



Labour migration policies  
Case study series  
**Canada**



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- **Amanda Aziz**, Lawyer with the [Migrant Workers Centre](#) (MWC)

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This case study is part of a [series of summaries](#)<sup>1</sup> by PICUM of specific national labour migration and work permit policies. While each case study focuses on a particular country, they are not comprehensive overviews of all the work permits available in the country. We focus on analysing the particular policies and pathways that are the most relevant across skills and sectors of employment.

This case study includes a non-exhaustive overview of the Canadian labour migration policy system and examines the following aspects<sup>2</sup> as of June 2023:

- 1. General overview of the labour migration system in Canada**
- 2. Open work permit for vulnerable workers (OWP-V)**
- 3. Home Child Care Provider Pilot and Home Support Worker Pilot**

We also consider, in particular, where policies include some of the essential characteristics of successful labour migration and work permit policies, as set out in PICUM's 2021 [Policy recommendations, Designing labour migration policies to promote decent work](#).<sup>3</sup>

After describing key aspects related to eligibility, the application process and permit granted under each pathway and the complementary labour market policies, we include a table comparing these aspects to our [policy recommendations and related indicators](#).

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1 For the other case studies part of this series, please see: PICUM, 2022, Labour migration policies. Case study series [Germany](#); [Finland](#); [Ireland](#); [Portugal](#) and [Poland](#).

2 For a comprehensive overview of the work permits in Canada, please see: Government of Canada, [Get a work permit](#) [accessed June 2023]. For a more detailed analysis of the different groups of temporary migrant workers in Canada, and the evolution of the country's labour migration policies, please see: Akbar, M., 2022, [Who are Canada's temporary foreign workers? Policy evolution and a pandemic reality](#); Akbar, M., 2022, [Temporariness and the production of policy categories in Canada](#) and Elgersma, S., 2014, [Temporary Foreign workers](#).

3 For the full report, please see PICUM, 2021, [Designing labour migration policies to promote decent work](#).

# General overview of the labour migration system in Canada

Canada's migration system is frequently praised for its extensive pathways to permanent residency and integration measures.<sup>4</sup> However, in the past twenty years, this trend has shifted towards more temporary labour migration schemes. Since 2007, the number of temporary workers has significantly increased and surpassed those admitted for permanent residency.<sup>5</sup>

In 2014, the Canadian government reformed its former Non-Immigrant Authorization Program (NIEAP), in order to prioritize it as a measure for filling job vacancies with temporary migrant

workers when qualified Canadians and long-term residents are unavailable.<sup>6</sup> The reformed program was restructured into two streams with distinct characteristics: the International Mobility Program (IMP) and the Temporary Foreign Worker Program (TFWP). The Canadian labour migration system makes a clear distinction between the temporary foreign workers under these two programmes in relation to labour mobility, family reunification and access to permanent residency and citizenship.<sup>7</sup>

## International Mobility Program

The International Mobility Program (IMP), encompasses all of Canada's international labour mobility initiatives that are not a part of the Temporary Foreign Worker Program. No labour market test, referred to as labour market impact assessment (LMIA),<sup>8</sup> is required. Under the IMP, many workers can access open work permits,<sup>9</sup> which allow people to have full access to the labour market, work for more than one employer, and to change employers,

occupations, locations, and sectors freely. The IMP also encompasses employer-specific permits that are LMIA exempted.<sup>10</sup> Workers under the IMP can renew their permits and many have the possibility to access permanent residence. Their family members' capacity to live and work in Canada is also facilitated by access to open work permits and study permits.

4 OECD, 2019, [Canada has the most comprehensive and elaborate migration system, but some challenges remain](#).

5 Akbar, M., 2022, [Who are Canada's temporary foreign workers? Policy evolution and a pandemic reality](#), p. 48-50.

6 Government of Canada, [Archived - Overhauling the Temporary Foreign Worker Program](#) [accessed June 2023].

7 Akbar, M., 2022, [Who are Canada's temporary foreign workers? Policy evolution and a pandemic reality](#), p. 48-50. Since 2023 differences in terms of family reunification became less pronounced as the Canadian government introduced new measures on accompanying family permits. See: [Government of Canada, Employers and temporary workers to benefit from family work permits to address labour shortages](#) [accessed June 2023].

8 Government of Canada, [Hire a skilled worker to support their permanent residency – Program requirements](#) [accessed June 2023].

9 The open work permit programme relies on some underlying application, agreement or relationship. Most of the people who are able to access an open work permit under the IMP are spouses of people with an employer-specific permit, are in Canada under youth mobility and post-graduate schemes, or have applied for permanent residency. See Government of Canada, [Open work permit – General processing and issuance – International Mobility Program](#) [accessed June 2023].

10 For a complete list of employer-specific permits under the IMP, please see: Government of Canada, [Employer-specific work permits – General processing – International Mobility Program](#) [accessed June 2023].

The IMP includes several streams, encompassing various sectors and industries, mostly including occupations referred to as 'high-skilled'.<sup>11</sup> The

government's department overseeing the IMP is the Immigration, Refugees, Citizenship Canada (IRCC).

## Temporary Foreign Worker Program

In contrast, the work permits under the Temporary Foreign Worker Program (TFWP) are restricted work authorisations. They are mostly employer-specific, where workers can only work for the employer, and in the occupation and location, stated in their work permit. Employers need to secure a LMIA and pay a 1,000 Canadian dollar fee (about 680€) before hiring a foreign worker. Employers do not get a refund if the LMIA is not positive.

Employer-specific permits retain their validity in cases where the employment listed is terminated; the permit does not become invalidated by loss of employment. However, the permit holder is not able to work for any other employer. In order to change employers, workers on employer-specific permits need to apply for another work permit, and the new employer needs to get a new LMIA, which can take up to six weeks, in addition to the work permit processing time (3-12 weeks).<sup>12</sup>

Seasonal Agricultural Worker Programme (SAWP) permits are occupation-specific; workers can theoretically change employers, for work in the same

occupation, as long as the new employer is under the SAWP.<sup>13</sup> However, this is extremely difficult to do in practice.

These restrictions on labour mobility place workers in a situation of high dependency on employers, often characterised by labour exploitation. This also pushes people into irregular residence and undeclared work, with few possibilities to re-enter the labour market and regularise. Workers have difficulties leaving their job and finding another employer, in particular, as the administrative procedures, and high costs of the LMIA, dissuade employers from hiring migrant workers.

Further, the majority of workers in low-wage streams under the TFWP do not have a pathway to permanent residency, regardless of the amount of time they have lived and worked in Canada.<sup>14</sup>

TFWP is administered by two government departments, IRCC and Employment and Social Development Canada (ESDC). The latter is responsible for issuing the LMIA.

11 Akbar, 2022, [Who are Canada's temporary foreign workers? Policy evolution and a pandemic reality](#), p. 51.

12 The processing time of the LMIA varies depending on the stream. As of May 2023, the fastest processing time is 8 days for the SAWP and 49 days for the low wage stream, but can in practice often be much longer. Government of Canada, [Labour Market Impact Assessment application processing times](#).

13 Government of Canada, [Agricultural workers – Work temporarily in Canada](#), [accessed June 2023].

14 Aziz A., 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p.33-36.

The table below summarises the main differences between the two programs.

International Mobility Program (IMP)	Temporary Foreign Worker Program (TFWP)
Labour market test (LMIA) exempted	All streams subject to a labour market test (LMIA)
Overseen by Immigration, Refugees and Citizenship Canada (IRCC)	Overseen by two government departments: Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC)
Mostly 'high-wage' occupations	Both workers in 'low-wage' occupations, (especially in agriculture and care work) and high-wage workers admitted with employer-specific work permits <sup>15</sup>
Employer-specific permits that are LMIA exempted, as well as open work permits that allow workers to work for any employer and have full access to the labour market	Mostly employer-specific permits, where workers cannot change employer, occupation, sector or location

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<sup>15</sup> Lu Y. and Hou F., 2019, [Temporary Foreign Workers in the Canadian Labour Force: Open Versus Employer-specific Work Permits](#).

# Open work permit for vulnerable workers (OWP-V) who experience abuse

In Canada, migrant workers with an employer-specific work permit who have experienced abuse or are at risk of abuse in the workplace can apply for an open work permit for vulnerable workers, hereafter referred to as OWP-V.<sup>16</sup> Seasonal agricultural workers with occupation-specific work permits under the SAWP are also eligible. This legislation came into effect in June 2019.

The OWP-V is a temporary work and residence permit which aims to enable workers to leave the abusive situation with their employer. It further aims to reduce the risk of migrant workers engaging in unauthorised work (i.e., which is not permitted by their work permits) and facing the risk of immigration enforcement. During the validity of this permit, workers have full access to the labour market while they find a new job.<sup>17</sup> This permit is not restricted to any nationality.<sup>18</sup>

In order to be eligible to apply, workers need to have a valid employer-specific or SAWP work permit or have submitted an application to renew their permit, so be residing regularly in the country at the moment of the application. Workers whose work permit has expired and not under renewal or is no longer valid, as well as undocumented people, cannot apply.

The Canadian government describes abuse as any behaviour that could scare, control, or isolate a person, and it specifies that it can be based on four grounds: physical, sexual, financial or psychological. This can include threats and intimidation, fraud and extortion, assault, and forcible confinement. The definition of abuse was recently expanded to consider termination of employment as an act of retribution or reprisal for complaining or reporting mistreatment.<sup>19</sup>

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16 [Section 207.1](#) of the Immigration and Refugee Protection Regulations (IRPR).

17 As is the case for open work permits, except for jobs for employers who have been banned from hiring foreign workers for failing to comply with the relevant legislation. The list of employers who have been found non-compliant is [publicly available](#) in the government's website. Further, those work for employers who "regularly offers striptease, erotic dance, escort services or erotic massages" are also not eligible, as is the case for all work permits issued in Canada. Government of Canada, [Open work permit for vulnerable foreign workers who are victims of abuse](#) [Accessed June 2023].

18 Aziz A., 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p.11.

19 Government of Canada, [Open work permits for vulnerable workers \[R207.1 – A72\] – International Mobility Program](#) [Accessed June 2023].

## Application process

In order to apply, workers need to submit an online application to IRCC.<sup>20</sup> This application is free of cost. In depth information on the permit is only available in Canada's official languages, English and French, and the application needs to be submitted in either of the two.<sup>21</sup>

Along with the application form, workers need to send a letter of explanation describing the abuse or risk of abuse they have experienced in the workplace. It is not necessary to have filed a formal complaint or initiated legal proceedings to apply but, when possible, workers may also attach any other supporting evidence.<sup>22</sup> The IRCC states that they will not contact the employer during the application process but may start an investigation if the worker's application gets approved.<sup>23</sup>

In some cases, when further clarification is needed due to gaps in the presented evidence, IRCC officers may call in the worker for an interview, which can

be done in person or by phone. Once they receive the additional information or clarification, the local office will complete the final stages of processing. However, interviews are uncommon, and usually scheduled over the phone.<sup>24</sup>

Regarding the processing times of the OWP-V, the IRCC aims to process the applications on an urgent basis, that is within five working days after the application was received. However, in practice, processing takes between six and eight weeks on average.<sup>25</sup>

In case of refusals, workers are not provided with the reasoning behind the decision.<sup>26</sup> Applicants can either decide to reapply or submit a request for the decision to be reconsidered, but this is entirely at the discretion of the officer in charge. An application for judicial review by the Federal Court of Canada is also possible, but it requires legal assistance, time, and resources;<sup>27</sup> there is no accessible review or appeal procedure.

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20 It is possible to apply in paper if the applicant has a disability, or if at the time of applying the website is not working. Instructions for paper applications can be found in: Government of Canada, [Guide 5553 - Applying for a work permit inside Canada - extend, change conditions, initial and open work permits - paper application](#) [accessed June 2023].

21 Only [very general information](#) about assistance and temporary foreign workers' rights can be found on the government website in other languages than English and French, namely Chinese, Hindi, Korean, Tagalog, Spanish and Thai.

22 Some examples of supporting evidence can be any written form from healthcare professionals or other entities such as abuse support organisations detailing the abuse, an affidavit by the worker, proof of formal complaints to law enforcement or employment offices, victim impact statements, witness testimonies and others

23 Government of Canada, [Open work permits for vulnerable workers \[R207.1 – A72\] – International Mobility Program](#) [Accessed June 2023].

24 Interview with Amanda Aziz, lawyer with the [Migrant Workers Centre](#) (MWC) in British Columbia, 27 June 2023.

25 Migrants Workers Centre, 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p.30. Interview with Amanda Aziz, lawyer with the [Migrant Workers Centre](#) (MWC) in British Columbia, 27 June 2023.

26 Depatie-Pelletier, E. et al, 2022, [Band-Aid on a Bullet Wound—Canada's Open Work Permit for Vulnerable Workers Policy](#), pp. 13-14.

27 Migrants Workers Centre, 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p. 11-12, 35.



## Permit granted

The open work permit for vulnerable workers is usually issued for 12 months and is non-renewable, except in specific circumstances.<sup>28</sup> It is at the discretion of the IRCC officers to decide the duration of this permit, but they are instructed by the IRCC to consider issuing it for 12 months, as this is considered to be the average time it would take migrant workers to find a new job and employer to support a new employer-specific work permit. The work permit cannot be valid for longer than the applicants' passport or travel document.<sup>29</sup>

For the duration of the permit granted under this scheme, workers can be employed under the conditions of an open work permit, that is in any sector, in any location and for any employer.<sup>30</sup> They can work for more than one employer and can change employers at any time within the validity of the permit, without the need of a new LMIA.

However, to remain in Canada after the OWP-V expires, workers have to submit an application for another kind of permit. In practice, they must find an employer who will secure an LMIA and apply for an employer-specific work permit.<sup>31</sup>

Workers with an OWP-V may be eligible for unemployment benefits, known as Employment Insurance

(EI) benefits. Eligibility for unemployment benefits depends on the time worked before losing or leaving their job, and meeting certain other requirements.<sup>32</sup>

Regarding family reunification, family members who are already in Canada when the worker applied to the OWP-V, may be eligible to apply for an open work permit.<sup>33</sup> Family members have to submit their own application, but they may submit it together with the worker. Their application will only be taken into consideration when the worker's application has been successful. Family members in Canada applying for this permit are also exempted from paying fees and the conditions and duration of the permit are the same as the main applicant. If the family member is outside of Canada, they cannot access this scheme and would have to apply to enter the country as a visitor.

In Canada, only workers in certain occupations have a pathway to permanent residence, so access to permanent residence for an OWP-V holder will depend on whether the worker is able to find a job and get the necessary work experience in an occupation with specific pathway to permanent residence.<sup>34</sup>

28 Specific circumstances include situations where the validity of the original employer-specific permit has not expired and the other criteria are met. Government of Canada, [Open work permits for vulnerable workers \[R207.1 – A72\] – International Mobility Program](#) According to a report from 2021, no OWP-V had been renewed, Depatie-Pelletier, E. et al, 2022, [Band-Aid on a Bullet Wound—Canada's Open Work Permit for Vulnerable Workers Policy](#), p. 2.

29 Depatie-Pelletier, E. et al, 2022, [Band-Aid on a Bullet Wound—Canada's Open Work Permit for Vulnerable Workers Policy](#), p. 14.

30 See exceptions listed in footnote 17.

31 In theory, holders of an OWP-V can apply for any other work permit, including open work permits under the IMP. However, this is extremely difficult in practice, as most workers under this scheme would not meet the requirements for the pathways under the IMP. For an overview of the ways in which a worker could get an open work permit see Government of Canada, [Open work permit – General processing and issuance – International Mobility Program](#) [Accessed June 2023].

32 Government of Canada, [EI regular benefits](#) [Accessed June 2023].

33 [Section 207.1 \(2\)](#) of the Immigration and Refugee Protection Regulations (IRPR)

34 Time worked under the OWP-V might count towards permanent residence in the framework of programmes which require to prove relevant work experience to access permanent residence. For example, workers who hold at least 12 months of experience as caregivers in Canada could qualify for the 'Direct to Permanent Residence Category' under the Home Child Care Provider Pilot and Home Support Worker Pilot. More information about this programme are provided in the second part of this case study.

## Limitations of the OWP-V

The OWP-V aims to offer a remedy to abuse workers can face in reason of their dependence on one employer under TFWP work permits.<sup>35</sup> Before this legislation came into effect, the IRCC expected to receive about 500 annual applications, but the amount received between June 2019 and July 2021 was more than four times higher, with an approval rate of 57%.<sup>36</sup>

Yet, once the OWP-V expires, workers are in most cases forced to go back to another employer-specific permit if they want to stay in the country. This pushes workers back into employer dependence and risks of exploitation.

Civil society organisations in Canada also raised concerns about the procedural and practical obstacles that make it difficult for workers to access the OWP-V.

First of all, the exclusion of undocumented workers from the program fails to consider abuse experienced by many migrant workers, including those who experienced abuse while previously employed on a permit, and who have lost status as a result of such abuse.<sup>37</sup>

The OWP-V can also lack procedural fairness in the assessment of applications.<sup>38</sup> IRCC officers have a high degree of discretion to decide whether a migrant worker has experienced abuse or is at risk of abuse in the workplace.<sup>39</sup> Some applicants are simply refused

the permit without being given the opportunity to address any credibility concerns in an interview. Those who are interviewed often cannot request their counsel to be present, or face challenges in obtaining interpretation.<sup>40</sup>

The government offers limited support and workers need to rely on civil society organisations in order to apply.<sup>41</sup> Many migrant workers may not be fluent in English and French. This makes it difficult for them to understand the permit's requirements and complete the application process.<sup>42</sup> Moreover, the OWP-V application can only be submitted online, which can represent a barrier for many workers who are dependent on their employer to access a computer or internet connection or who have limited internet access or literacy.<sup>43</sup>

Finally, even though it is not a requirement to report or file a complaint to prove abuse, some applications were refused on these grounds. Most concerningly, there have been instances where information gathered through the application process was later used against workers in enforcement proceedings.<sup>44</sup> Further, other workers were requested to confirm they would leave the country after their application was considered unsuccessful.<sup>45</sup>

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35 Government of Canada, 2019, [Regulations Amending the Immigration and Refugee Protection Regulations: SOR/2019-148](#) [Accessed June 2023].

36 Aziz A., 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p. 12.

37 Ibid, p. 30.

38 Ibid, p. 25.

39 The Operational guidelines describe reasonable grounds as understood as 'something more than mere suspicion but less than the standard applicable in civil matters of proof on the balance of probabilities'.

40 Aziz A., 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p. 30.

41 Depatie-Pelletier, E. et al, 2022, [Band-Aid on a Bullet Wound—Canada's Open Work Permit for Vulnerable Workers Policy](#), p. 8.

42 Ibid.

43 Aziz A., 2022, [A Promise of Protection? An assessment of IRCC decision-making under the Vulnerable Worker Open Work Permit program](#), p. 29.

44 Ibid, p. 25.

45 Ibid, p. 25.

## Analysis of the open work permit for vulnerable foreign workers (OWP-V) in Canada compared to PICUM's key recommendations and indicators<sup>46</sup>

Policy recommendations	Indicators	OWP-V
<b>1. Streamlined and efficient procedures</b>		
<b>Good administration:</b> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements.	<b>1.1</b> Number of steps in application procedure	This is met to some extent. There are few administrative requirements for this application. However, the level of detail required to complete the letter of explanation and supporting evidence can be a barrier for people to access this permit, alongside the high degree of discretion afforded to IRCC officers and lack of procedural fairness. For example, even though it is not a requirement to report or file a complaint to prove abuse, some applications were refused on these grounds. Further practical barriers include language; the application must be submitted in English or French, and there is no interpretation provided in the interview process.
Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language.	<b>1.2</b> Accessibility of information about procedures and applicable rules	This falls short. Detailed instructions about the application procedure are only available in English and French. The information on the government website is disseminated in different entries, making it difficult to navigate. Workers may be dependent on their employers to have access to a computer and internet which can be an obstacle to seek information and complete the application.
<b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors.	<b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer	This is met, as people who were working in any job or sector can apply. They can then access any job without the requirement of a Labour Market Impact Assessment (LMIA), quotas or minimum income requirements. However, once the OWP-V expires, workers usually only have the option to apply for permits under the Temporary Foreign Worker Program (TFWP), which require a LMIA.
<b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.	<b>1.4</b> Length of permit	This falls short. It is at the discretion of immigration officers to decide the duration of this permit, but they are instructed to consider issuing it for 12 months. The work permit cannot be valid for longer than the applicant's passport or travel document.

<sup>46</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM 2021, [Designing labour migration policies to promote decent work. Policy recommendations.](#)

Policy recommendations	Indicators	OWP-V
Permits should be renewable, without requiring workers to leave the country.	<b>1.5</b> In-country renewals	This is not met. This permit is renewable only in very specific circumstances, and workers need to find a job and apply for a new permit within the validity of this OWP-V.
<b>In-country applications:</b> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented.	<b>1.6</b> In-country applications including when undocumented	This falls short. This permit is intended for people who are in the country, but people whose work permit expired before applying and undocumented workers are excluded from applying.
Restrictions on people changing from one type of status or permit to another should be lifted.	<b>1.7</b> Status/ permit can be converted into another	This is met to some extent. Workers can apply for any other permit, but in most cases are only eligible for employer or occupation-specific work permits under the TFWP.
<b>2. Autonomy for workers</b>		
<b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.	<b>2.1</b> Ownership of application process/ worker or employer-made application	This is met.
<b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.	<b>2.2</b> Procedure to change employer <b>2.3</b> Procedure to change type of job <b>2.4</b> Procedure to change sector <b>2.5</b> Possibility to work for more than one employer <b>2.6</b> Time period before to change employer	This is met. However, once the OWP-V expires, workers are in most cases forced to go back to another employer-specific permit if they want to stay in the country.



Policy recommendations	Indicators	OWP-V
<b>Independence from employers:</b> Permits should remain valid to provide a reasonable period of time of unemployment to search for alternative work, for workers that lose or leave their job.	<b>2.7</b> Time periods for unemployment/ job search during validity of permit and after the permit has expired	This is met to some extent. Workers can be unemployed during the validity of their OWP-V, but they need to secure a new job and apply for another employer-dependent permit before it expires.
Financial and practical support should be accessible during this time, at least on the same terms as nationals. Particular attention should be paid to situations where workers' housing was also provided by their employer.	<b>2.8</b> Available financial and practical support while unemployed	This is met to some extent. Permit holders may be able to access unemployment benefits (Employment Insurance (EI)). There is no other financial support or assistance available for workers who may be recovering from a traumatic experience and are not able to work. Further, there are no housing provisions for workers who were dependent on their employers for accommodation.
<b>Residence solutions in cases of exploitation:</b> <sup>47</sup> Transitional permits should be made available for situations where workers experience labour violations or other abuses. <sup>48</sup>	<b>2.11</b> Availability of transitional permits	This is largely met through this pathway.
<b>3. Equality and family unity</b>		
<b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted	<b>3.5</b> Possibilities to and restrictions on access to permits for family members	This is met to some extent. If an application for an OWP-V is accepted, dependent family members already living in Canada are eligible for a work permit. While family members must complete a separate application, it can be submitted together with the OWP-V application. However, family members living abroad would first need to go to Canada as visitors, and submit the application while in the country.
Spouses/ partners should also be provided access to the labour market.	<b>3.6</b> Access to the labour market for family members	This is met to large extent. Family members are issued a permit with the same conditions as the worker.

47 Regarding victims of criminal labour exploitation including trafficking in human beings, see PICUM, 2020, [PICUM Key Messages and Recommendations on Human Trafficking](#); PICUM, 2020, [Insecure Justice? Residence permits for victims of crime in Europe](#).

48 See for example, the [Reactivation Employment Permit](#) in Ireland, analysed in PICUM, 2022, [Labour migration policies. Case study series: Ireland](#); and the [Residence Permit or Certificate due to Exploitation by the Employer](#) in Finland, included in PICUM, 2022, [Labour migration policies. Case study series: Finland](#).

Policy recommendations	Indicators	OWP-V
<b>4. Complementary labour market policies to enforce labour rights for all</b>		
<b>Justice for all:</b> Labour standards monitoring, complaints and redress mechanisms should be well resourced, independent and confidential. Measures should be developed to protect workers from employer retaliation and immigration enforcement as a result of exercising their rights - and effectively provide access to justice for migrant workers.	<b>4.4</b> Measures to protect workers from employer retaliation and immigration enforcement following engagement	This falls short. This policy was introduced so workers could leave an abusive employment relationship without fear of losing status and, if they wanted, file a complaint. Termination of employment as retaliation for filing a complaint is considered abuse for the purpose of the permit. However, there have been cases where application refusals have been accompanied with requests for the worker to leave the country or information submitted has been used against them in other immigration proceedings. Safeguards for migrant workers filing complaints to labour authorities are lacking.
<b>Empowerment:</b> Targeted measures should ensure migrant workers have meaningful access to accurate information, NGOs and trade unions, and independent legal advice.	<b>4.6</b> Measures to provide accurate information, and access to NGOs and trade unions <b>4.7</b> Eligibility for legal aid	This falls short. Migrant workers have difficulties in accessing information and legal support to obtain this permit as there is no public assistance available. Funding to NGOs to provide this support is insufficient.
<b>5. Social Inclusion</b>		
<b>Pathways to settlement:</b> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.	<b>5.1</b> Residence counts towards long-term residence or settled status	This falls short. Time worked under the OWP-V may count as relevant work experience under certain pathways to permanent residence, if it is in the relevant sector and there is a pathway to permanent residence. However, access to permanent residence is very limited for workers in occupations with lower wages.

# Home Child Care Provider Pilot and Home Support

**Worker Pilot** The Home Child Care Provider Pilot and Home Support Worker Pilot are two programmes for caregivers to access permanent residence in Canada. These pathways came into effect in February 2019 and are set to expire in June 2024, under the International Mobility Program (IMP).<sup>49</sup>

The Immigration, Refugees and Citizenship Canada (IRCC) distinguishes workers under both pilots into two categories depending on whether the applicant has obtained 12 months of eligible Canadian work experience in the previous 36 months. Workers without the required year of eligible experience can apply for the 'Gaining Experience Category' (Category A). Under this category, people are issued a work permit, with a direct pathway to permanent residency if certain conditions are met. Caregivers who can prove a full year of experience within the 36 months prior to the application can apply for the 'Direct to Permanent Residence Category' (Category B). Under this category, people are directly issued with permanent residency.

The **Home Child Care Provider Pilot** includes the care for children on an ongoing or short-term basis. It is defined as the care of 'the well-being and physical and social development of children, assist parents with childcare and may assist with household duties'. Examples of occupations under this Pilot are nannies, babysitters, and au-pairs.<sup>50</sup>

The **Home Support Worker Pilot** is aimed for occupations that 'provide personal care and companionship for seniors, persons with disabilities and convalescent clients'. Occupations under this Pilot can include domestic housekeepers and live-in caregiver for persons with disabilities.<sup>51</sup>

The yearly quota for both Pilot Programs is 5,500 work permits (2,750 for each pilot).<sup>52</sup> For both the Home Child Care Provider Pilot and the Home Support Worker Pilot, 1,650 are designated for Category A and 1,100 are allocated for Category B. No labour market test (LMIA) is required. Due to these strict caps on the number of applications accepted, many workers are not able to apply for this pathway each year.

49 These programmes are applied throughout the country except in the Province of Quebec, which represents almost 25% of the population in the country. Caregivers in Quebec cannot access these programs and they need to apply under the TFWP for an employer-specific permit, where a labour market test (LMIA), is required.

50 These occupations need to match the National Occupational Classification (NOC) code 4411. The NOC is the systematic categorisations of all occupations in the Canadian labour market. For more detailed information, see: Government of Canada, [National Occupational Classification \(NOC\) 2011](#) [Accessed June 2023]. For the full list of occupations included under this pilot, please see Government of Canada, [National Occupational Classification \(NOC\) 2011. All examples - 4411 - Home child care providers.](#)

51 Government of Canada, [National Occupational Classification \(NOC\) 2011](#) [Accessed June 2023]. For the full list of occupations included under this pilot, please see Government of Canada, [National Occupational Classification \(NOC\) 2011. All examples - 4412 - Home support workers, housekeepers and related occupations.](#)

52 Government of Canada, [Is there a limit on the number of caregiver applications you accept under the pilots?](#) [Accessed May 2023].

## Requirements

The criteria for applying for the Caregiver Pilot Programmes are complex. They slightly vary depending on whether the worker is applying under the Gaining Experience Category (Category A) or under the Direct to Permanent Residence Category (Category B).

For the **Gaining Experience Category (Category A)**, workers need to have a valid job offer, that is a full-time job of at least 30 hours per week. Workers must have a job offer from a private individual seeking to address their in-home care needs.<sup>53</sup> Further, they will need to prove their ability to perform the job.<sup>54</sup>

Workers applying under **Direct to Permanent Residence Category (Category B)** need to prove qualifying Canadian work experience of at least 12 months in the 36 months before submitting the application.

Further, applicants applying under **both of the categories** need to meet language and education criteria. For the language requirements, applicants need to demonstrate the equivalent<sup>55</sup> of a B1+ level of English or French for each of the four language skills, referred to as independent user level or intermediate level.<sup>56</sup> The English exams fees oscillate between 300\$ and 350\$ (200€-235€ approximately).<sup>57</sup> For the French

exams fees are slightly lower, between 190\$ and 230\$, around 120€ and 150€. These fees are paid by the worker.

Regarding other education requirements, workers need to prove having completed a course of at least one year of Canadian or equivalent post-secondary education. This can include degrees, diplomas, certificates, and other qualifications issued by universities, colleges, and institutes. People whose post-secondary education was abroad, need to demonstrate their equivalence to the Canadian system.<sup>58</sup> In order to convert non-Canadian education certificates, workers need to get an Educational Credential Assessment, which usually has a fee of 200\$, about 135€.<sup>59</sup> As above, these fees are paid by the worker.

In addition, all workers applying under the Caregiver pathways are also applying for permanent residence in Canada, and therefore have to satisfy admissibility requirements, as well as the eligibility criteria mentioned above. Assessment of admissibility involves the applicant and their family members undergoing criminal and security checks and medical examinations, and being assessed for inadmissibility for financial reasons.<sup>60</sup> According to the IRCC guidelines, this latter assessment should take into consideration that caregiver positions are often low-wage occupations. A negative decision should

<sup>53</sup> Government of Canada, [Additional requirements for applicants under Category A \(Gaining experience\)](#) [Accessed August 2023]

<sup>54</sup> Government of Canada, [Home Child Care Provider Pilot and Home Support Worker Pilot: Assessing the application against selection criteria](#) [Accessed August 2023].

<sup>55</sup> That is a level 5 in the Canadian Language Benchmarks or the Niveaux de compétence linguistique canadiens. Government of Canada, [Home Child Care Provider Pilot and Home Support Worker Pilot: Language requirements](#) [Accessed June 2023].

<sup>56</sup> Council of Europe. [Global scale - Table 1 \(CEFR 3.3\): Common Reference levels](#) [Accessed June 2023].

<sup>57</sup> The official English language tests are IELTS, and CELPIP. [How can I book an IELTS test?](#) and CELPIP, [CELPIP - General](#). The official French exams are the TEF and the TCF. Alliance Française Toronto, [TEF](#); Alliance Française Toronto, [TCF](#)

<sup>58</sup> Government of Canada, [Education in Canada: Post-secondary](#) [Accessed June 2023].

<sup>59</sup> Government of Canada, [How much does an Educational Credential Assessment \(ECA\) cost, and how long does it take to get one?](#) [Accessed June 2023].

<sup>60</sup> Government of Canada, [Home Child Care Provider and Home Support Worker Pilot: Admissibility](#) [Accessed July 2023].



be taken only when there are very serious concerns on the unwillingness or inability of the caregiver to support their family other than relying on social

assistance.

## Application process

As mentioned above, workers can apply under the Gaining Experience Category (A) or under the Direct to Permanent Residence Category (B).<sup>61</sup> The application process varies depending on which category workers are applying under.

For the **Gaining Experience Category (Category A)**, applications – submitted by caregivers with less than 12 months of eligible Canadian work experience at the time of submitting the application – should be made from outside Canada. Together with the valid job offer, proof that they can perform the job, language and education requirements, as described above, the application will also be assessed for admissibility for permanent residence (for them and their accompanying dependent family members), before they start working in Canada. Family members are also pre-screened for permanent residency eligibility prior to issuing a work permit.<sup>62</sup> Applicants may include applications for their accompanying dependents to be visitors, or get work or study permits.

For the **Direct to Permanent Residence Category (Category B)**, applications – by people with at least 12 months within the last of 36 months of eligible work experience in Canada as a home childcare

provider or home support worker – should be made from within Canada.

Workers who can demonstrate this work experience do not need to have a job offer. Applicants need to provide proof of eligible work experience, language and education requirements, as well as admissibility for permanent residence (for them and their accompanying dependent family members), as described above. If the work experience presented by the worker is considered insufficient or was not properly calculated, the application will be automatically rejected.

**For both categories**, workers need to cover different costs in order for the application to be eligible: the work permit processing fee (155\$), the open work permit holder fee (100\$), the permanent residence processing fee (570\$) and the right of permanent residence fee (515\$). All these fees amount to a total of 1340\$, approximately 925€. Along with costs related to the education and language requirements mentioned above, workers may pay up to 1890\$, approximately 1300€.

61 Government of Canada, [Guide 0104 – Home Child Care Provider and Home Support Worker](#) [Accessed June 2023].

62 Rishika, W., 2021, [Equal rights for migrant care workers. The case for immigration policy transformation.](#)

The expected processing times for these programmes vary depending on the pilot and whether workers are applying under Category A or Category B. The table

below lists the different waiting times as of June 2023.<sup>63</sup>

	Category A	Category B
Home Child Care Providers	36 months	29 months
Home Support Workers	35 months	53 months

Despite the Caregiver Pilots coming into effect in 2019, delays on the issuing of the permits, in addition to the very low quota of permits available, mean that

few people have benefited from these programs since it was introduced.

Permit granted

The permit granted varies depending under which category workers are applying.<sup>64</sup>

Under this permit, workers can change employer, but not occupation or sector.

Category A: Gaining Experience

Workers under this category are granted an occupation-restricted open work permit (OROWP) while they gain work experience. This work permit is also their residence permit, and is normally issued for 24 months or until the worker’s passport or travel document expires. The OROWP can be renewed for a maximum duration of three years; once issued an OROWP, the applicant has three years to obtain the 12 months of Canadian work experience required. During this time, the permanent residence application is put on hold.<sup>65</sup>

Once workers have acquired 12 months of eligible work experience under an occupation-restricted work permit (within a 36-month period after the work permit was issued), they will have access to a direct pathway to become permanent residents.

63 Government of Canada, [Check processing times](#) [Accessed June 2023].  
64 Government of Canada, [Occupation-restricted open work permits under the Home Child Care Provider Pilot or Home Support Worker Pilot – Gaining experience category \[R205\(a\) – C90\] – International Mobility Program](#) [Accessed June 2023].  
65 Government of Canada, [Home Child Care Provider Pilot and Home Support Worker Pilot: Application process and who can apply](#) [Accessed July 2023].

**Category B: Direct to Permanent Residence**

People who have the experience to apply under this category often hold employer-specific work permits and are already in Canada. They need to ensure they maintain a valid residence status until their application for permanent residence is being processed and they receive an acknowledgement of receipt of their application.

This means, if their current work permit is due to expire, they would need to apply to extend their work permit or change their status from a worker to a visitor. To extend their work permit, people would need to show their current employment has been

extended and have a new offer of employment and accompanying Labour Market Impact Assessment.

Once the person receives acknowledgement of receipt of their application, they become eligible to apply for a 'Bridging open work permit', which allows them to full access to the labour market while their permanent residence application is being processed. For caregivers under **both categories**, family members can access an open work permit.

Permanent Residents may be able to apply for Canadian citizenship after being physically in Canada for at least three years within the five years prior to the application.<sup>66</sup>

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66 Government of Canada, [Apply for citizenship: Who can apply](#) [Accessed June 2023].

## Analysis of the 'Gaining Experience Category' (Category A) under the Home Child Care Provider Pilot and Home Support Worker Pilot in Canada compared to PICUM's key recommendations and indicators<sup>67</sup>

As of June 2023, a very limited number of permits had been issued under these pilots due to lengthy processing times. Therefore, it is difficult to evaluate the characteristics of this permit in practice, despite the legislation coming into effect in 2019. This

analysis is largely based on the legal framework itself. This table does not look at Category B as it provides a work permit only as a pathway to permanent residence.

Policy recommendations	Indicators	Caregiver Pilots
<b>1. Streamlined and efficient procedures</b>		
<b>Good administration:</b> Procedures to obtain and renew visas and permits should be streamlined with reasonable administrative requirements.	<b>1.1</b> Number of steps in application procedure	This falls short. All eligibility and admissibility criteria, including for permanent residence, are assessed on the basis of one application. However, the various requirements, including regarding language and education, are difficult to meet. The accumulated costs to workers can represent a significant economic barrier. Further, there are significant delays in the application process, and an annual quota is imposed, and is very low (3,300 permits for Category A).
Information about application procedures, requirements, and applicable rules should be provided publicly for potential employers and workers in clear and accessible language.	<b>1.2</b> Accessibility of information about procedures and applicable rules	This falls short. The information available is disseminated in different entries and as end of June 2023, some new criteria have not been updated on the government's website. Further, the procedures and the different categories are complex, and there is no public support to assist workers in completing applications.

<sup>67</sup> For the complete list of policy recommendations and suggested indicators, please see PICUM 2021, [Designing labour migration policies to promote decent work. Policy recommendations.](#)



Policy recommendations	Indicators	Caregiver Pilots
<p><b>Based on an offer of employment:</b> An offer of employment, with conditions in line with applicable labour law or collective bargaining agreements, should be sufficient across all jobs and sectors.</p> <p>If some level of preferential access is to be provided to resident workers, the mechanism should ensure resident workers are able to apply for the job, but not prevent employers from selecting their preferred candidate through recruitment procedures.</p>	<p><b>1.3</b> Eligibility/non-eligibility requirements to access a permit with a job offer</p>	<p>This is not met. The pilots are restricted to specific care occupations. Workers need an eligible job offer, which does not require a LMIA, but workers have to meet several other requirements.</p>
<p><b>Stability for workers and employers:</b> Permits should be of a reasonable duration, of at least two years.</p>	<p><b>1.4</b> Length of permit</p>	<p>This is met, the length of the permit usually granted is 2 years.</p>
<p>Permits should be renewable, without requiring workers to leave the country.</p>	<p><b>1.5</b> In-country renewals</p>	<p>This is met to some extent. The permit can be renewed but only up to a maximum of 3 years (total). Permit holders have 3 years to obtain the 12 months of Canadian work experience required to then be eligible for permanent residence.</p>
<p><b>In-country applications:</b> People should be able to apply for the various residence and work permits provided for by national law from within the country, regardless of their status, including when undocumented.</p>	<p><b>1.6</b> In-country applications including when undocumented</p>	<p>This is met to some extent. People can apply from within Canada and from abroad. Undocumented people cannot apply.</p>

Policy recommendations	Indicators	Caregiver Pilots
<b>2. Autonomy for workers</b>		
<b>Worker-owned procedures:</b> Workers should be able to apply for permits themselves.	<b>2.1</b> Ownership of application process/ worker or employer-made application	This is met, though workers remain reliant on a single employer for a job offer.
<b>Labour market mobility:</b> Permits should not be tied to one employer. People should be able to change employer, including the type of job and sector, and work for more than one employer, on the same permit, without permission from the employer or labour intermediary.	<b>2.2</b> Procedure to change employer	This is met.
	<b>2.3</b> Procedure to change type of job	This is not met. Workers can only work in one occupation.
	<b>2.4</b> Procedure to change sector	
	<b>2.6</b> Time period before change of employer	This is met, there is no minimum time period to work with the first employer.
<b>3. Equality and family unity</b>		
<b>Non-discrimination:</b> Access to employment and associated permits should be non-discriminatory across all protected grounds under human rights law. <sup>68</sup>	<b>3.1</b> Restrictions in access to permits on prohibited grounds	This is met in that it is not restricted to any nationality.
<b>Family unity:</b> Migrant workers should be able to enjoy their family life as any other person. Restrictions on migrant workers with low income from bringing their families should be lifted.	<b>3.5</b> Possibilities to and restrictions on access to permits for family members	This is met, applications for family members can be included with the initial application. Aside the admissibility checks for permanent residence which also apply to family members, there are no additional eligibility criteria to bring spouses/ partners and children. Spouses/partners may be granted an open work permit, and children study permits.
Spouses/ partners should also be provided access to the labour market.	<b>3.6</b> Access to the labour market for family members	

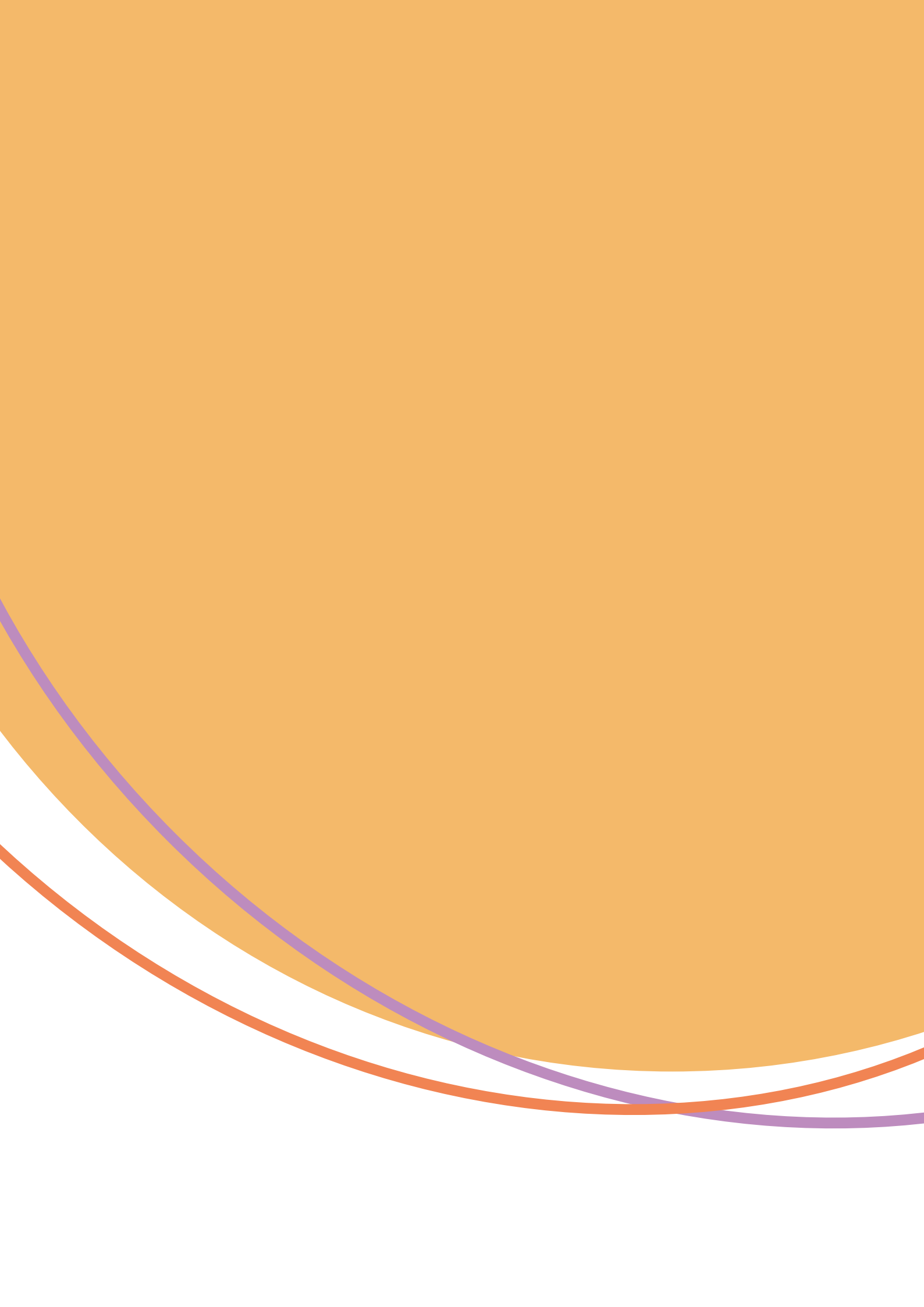
68 For more information, see Fundamental Rights Agency and Council of Europe, 2018, [Handbook on European non-discrimination law, 2018 edition](#).

Policy recommendations	Indicators	Caregiver Pilots
<b>5. Social Inclusion</b>		
<b>Pathways to settlement:</b> There should also be pathways to settlement after a number of years. All periods of residence should count towards long-term residence status.	<b>5.1</b> Residence counts towards long-term residence or settled status	This is met. People under this pilot can apply directly for permanent residence in Canada after gaining the work experience required. Permanent residents can apply for Canadian citizenship if they have lived in Canada for at three years during the 5 years before submitting the application. <sup>69</sup>

69 For more information on the process and requirements to apply for Canadian citizenship, please see Government of Canada, [Apply for citizenship: Who can apply](#) [Accessed April 2023]; Government of Canada, Citizenship and Immigration Canada, [Physical Presence Calculator](#) [Accessed April 2023].









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