information about exploitation, basic information about employment rights, and information about where and who to go to for help. One participant said it was not sufficient to just hand these brochures to people, but there also needed to be some process of ensuring people understood the information. As mentioned previously, Immigration New Zealand produces significant resources, but from the interviews it is clear some key informants, particularly those not from government agencies, were unaware of these resources.

Several key informants also suggested it should be mandatory for migrants to attend a seminar on working and living in New Zealand before their departure from their home country. While the Philippines Overseas Authority runs seminars for all Filipinos going overseas to work, these seminars are not tailored to the New Zealand work environment. Pre-departure information seminars could be tailored and revised in accordance with migrant flows. For example, currently, seminars could target information relevant to Filipino migrants working in the Canterbury construction sector given the volume of visas being issued to these workers.

I'm arguing for pre-departure information to be tailored to the Christchurch market.

Business

In addition, several key informants suggested seminars should be run once migrant workers arrive in Christchurch. These seminars should cover all aspects of working and living in New Zealand and involve unions, community organisations and other relevant agencies. It was suggested it was important for relevant cultural organisations to also be present at these seminars to ensure information was being presented in a language and manner that was culturally appropriate. Note that the Canterbury Employers Chamber of Commerce is funded by Immigration New Zealand to deliver workshops, seminars and one-on-one support for migrants working on the rebuild and for their employers.

Other ways to improve information for migrant workers on their employment rights included using churches as a conduit for information and posting information on social media.

5.6 Why migrants are reluctant to report exploitative practices

The majority of key informants said temporary migrants working in the construction industry in Canterbury were reluctant to report situations of exploitative practices because of cultural factors or fear of losing their jobs. Cultural factors included respect for authority, which means people are unlikely to challenge someone who is their boss or in a position of authority over them:

Their culture was such that you don't question the supervisor. He's the supervisor so you have to do what he says.

Other

In addition, a few key informants mentioned that temporary migrants often come from countries where there is a lack of trust in government, resulting in fear of reporting incidents to government agencies:

Particularly for people coming through from the Philippines, there's a bit of reluctance to contact ... government agencies or unions because there's a level of corruptness over in those countries. So they don't know how safe it is for them [to contact the New Zealand Government].

Other

The other common reason given for migrants not reporting exploitative practices was the fear of losing their job. Because their visa is linked to the job, this means the potential loss of their visa and the risk of being sent home. A few key informants also mentioned that the policy that ties a visa to a specific employer also dissuades people from speaking out:

The desperation to keep the job is a big one, and the desperation to stay in New Zealand. And the thought process that "No job, no visa".

Government

Several key informants mentioned that lack of information was another significant reason for migrants not reporting exploitative situations. This included lack of information on immigration policy and employment rights, as well as about where to go for help. A couple of key informants mentioned that some migrants do not even know they are being subjected to exploitative practices either because what is considered exploitative in New Zealand is different to that in their home countries or they lack understanding of the legal framework around exploitation.

Other reasons for not reporting exploitative situations included the lack of English language skills, that some migrants have invested a lot of money to come to New Zealand, obligations to support families back at home, and that they may be complicit in the situation:

And there's no contract and he pays them 10, 11 bucks an hour, they're quite complicit because if he wasn't paying them, nobody would be [talking of illegal workers].

Government

6 Effective initiatives to mitigate temporary migrant vulnerability

Key findings

- A lot of effective Information, education and advice initiatives are under way, but more can still be done to mitigate migrant vulnerability.
- Better sharing of information and collaboration between government agencies, unions and non-government organisations is necessary.
- Several key informants positively mentioned the work of MBIE in the area of migrant exploitation, specifically the Labour Inspectorate. However, concerns were raised around the lack of resourcing for this work and the lack of visibility and awareness of the initiatives.
- A few key informants raised the need for more guidelines and codes of practice for employers in the area of migrant recruitment.

6.1 Introduction

Key informants were asked if they were aware of any current initiatives to prevent situations where temporary migrants were subject to exploitative practices in the construction industry in Canterbury and how effective these were. While some key informants talked about current initiatives, many answered this question by suggesting what they thought could be effective interventions to mitigate vulnerability and exploitative practices.

6.2 Information, education and advice

Initiatives coming under the category of information, education and advice were the most commonly mentioned effective interventions (mentioned by over half of key informants). Current or planned initiatives were wide ranging and included training and workshops for employers run by the Chamber of Commerce, the Christchurch City Council and MBIE. Other current initiatives included workshops for migrant workers, legal advice services, and information for migrant and community organisations. However, key informants also indicated that a lot more could be done in the area of information, education and advice – these suggestions have been covered in the previous section, which discusses how information could be improved.

6.3 Collaboration between agencies

Collaboration between agencies in Christchurch was the second most commonly mentioned effective intervention to deal with issues of exploitative practices. Collaborative initiatives included the Safe Rebuild Champions. Safe Rebuild is a health and safety training and development project bringing together a large variety of stakeholders involved in the Canterbury rebuild. Stakeholders include businesses, unions and government agencies. Other initiatives included a joint audit programme between Immigration New Zealand, the Labour Inspectorate and WorkSafe. However, a few key informants also mentioned that more could

be done in this area of collaboration between agencies. This included closer links between the Labour Inspectorate and unions, as well as better sharing of information.

But we have to get a lot smarter about sharing information [between Immigration New Zealand and the Labour Inspectorate]. Similarly Health and Safety, if they go out to a site and the employer is not in that really good health and safety space, they ought to be saying ...

Government

6.4 MBIE's work to reduce exploitation

Several key informants spoke positively about MBIE's work in the migrant exploitation area and the work of the Labour Inspectorate. One key informant mentioned the increase in the number of labour inspectors to investigate issues, stating:

I think this has been effective but they've got a huge job in front of them.

Other

Despite these positive comments, lack of resourcing for the Labour Inspectorate and Immigration New Zealand to investigate was considered to be a significant issue in dealing effectively with exploitative situations. About the labour inspectors, one participant stated:

Could probably double the number and they would still be busy.

Other

A few key informants also mentioned a lack of visibility and awareness of various MBIE initiatives to combat migrant exploitation. For example, only some key informants other than government agencies were aware of the employment rights information brochures for migrants and employers working in the construction industry. A couple of key informants also indicated the need for legislative change to allow for higher penalties for employers and for higher compliance thresholds.

6.5 Guidelines and standardised employment agreements

A few key informants raised the need for more guidelines and codes of practice for employers in the area of migrant recruitment. This included guidelines on best practice for recruiting migrant workers, employment charters and standardised employment agreements.

It would be fantastic if there were industry-wide agreements ... if you're in the construction industry there is a template agreement that should be used.

Other

6.6 Other suggestions

Key informants made a couple of other suggestions around potential interventions to mitigate vulnerability of temporary migrants working in the construction industry:

- a memorandum of understanding with the Filipino government covering fees and the recruitment of workers
- building relationships with non-government organisations and migrant communities who can provide support and advocacy for migrants who believe their rights are not being upheld.

7 Conclusion

7.1 Introduction

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

7.2 Characteristics of temporary migrants working in the Canterbury construction industry

7.2.1 Recent, rapid increase in the number of temporary migrants working in the construction industry in Canterbury

While historically the proportion of migrants working in the construction industry in New Zealand has been small (McLeod and Maré, 2013), the last few years have seen a rapid increase in the number of temporary migrants coming to work in construction-related occupations. This growth has been driven by the Canterbury rebuild, especially by migrants on Essential Skills and working holiday visas.

Working Holiday Schemes generally allow 18–30-year-olds to spend a maximum of 12 months¹⁸ in New Zealand undertaking work of a temporary nature during their visit, as well as study for up to three months. The work they undertake is generally temporary and of a short duration. The Canterbury rebuild may have attracted working holiday makers who either would not have otherwise come to New Zealand or would have worked in other industries.

7.2.2 Filipinos make up the largest group of Essential Skills construction workers in Canterbury

Essential Skills visas are designed to fill specific skills shortages in the New Zealand labour market. In 2014, construction-related occupations accounted for 15 per cent of all Essential Skills visa holders, an increase from 5 per cent in 2009 and over half of those are for construction jobs in Canterbury. Migrants from the Philippines account for the largest proportion of Essential Skills workers in the construction industry and numbers have risen rapidly over the last few years. Other top source countries are United Kingdom, Ireland and Fiji, although those from Fiji tend to work outside of Canterbury. The Canterbury construction industry is increasingly dominated by Filipino Essential Skills workers who make up a third of all Essential Skills construction workers in the region.

7.2.3 Filipino Essential Skills workers in the construction industry most likely in medium-skilled occupations

Only 14 per cent of Filipinos working in the Canterbury construction industry were classified as low skilled compared with a third of Filipino Essential Skills workers overall. In addition, Filipino Essential Skills construction workers in Canterbury were most likely to be in medium-skilled occupations. On the other hand, only 1 per cent of Filipino construction workers in Canterbury were high skilled compared with 12 per cent of British workers and 7 per cent of

¹⁸ Although the UK scheme allows up to 23 months.

Irish workers. The majority of Filipino Essential Skills workers were working as carpenters and joiners and painting and trades workers.

7.3 Nature and extent of vulnerability of temporary migrants working in the Canterbury construction industry

7.3.1 Essential Skills workers in the construction industry have high incomes relative to other Essential Skills workers

Construction workers from the UK, Ireland and the Philippines tend to have high incomes relative to Essential Skills workers overall. In addition, analysis of administrative and survey data shows that few Essential Skills workers in the construction industry are earning less than the minimum wage. Key informants also did not raise this as a significant concern for temporary migrants working in the Canterbury construction industry.

7.3.2 Some temporary migrants in the Canterbury construction industry are exploited

While it is very difficult to determine the extent of exploitative practices in the construction industry, survey data and interviews with key informants show that at least some migrants in the industry are not receiving their minimum employment rights. Survey data showed that migrants working in the construction industry were less likely to have a written employment agreement than were migrants in other occupations. The law requires every employee employed after 2000 to have a written employment agreement.

Key informants were divided on how extensive exploitative practices involving migrants were in the Canterbury construction industry, but most said that it was occurring to at least some extent. However, certain groups of migrants were considered to be more vulnerable to exploitative practices. These included migrants on Essential Skills visas and migrants from the Philippines.

7.3.3 Filipino migrant workers are particularly vulnerable to exploitative practices because of their significant financial commitments

Literature shows that some migrants are more vulnerable to exploitative practices in the workplace than others (Yuan, Cain and Spoonley, 2013). These are migrants who lack the ability to speak the local language, migrants who are lower skilled, and remittance workers from low-income source countries. In addition, Yuan, Cain and Spoonley (2013) indicate that the nature of the immigration visa can render a migrant vulnerable – especially where the visa is tied to a specific job or where there is no route to residence. When asked which groups of migrants were most vulnerable in the construction industry in Canterbury, key informants most commonly mentioned migrants from the Philippines. These migrants were seen to be particularly vulnerable because of language and cultural differences but because of their financial commitments.

Remittances are a critical source of foreign exchange in the Philippines, and the government actively encourages migrants to send money home. For example, the Overseas Workers Welfare Administration issues an identification card to all official workers that is also a Visa card that can be linked to dollar or peso-denominated savings accounts in a consortium of banks (O’Neil, 2004). However, in addition to the need to remit money, Filipino workers were also paying large sums of money to agents to obtain work in New Zealand. Most of the key

informants raised this as a significant issue for Filipino construction workers, mentioning sums of \$8,000 to \$15,000.

A Philippines Overseas Employment Administration circular released in December 2014 announced that New Zealand has become a 'no placement fee' country. This means licensed recruitment agencies are not allowed to charge recruitment or placement fees from workers deployed to New Zealand. This will provide a level of protection for Filipino workers coming to New Zealand in terms of the amount of debt they come with, but many will no doubt still be sending remittances to and supporting family members back in the Philippines.

7.3.4 Some migrants are not receiving the conditions and pay stated in their employment agreements

Migrants working in low-skilled and low-paid occupations have also been identified in the literature as being at risk of exploitative practices. Analysis of data on Essential Skills construction workers shows that as a group these migrants tend to be relatively well paid and high skilled compared with other essential skill workers. This analysis is reliant on tax data and formal employment contracts. However, it is possible that at least some migrants are not receiving the salary that has been indicated in their employment agreement. Contract substitution was commonly mentioned by key informants as a concern for Filipino Essential Skills workers in the Canterbury construction industry. In addition some Filipino workers appear to be paying back part of their wages to their employer or having deductions made from their pay. Key informants also mentioned that some migrant workers are being encouraged to go onto self-employed contracts. This affects leave and accident compensation entitlements, may put workers under the minimum wage, and may contravene their visa requirements.

7.3.5 Concerns around the use of the 90-day trial for Essential Skills migrants

A survey of migrants showed that those working in the construction industry were considerably more likely to be on a trial period than those working in other industries. The use of the 90-day trial when recruiting from overseas was a significant concern for several key informants, especially where the migrants had invested a lot of money to come to New Zealand. The use of a trial period is of particular concern where the migrant is on an Essential Skills visa. In this situation, their visa is tied to their job, so the loss of a job means the person has to find a new job, and thus apply for a new visa or variation of conditions. If they are unable to find a new job, they have to leave New Zealand¹⁹.

7.3.6 Migrants hired by labour hire companies and small employers are especially vulnerable to exploitative practices

Migrants hired by labour hire companies and small employers were seen to be particularly vulnerable to exploitative practices. One of the concerns raised by key informants was that these companies had grown exponentially due to the rebuild and did not have the processes and systems necessary when employing staff. Research by the Inland Revenue Department showed that after the earthquakes, the proportion of newly registered small and medium-sized enterprises in Canterbury increased dramatically (IRD, 2014, p 12). In addition, subcontractors and the smaller businesses or 'one-man-bands' were identified as potential

¹⁹ In May 2015 Cabinet agreed to provide for new Essential Skills visas in Canterbury to be issued with conditions permitting the migrant worker to work for any employer within the same occupation thus making it easier for them to leave exploitative employment situations.

perpetrators relating to Canterbury's 'hidden economy' (IRD, 2013, p29). This might be an indicator of poor business-practices more generally and supports our findings that these employers are more likely to use exploitative practices than larger organisations.

A Cabinet paper proposes the introduction of an accreditation scheme for companies recruiting and employing migrant workers for the rebuild²⁰. Companies would need to meet certain criteria to obtain formal accreditation from Immigration New Zealand to be able to recruit and employ migrant workers on Essential Skills visas. The accreditation scheme would initially be piloted with labour hire companies.

7.4 Information sources and awareness of employment rights

7.4.1 Migrants are not well informed or aware of their information rights

Immigration New Zealand's Settlement Unit produces significant resources for migrants and employers. In 2013, it developed two settlement guides for migrant workers and their employers in the construction sector. The guide for migrant workers is available in English and Tagalog and covers all aspects of living and working in New Zealand including information on employment rights. Tailored emails are also sent to visa holders employed in the construction sector.

Despite this the majority of key informants said migrants were not well informed or aware of their employment rights. Reasons for this included the inability of migrants to understand the information provided, the lack of accurate pre-departure information (in particular, that provided by agents) and low levels of interest in knowing their rights. In addition, only some key informants were aware of Immigration New Zealand's guides for migrants working in the construction sector.

7.4.2 Small employers and sub-contractors are not well informed of their employment obligations

Some employers, particularly the large employers, were considered to be well aware of their employment responsibilities towards their workers. On the other hand, small employers were generally not well informed of their responsibilities towards their workers. This was because of both ignorance of employment law and the type of business model these employers operate under. However, several key informants said a great deal of information was available to employers about employment law, and those employers who did not take the effort to inform themselves were being negligent.

7.4.3 Migrants are reluctant to report exploitative practices for fear of losing their jobs

Migrants were considered to be reluctant to report situations of exploitative practice because of cultural factors and fear of losing their jobs. Cultural factors included respect for authority, which means people are unlikely to challenge their boss. However, the other common reason was fear of losing their job. Because their visa was linked to the job, this also meant the potential loss of their visa and the risk of being sent home. In June 2013, MBIE implemented a policy designed to encourage victims of migrant exploitation to come forward and protect the immigration status of those migrants who had experienced exploitation. Migrants are being informed in pamphlets about exploitation that they may be eligible to remain in New Zealand

²⁰ In May 2015 Cabinet agreed to introduce an accreditation scheme for labour hire companies employing Essential Skills visa holders for work in the rebuild.

while their complaint is being looked at and resolved, even if they have been working without the right visa. This messaging needs to be reinforced, including that migrants who lose their job after reporting exploitative practices, will be able to look for another job.

7.5 Interventions to mitigate vulnerability and prevent exploitative practices in the Canterbury construction industry

7.5.1 Raising awareness of employment rights and obligations is a significant way to mitigate migrant vulnerability

MBIE has several significant incentives in place to educate, empower and incentivise migrant workers and their employers to act on their rights and obligations. This includes the guides developed by Immigration New Zealand's Settlement Unit but also a minimum employment rights and obligations campaign by Market Services Advice, Information and Education targeted at migrants and employers in the Canterbury Rebuild. When asked what were effective initiatives to mitigate migrant vulnerability and prevent exploitative practices, key informants most commonly mentioned initiatives that come under the category of information, education and advice.

7.5.2 Pre-departure seminars tailored to migrants working in the Canterbury construction industry recommended

However, key informants were also concerned that messages may not be reaching the people who needed to hear them – this included non-compliant employers as well as migrants. Migrants were, at times, receiving misleading information from agents before they left their home country or were so involved in the work of settling into a new job and country that they were not interested in knowing what their rights were. Pre-departure seminars for migrants tailored to the Canterbury construction industry were suggested as a way to ensure correct information is given to migrants before they arrive in New Zealand and to provide them with a forum to ask questions if there are things they do not understand. Providing migrants, particularly Filipino migrants, with accurate information on the cost of housing and living in Christchurch was considered particularly important.

Pre-departure training on employment and immigration rights and obligations began in August 2014 for New Zealand-bound Filipino workers. Immigration New Zealand officials in Manila worked with the Philippine Overseas Welfare Authority to formally train its staff and those from the Philippines Department of Labour and Employment. These staff are responsible for delivering pre-departure training for Filipinos who are about to travel to New Zealand for work.

7.5.3 Information on types of contracts and employment agreements

It is also suggested that information for migrants intending to work in the Canterbury construction industry includes information about different types of contracts and employment agreements. It appears that at least some migrants in the Canterbury construction industry are moving on to self-employed contracts without a clear understanding of what this means for them.

7.5.4 Migrant communities and churches are important conduits of government information on employment rights

The majority of key informants said migrants tend to access information and assistance related to employment rights through informal networks, primarily their church or community. Alongside this, it was suggested that key contacts within migrant communities should be an important conduit for government information and messaging about employment rights. These people may be leaders of migrant communities or those who take on significant social assistance roles within their communities. In addition, ethnic newspapers, community newsletters, church noticeboards and social media are important media for communicating messages to migrant communities.

7.5.5 Support for employers who are recruiting migrant workers

Migrants reported as being most at risk of exploitative practices were those working for labour hire or small companies. One of the reasons was that these companies have grown exponentially because of the rebuild and do not have adequate systems and processes in place. Support for these employers could help prevent some exploitative situations. Guidelines and codes of practice for employers in the area of migrant recruitment was one suggestion made by key informants. Immigration New Zealand is developing a guide for recruiting Filipino workers, which is expected to be launched in June 2015.

The Christchurch Chamber of Commerce is a significant source of information for employers. Nearly half of the key informants mentioned seminars and workshops available for employers. However, the point was made that it is only compliant employers who turn up to the seminars not those employers who are in need of the information. MBIE is working with the Accident Compensation Corporation to identify employers who are treating their migrant workers as self-employed rather than employees. This could be an avenue to identify those employers who are then encouraged to attend a workshop or seminar on how to recruit migrant workers.

7.5.6 Collaboration among agencies, unions and community organisations is a significant tool in combating exploitative practices

Several initiatives in Christchurch involve collaboration between different agencies. The Ministry's Canterbury Taskforce consists of representatives from Immigration New Zealand's Visa Services and Compliance Risk and Intelligence branches and the Labour Inspectorate. It also involves the Christchurch City Council (Environmental Health), the New Zealand Police and non-governmental agencies such as the Salvation Army as required. In addition, a joint audit process has been developed with the Labour Inspectorate, Immigration New Zealand and WorkSafe to undertake audits in workplaces considered to be a potential risk to vulnerable workers.

However, a few key informants mentioned that more could be done in this area of collaboration, particularly in terms of collaboration between the Labour Inspectorate, Immigration New Zealand and unions, but also better sharing of information (for example, between Immigration New Zealand and the Inland Revenue Department on non-compliant employers). Yuan, Cain and Spoonley (2014) state that a multi-pronged approach to programme development is recommended whereby migrant groups, union representatives, employer organisations and policy makers work together to develop suitable strategies for dealing with temporary migrant worker exploitation and vulnerability.

7.6 Conclusion

Essential Skills workers from the Philippines are the largest group of temporary migrants working in the Canterbury construction industry. Administrative data shows that these migrants, along with Essential Skills construction workers from United Kingdom and Ireland, have high incomes relative to Essential Skills workers in other industries. Data also show they are unlikely to be receiving less than the minimum wage.

However, interviews with key informants showed that some temporary migrants are experiencing exploitative work situations. Filipino workers were paying considerable sums of money to agents to obtain work in New Zealand. There were also situations of contract substitution or where minimum rights were not being met. In addition, concerns were raised about the use of the 90-day trial for workers from overseas. Migrants working for small businesses and labour hire companies were considered most at risk.

A variety of initiatives to contribute to protecting vulnerable migrant workers in the Canterbury construction industry are in place or being planned. These include strengthening the enforcement of employment standards, prosecutions of defaulting employers, publishing a guide for New Zealand employers recruiting workers from the Philippines and facilitating a good corporate citizen and employers' charter detailing best practice. In addition, New Zealand is now a 'no placement fee' country. It will be important to continue to monitor the situation to ensure these initiatives work as intended and that the continued demand for migrant workers in the Canterbury rebuild does not result in further exploitative situations.

Appendices

Appendix 1: Methodology

Introduction

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

The pathways analysis used the AMS data set to track Essential Skills migrants from entry through to three years²¹ following entry. Individuals were selected where the Essential Skills visa was their first non-visitor visa and where first entry was during the 2008–2010 calendar years. First entry was defined as the first day that the migrant was in the country on that visa (even if the individual was already in New Zealand on a visitor's visa).

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

Data sets

Application Management System

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

Integrated Data Infrastructure

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

Migrant Survey

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

²¹ Three years is 1,080 days.

International Student Expenditure Survey

The International Student Expenditure Survey gauges the financial behaviour of foreign students studying in New Zealand. The survey was in the field in 2013 and gathered data on employment, including industry, pay rate, and conditions.

Appendix 2: Construction-related occupations

The following occupations are considered to be construction-related:

- Airconditioning and mechanical services plumber
- Airconditioning and refrigeration mechanic
- Architectural drafts person
- Architectural, building and surveying technicians Not elsewhere classified
- Backhoe operator
- Bricklayer
- Builder's labourer
- Building associate
- Building inspector
- Building insulation installer
- Carpenter
- Carpenter and joiner
- Civil engineering technician
- Clay products machine operator
- Clay, concrete, glass and stone Processing machine operators not elsewhere classified
- Concrete products machine operator
- Concrete pump operator
- Concreter
- Construction estimator
- Construction project manager
- Construction rigger
- Crane, hoist or lift operator
- Drainage, sewerage and stormwater labourer
- Drainer (Australia) / drainlayer (New Zealand)
- Earthmoving labourer
- Earthmoving plant operator (General)
- Electrical engineering technician
- Electrician (general)
- Electrician (special class)
- Electronic engineering technician
- Excavator operator
- Fencer
- Fibrous plasterer
- Floor finisher
- Forklift driver
- Gasfitter
- Glass production machine operator
- Glazier
- Grader operator
- Home improvement installer
- Joiner
- Lift mechanic
- Loader operator
- Mechanical engineering technician
- Painting trades worker
- Paving and surfacing labourer
- Plumber (general)
- Plumber's assistant
- Plumbing inspector
- Project builder
- Roof plumber
- Roof tiler
- Scaffolder
- Solid plasterer
- Steel fixer
- Stone processing machine operator
- Stonemason
- Structural steel erector
- Surveying or spatial science technician
- Surveyor's assistant
- Truck driver (General)
- Wall and floor Tiler
- Wood machinist

Appendix 3: Interview questions

1. Overarching questions:

- What are key informants' perceptions of the nature and extent of temporary migrant worker vulnerability in the construction industry in Canterbury?

- What are key informants' perceptions on how the situation in post-earthquake Canterbury contributes to the vulnerability and exploitation of temporary migrants in the construction industry?

Reliance on temporary workers

1. How reliant is the construction industry in Canterbury on temporary migrant workers?
2. Which particular sectors within the Canterbury construction industry are more reliant on temporary migrants than others?
3. What is the impact of this on employment practices?

Exploitative practices (who, why, where?)

4. To what extent are temporary migrants in the Canterbury construction industry affected by exploitative practices?
5. If interviewee thinks there is an issue:
 - a. Why might that be the case?
6. Which temporary migrant groups do you think are most vulnerable to exploitative practices in the construction industry in Canterbury?
7. What are some of the reasons for why those groups are more likely to be affected by exploitative practices?
8. In which sectors of the construction industry in Canterbury are exploitative practices most likely to occur?
 - a. Why might that be the case?
9. What types of exploitative practices are you aware of in these sectors?
 - a. Is Health & Safety a particular concern for temporary migrant workers?
10. How common are they?
11. How does this compare for other workers, for example, permanent residents or New Zealanders?

Impact of increased demand

12. To what extent does the high demand for construction workers in Canterbury contribute to exploitative practices? Can you please explain?
13. From your perspective is this also an issue in Auckland or other regions? Can you please explain?
14. What issues have temporary migrants faced when trying to find suitable accommodation?

Employment arrangements, recruitment practices, employers

15. What are the most common types of employment arrangements used for temporary migrants in the construction industry in Canterbury (eg casual contracts, temporary fixed-term contracts)?

16. How do the different types of employment arrangements impact on the vulnerability of migrants in the construction sector in Canterbury?
17. What are the main ways of recruiting temporary migrant workers in the construction industry in Canterbury?
18. Have recruitment practices changed to meet the high labour demand?
19. If yes:
 - a. In what ways?
 - b. How has this impacted on exploitative practices?
20. Are there particular employers who are more likely to use exploitative practices in relation to migrants than other employers?
21. If yes: Why might that be the case?

2. Overarching question: What are key informants' perceptions on temporary migrants' sources of information and assistance in the construction industry and specifically in the Canterbury region?

1. To what extent are temporary migrants aware of their employment rights?
2. Where do they get this information?
3. Where do they go for help if they feel that their employment rights are not being met?
4. What might be some of the reasons why some temporary migrants have difficulties getting the information they need?
5. How could this be improved?
6. Why might some temporary migrants be reluctant to report exploitative practices?
7. What could be done to support temporary migrants to report exploitative practices?
8. To what extent are employers in the construction sector in Canterbury aware of their employment responsibilities?
9. Where do they get their information about minimum employment standards?
10. Is there any training offered to employers on recruiting and working with temporary migrants?

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

1. Does your organisation have any initiatives in place to help prevent the exploitation of temporary migrants or to help migrants experiencing exploitative practices in the construction industry in Canterbury?
 - a. How well are these initiatives working?
 - b. What made them effective?
 - c. What are your lessons learnt?
2. Do you have any initiatives planned?
3. Are you aware of Government initiatives to reduce migrant exploitation in the construction sector in Canterbury?
 - a. What are these?
 - b. How do you think these initiatives are working?
 - c. What could be improved?

4. In your view what are the responsibilities for the Government, NGOs, and the business sector in the prevention of exploitative practices?
5. Could anything else be done to reduce or prevent exploitation of temporary migrants?

4. Overarching question: What are some best methods of accessing temporary migrants and employers in the construction industry in Canterbury?

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

Appendix 4: Informed consent sheet



Ministry of Business, Innovation & Employment

Temporary Migrants working in the construction industry in Canterbury: A research study

The Ministry of Business, Innovation and Employment (MBIE) is conducting research in the hospitality industry in New Zealand and the construction industry in Canterbury to understand the nature and extent of exploitative practices of temporary migrants. Temporary migrants are in New Zealand on temporary work visas, including students and working holiday makers.

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

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

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

Tick the boxes you agree with below:

- I have read or had explained to me the contents of this information sheet and I understand my rights as a participant in the study.
- I agree to take part in the interview for the research on temporary migrants working in the construction industry in Canterbury.
- I agree for the interview to be recorded.
- I agree for my anonymised quotes to be used in the report.

I would like to receive a summary of the final report after it is completed.

My name:

My signature:

My Email Address: (If you would like to receive a summary of the final report, this is where we will send it)

Date:

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