

Addressing risks of exploitation is key to addressing the labour shortage in agriculture

The Defra commissioned review into labour shortages in the food supply chain was published at the end of June. [Commissioned in August 2022](#), the review panel is comprised of industry leaders and a former university vice Chancellor. Workers, or ‘the labour’ who are the subject of the review are absent from the panel. The methodology section does not make clear whether workers were consulted or given the opportunity to input. The report is also noticeably light on recommendations to address the labour shortage in agriculture by improving working conditions, with improving pay and conditions and regulation and enforcement being reduced to one bullet point within a broader recommendation to ‘Implement a Comprehensive Strategy to Enhance Sector Attractiveness’.

This response primarily concerns the ‘Seasonal Worker visa’ included within recommendation 2 of the review; ‘Access to Migrant Labour’. Currently workers who enter the UK via the horticultural Seasonal Worker route enter on a 6 month visa. This cannot be extended and the visa period may have commenced before workers travel to the UK to begin work. Workers are ‘sponsored’ by one of seven ‘Scheme Operators’ who place them with employers. They are restricted to work in the horticultural industry in employment arranged by the Scheme Operator who sponsored their visa to the UK.

Workers on the Seasonal Worker visa generally pay all the costs of their visa and travel to the UK.¹ This can amount to many thousands of pounds which they typically have to borrow, meaning that workers arrive with the urgent need to earn, to pay off debt. [Impactt have estimated that for 2022 alone £35 million was paid in fees by migrant seasonal workers in the UK. Despite the April 2023 announcement of 32 paid hours of work a week, the duration of work over the full length of the six-month visa is not guaranteed.](#) This makes it difficult for workers to calculate their likely earnings in the UK when making the decision to migrate. The combination of high migration costs and insecurity of work or income creates a risk of debt bondage. It also exacerbates the already significant power discrepancy between the worker and their employer and visa sponsor. Workers cannot risk challenging working conditions in case this results in them losing work.

As well as providing much-needed income, work is also linked to accommodation and visa conditions. Nor is it clear how or to whom workers would raise complaints. The Scheme Operators are responsible for ‘worker welfare’ but they are also in business with the employers and are not an enforcement body. The visa restrictions make redress through UK employment law

¹ Annex B to the report, which gives an International Comparison of Seasonal Worker Schemes does not include a comparison of who pays migration costs.

mechanisms inaccessible in practice even if workers were to have information and support to complain.

The report recommendations relevant to the Seasonal Worker visa include the following;

- To confirm the scheme will continue beyond 2024
- To remove the cap on visa numbers
- To extend the length of visas to 9 months
- To reduce the time between visas to 3 months
- For the 'employer pays' principle to be applied to the NHS surcharge
- To allow for direct recruitment from overseas by employers
- To be monitored and enforced by the GLAA (there is no corresponding recommendation for an increase in funding for enforcement bodies)

The report acknowledges the well-documented risks of exploitation on the scheme and that this contributes to the 'negative image of the sector'. However, rather than focusing on addressing the risks created by the scheme for workers, the mitigation recommendations are focused on the interests of industry. While some of the recommendations, such as increasing the length of the visa, clarity of responsibilities and standards, accreditation and enforcement could also be favourable to workers' interests, in general the recommendations prioritise ensuring the ongoing supply of labour via the scheme over addressing key risks within it. Nor does the review promote improving pay and conditions for workers in the sector more generally. For example the report uncritically cites a roundtable participant warning that increased pay can result in increased wages resulting in workers choosing to work fewer hours.²

The above recommendations do not address the structural issues with the Seasonal Worker visa which create risks of exploitation. The report is clear that British and other European workers are not choosing to work in UK agriculture. However, rather than attempt to address the well-known underlying issues which have led these workers to avoid the sector, the UK government has created a scheme in which migrant workers pay large sums to migrate to the UK for work in this very sector. Their visa conditions then restrict them to employment they are placed in by their visa sponsor, or Scheme Operator. These workers often have no support network or access to public funds in the UK and may not speak English or know where to access advice to work in the same sector. The risks of exploitation which are created by the structure of the scheme need to be addressed by government, ahead of any commitment to continue this scheme. Any move to remove the cap on visa numbers must be dependent on commitments to guarantees of work or income for workers, particularly in the context of [reports of workers being left without work after only a short time in the UK](#), despite the 2022 cap of 40,000 visas not being reached with fewer than 35,000 visas issued that year.

If the length of visas is to be extended and the time between visas reduced, a more sensible recommendation would be to make the visas renewable, subject to ongoing employment. This

² Paragraph 70

would reduce migration costs of workers traveling back and forth with breaks in employment and would provide employers with a source of experienced workers. It would also reduce migration costs which should be borne by employers, or the industry more broadly. The report recommends that the ‘employer pays’ principle is applied in relation to the [NHS health surcharge](#). The Employer Pays Principle is that “*No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer*”. Reflecting the Dhaka Principles for Migration with Dignity, adoption of the Employer Pays Principle is considered fundamental to combatting exploitation, forced labour and trafficking of migrant workers and represents an important step in achieving the UN Sustainable Development Goal of decent work for all. While applying the Employer Pays Principle to the NHS Surcharge is a small step towards the Employer Pays Principle, it is important to note that the [standard applies to all recruitment costs including migration costs](#).

The report’s recommendation for direct recruitment should include safeguards, including the right to change employer once in the UK. While proactive monitoring and enforcement of employment and accommodation standards on the scheme is much needed, the GLAA has been clear it is not responsible for such monitoring,³ and while it licenses scheme operators, it does not (as standard) inspect farms.⁴ There are additional resourcing issues around Labour Market Enforcement; to meet the ILO benchmark would require the UK to have 1 labour inspector per 10,000 employed people. [With just 0.29 inspectors per 10,000 people the UK](#) is currently less than a third of the way to meeting this benchmark. It is arguable that restricted visas require a higher ratio, as workers are less likely to actively report exploitation. The Independent [Chief Inspector for Borders and Immigration was clear in their 2022 inspection report of the scheme](#) that there is a lack of clarity about roles and responsibilities of the various government departments or bodies involved in the scheme. The inspection also cited examples of compliance issues not being followed up even when included in monitoring reports.

This review was commissioned by DEFRA, however the Home Office, which has joint departmental responsibility for the scheme, has not published a review since its 24 December 2021 publication of its evaluation of the 2019 pilot. Since then the scheme has expanded from under 2,000 visas, from 5 source countries and 2 scheme operators [to up to 57,000 visas available in 2023](#) for workers to come from anywhere in the world. [The Home Office has accepted the Independent Chief Inspector for Borders and Immigration’s recommendation to Conduct an overdue review of the Seasonal Worker route. Its response anticipated that the review would be completed by April 2023, however it remains unclear whether this action has taken place.](#)

Recommendations

Four years after the [Seasonal Worker Pilot scheme was identified as creating risks of exploitation for workers](#), addressing these risks needs to be put at the front and centre of reviewing the future

³ “Revealed: Indonesian workers on UK farm ‘at risk of debt bondage’”, The Guardian [online], 14 August 2022

⁴ PQ 51713 [on Gangmasters and Labour Abuse Authority: Inspections], 20 September 2022

of the scheme. This in itself would also make the sector a more attractive place to work, addressing the labour shortage. At minimum reforms should include;

- **Guaranteed work or income for the duration of a contract, agreed before a worker migrates to the UK. This would allow workers to make an informed decision about migrating**
- **Access to information and independent advice:** Clear information about the visas should be provided by the Home Office in the language of the country they operate in. Terms and conditions of employment should be provided to the worker prior to their arrival in the UK, translated into the worker's language. Once in the UK, workers must be able to access information and independent advice about their employment rights, including access to legally-aided advice and representation when needed.
- **The Employer Pays Principle should be applied for workers traveling to the UK to work in agriculture.** The [ILO General principles and operational guidelines for fair recruitment](#) state that '[n]o recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers'. UK Seasonal Worker Visa holders should personally not face any up-front costs. In the UK context, with profit margins squeezed in certain parts of the agriculture supply chain, it may be necessary to establish a wider definition of who should cover these costs.
- **Establish a clear employer transfer pathway,** including transparent criteria for making a transfer request and a process for considering such requests. This should be communicated to workers at point of recruitment. Workers should not be responsible for paying the costs of a transfer (eg transport costs).
- **Short term work visas should be less restrictive.** Workers should have options to work more widely within or outside of the sector if there is no work available via their Scheme Operator. If an Operator loses their license for any reason, workers who they have sponsored should be transferred to a different Scheme Operator, and this should be made explicit in the publicly available guidance for sponsors.
- **The visa should be renewable subject to ongoing employment.** There should be a route to settlement.
- **Introduce regulations on accommodation standards with a clear oversight mechanism** for seasonal agricultural workers and prohibit employers from charging workers for accommodation or utilities/other associated costs if for any reason their wages drop below the real living wage or they are not provided with work.
- **Establish bilateral agreements with sending countries,** including reference to ensuring migrant and workers' rights are upheld at point of recruitment, during travel and in employment in the UK.

- **Monitor compliance with the National Living Wage and the provision of a minimum of 32 paid hours a week**, with compensation mechanisms in place if work is not available at any point during the 6 months of the visa.
- **Increase the resources for labour market enforcement** to ensure there is capacity to conduct regular proactive inspections of SWV participating workplaces, with a focus on compliance with standards and UK laws, rather than only on breaches which reach the threshold of Modern Slavery.

Signed:

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11 July 2023