

**Executive Summary**

**Making the Seasonal Worker  
Scheme safer and fairer  
Report two**

**FOCUS ON  
LABOUR  
EXPLOITATION**

# **Bound to work: Improving access to redress on the UK's Seasonal Worker Scheme**

**May 2024**



Please cite as **Focus on Labour Exploitation. 2024. Bound to work: Improving access to redress on the UK's Seasonal Worker Scheme.**

Available at: [www.labourexploitation.org](http://www.labourexploitation.org)

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## Acknowledgements:

This report was written by Oliver Fisher, Olivia McAuliffe, and Jacob Bolton, and edited by Kate Roberts and Lucila Granada. Outreach to workers and data collection was primarily done by Rosmini, CASL and SEEAC. The FLEX research team that worked on this research over the course of design and data collection included Eleonora Paesani, Matthew Parsfield, Meri Åhlberg, Oliver Fisher, Olivia McAuliffe, and Jacob Bolton. We are grateful to everyone that made this report possible including all the workers that agreed to share their insight and knowledge for this research project.

We would also like to thank Anita Grodkiewicz, Sergejus Janulis, Mikelis Zemdega, Alex Toteva, and Simona Cismasu from Rosmini Centre Wisbech, Armins Morozs, Rebecca Lyon, and Simon Richards, from Citizens Advice South Lincolnshire, Nova Fransisca Silitonga, Mariko Hayashi and Endang Priyatna from SEEAC, Jamila Duncan-Bosu and Kate Elsayed-Ali from ATLEU, Shayne Tyler from TylerBladon Practical Ethics, Iryna Petkevica, Margarita Permonaite, IOM, Tesco, David Camp from the Association Of Labour Providers, Justin Emery from Fruitful Jobs Ltd, Jan-Willem Naerebout from Agri-HR, Sam Zubaidi from Pro Force Limited, James Mallick, and Quintin Lake from 50 Eight.

**Focus on Labour Exploitation (FLEX)** is a research and policy organisation working towards an end to labour exploitation. FLEX seeks to achieve this vision through the prevention of labour abuses, protection of the rights of those affected or at risk of exploitation and by promoting best practice responses to labour exploitation through research and evidence-based advocacy.

Design Cover photo by F Armstrong Photo.

Designed by Riccardo Guido.

**FOCUS ON  
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Working to end labour exploitation

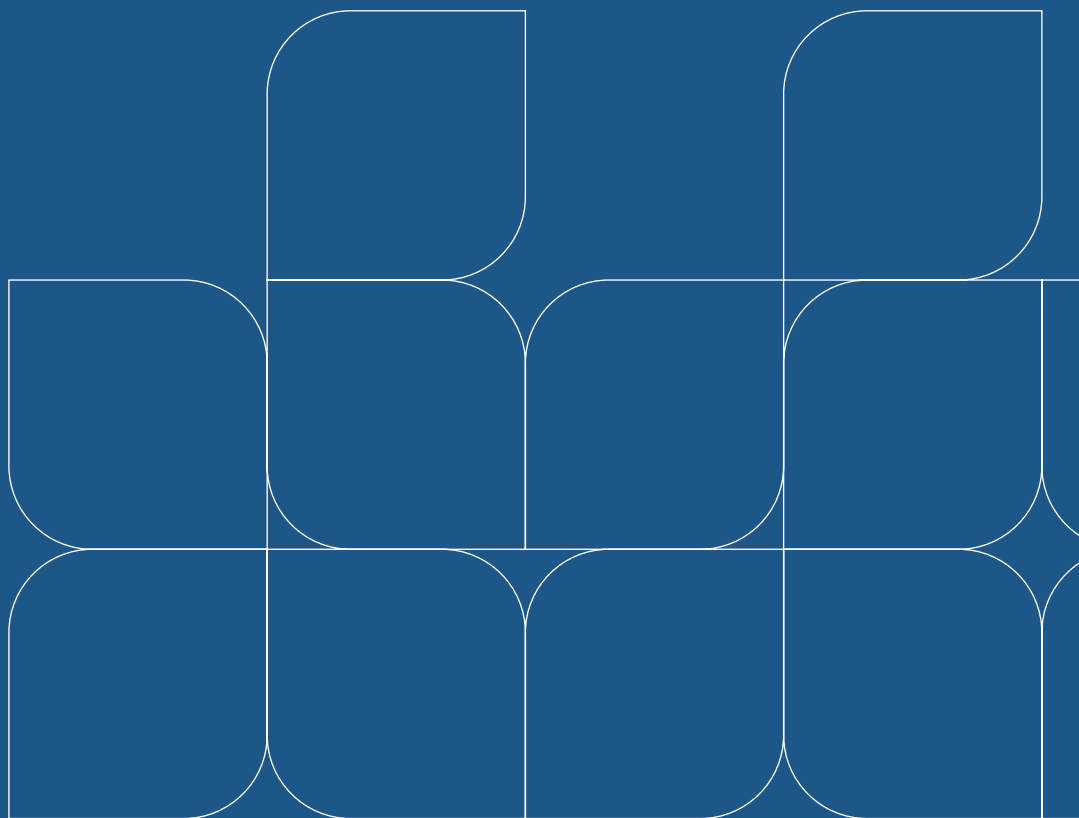


**JUSTICE  
TOGETHER**



**“It’s pointless. Our scheme operator - [redacted], they don’t do any transfers at all. We also tried to get transferred last [year] and we were told to book a flight and to go back home if we didn’t like it here. That’s what we were told. Imagine?”**

Amina, Woman, 32, from Kazakhstan. 5th July 2023.



# Executive summary

## 1. Introduction and background

The Seasonal Worker Scheme (SWS) enables the recruitment of migrant workers on temporary visas, so they can come to the UK to work in horticulture or poultry production. There is no route to settlement for those on the SWS, workers have no recourse to public funds, they cannot apply for visa extensions and they cannot bring family with them to the UK. Workers are restricted to job placements arranged by the Scheme Operator that issued their certificate of sponsorship. They can only work in certain agricultural roles, and only at farms that their scheme operator places them. They are not allowed to engage in any other type of work in the UK.

This study was conducted by FLEX in collaboration with Citizens Advice South Lincolnshire (CASL), Rosmini Centre Wisbech and the Southeast and East Asian Centre (SEEAC) and was fully funded by foundation grants. It focuses on 399 surveys and 83 interviews from migrant workers on the SWS,<sup>1</sup> as well as interviews with 15 stakeholders that were collected between June 2022 and October 2023, including four scheme operators, three retailers, one international organisation, five staff from organisations that provide support to SWS workers (support organisations), one trade association, and one factory.<sup>2</sup> FLEX also visited one farm in the UK to observe how farm work and operations happen in practice. Similarly, staff from FLEX attended information sessions and pre-departure orientation sessions provided to workers in Bishkek, Kyrgyzstan. Surveys and interviews were carried out by caseworkers/researchers from our partner organisations, Rosmini Centre Wisbech, CASL, and SEEAC.

This research aims to investigate barriers to SWS workers leaving exploitative conditions and/or their employer, access to complaints mechanisms, and the subsequent risks that stem from the Government's design of the SWS. It also seeks to highlight cases of good practice. Finally, it looks at how to mitigate and address the risks identified. This is the second in a series of planned reports by FLEX, with other publications covering recruitment-related risks, and wider working and living conditions.

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1 Workers' names in this report have been changed to protect the identities of participants.

2 FLEX also reached out to more than 40 growers for this project, none of which accepted a request for an interview. Several Government departments relevant to the scheme were also contacted including the Home Office, DEFRA, the HSE, and the GLAA, with all declining a request to be interviewed. The three remaining scheme operators not interviewed either did not reply to requests or declined to be interviewed.

Since the announcement of the SWS, FLEX has engaged in active advocacy work on a range of issues related to the design and monitoring of the scheme, liaising with a range of stakeholders including industry bodies, government departments, parliamentary groups, and non-governmental organisations providing direct support to workers. This report is informed by this work. This research also builds on FLEX's previous research on the scheme, as well as on academic, non-academic, and official reports, which have all highlighted risks of labour exploitation for workers on the route, many of which are relevant to recruitment-related factors.

## 2. Findings

### 2.1 Demographics

Three-quarters of surveyed participants were men (71.4%), one-quarter were women (28.1%), and 0.5% preferred not to say.

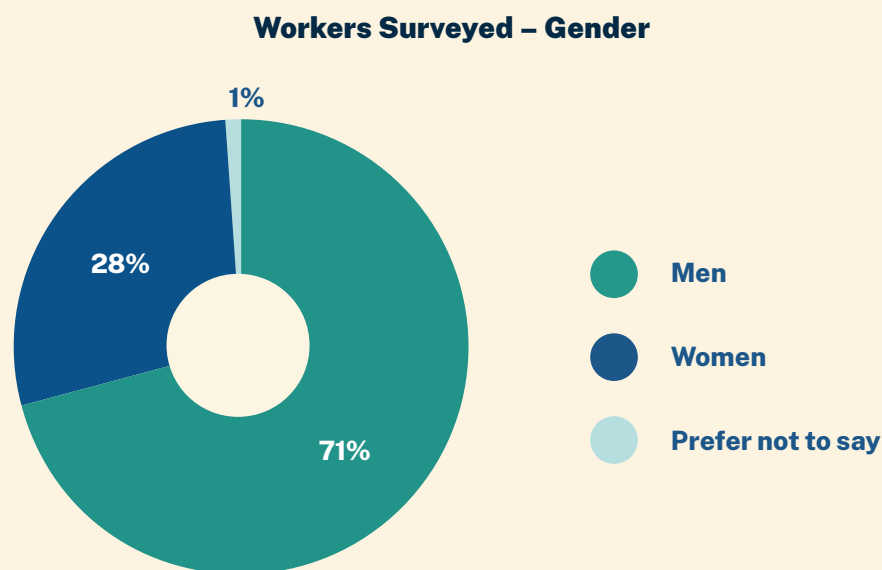


Figure 1. What is your gender? (%) (n=398).



## Demographics of Workers Surveyed – Nationality

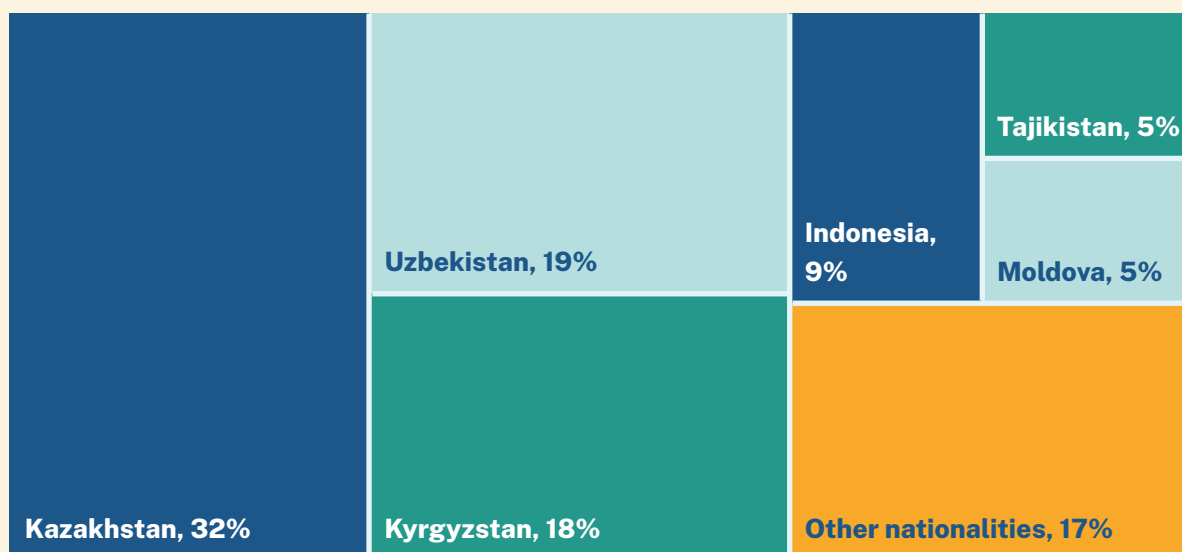


Figure 2. What is your nationality (%) (n=394).

Surveyed participants held nationalities from 16 different countries (see figure above). Workers were aged between 19 and 58 with a median age of 31 ( $\pm$  7.15).

### 2.2 Transfer process on the SWS

Under scheme rules, workers can request to be transferred to another farm by their scheme operator. One third of those surveyed reported requesting a job transfer (33%), with men (35%), slightly more likely than women (28%) to make a request. To request a transfer, workers ask their visa sponsor, the scheme operator. According to scheme rules, workers should be able to request and receive a transfer unless there are “significant reasons not to permit this (for example, their visa will imminently expire and the duration of the necessary training requirements would make such a move impractical).”

In practice however, many workers we spoke to reported having their transfer requests denied or ignored. In our survey of workers, 55% of those who made a request for a transfer were refused.

Workers interviewed reported widespread practices of scheme operators refusing or ignoring transfer requests, which seemed to encourage a culture amongst some workers in which they no longer asked to change farms, as they had no confidence that their requests would be acted on.

In our survey of workers, 55% of those who made a request for a transfer were refused.

### Have you ever made a request to your sponsor/scheme operator to change your employer or work site?

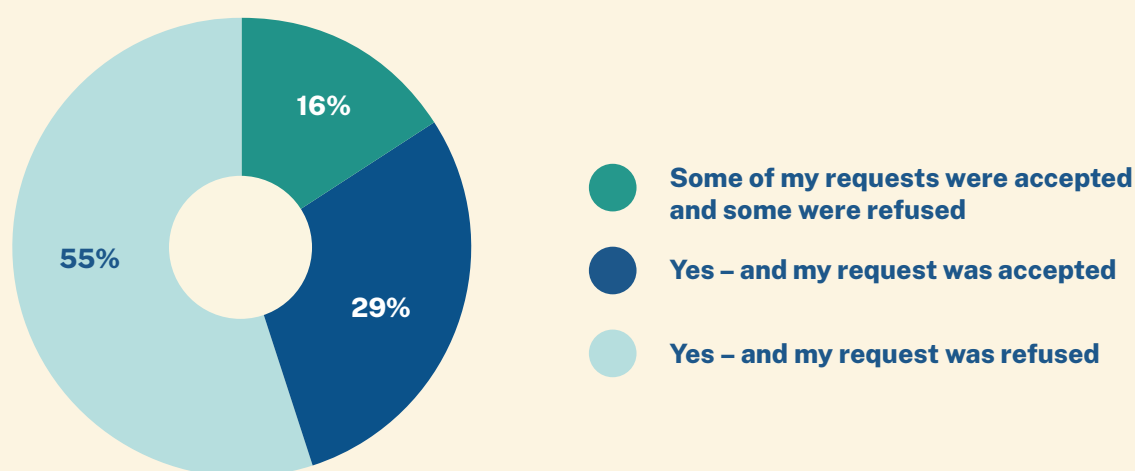


Figure 3. Have you ever made a request to your sponsor / scheme operator to change your employer or work site? Filtered by those that had requested a transfer (n=128).

## 2.3 Debt as a barrier to leaving an employer

Around 70% of seasonal workers surveyed in our data said that they had to borrow money to come and work in the UK. This debt – and the need to pay it off to avoid consequences – can lead to workers being vulnerable to coercive arrangements that reduce their freedom to leave an employer. Late payment or underpayment combined with mounting debts and a lack of a reliable system for changing employers can lead to workers becoming trapped in a vicious cycle of seeking to increase the intensity of their work to meet bonus targets and/or becoming coerced into accepting poor conditions of work as this is their best chance of recovering their debts.

1 in 5 workers we spoke to brought up issues of underpayment.

Underpayment or withholding of wages was frequently mentioned in interviews: 1 in 5 workers we spoke to brought up issues of underpayment. We heard several reports of workers not being paid for all hours that they worked. We were also told of a number of instances of underpayment occurring when workers who were paid piece rates were not paid for the full quantity of produce that they had picked. Scheme operator guidelines stipulate that sponsors have a duty to ensure that “workers are treated fairly by their employer, including not penalising workers for failing to work at the fair piece rate.” However, in interviews, we heard of working hours being denied to people for things such as not meeting hourly targets, picking fruit that was not deemed high quality enough, complaining about containers that they have picked going missing, going to the bathroom, being caught with a phone, and talking to colleagues.

From April 2023, workers on the route are required to be paid at least 32 hours per week averaged over their pay period. Despite this, about one in twenty workers surveyed (6.3%) reported that they were not always paid at least these

Late payment or underpayment combined with mounting debts and a lack of a reliable system for changing employers can lead to workers becoming trapped in a vicious cycle.

32 hours.<sup>3</sup> Moreover, around one in six (16%) said that they had experienced being paid less than the hourly rate that they were entitled to (£10.10 prior to April 2023, and £10.42 since April 2023).

## 2.4 Barriers to reporting issues and accessing support

Gaps in access to rights and support were some of the most common themes across our interviews with seasonal workers. These included language barriers that prevented communication about concerns between workers and management, workers not knowing who to direct concerns or complaints to, and workers feeling intimidated by farm management or their scheme operators.

In interviews with workers, we identified many gaps in their understanding of what few support structures are available to them, as well as reports of issues within these structures. These gaps ranged from not being aware of who to contact in case of work-related issues, low knowledge of employment rights, not having a knowledge of trade unions, not having any faith that complaints would be acted upon, trust issues, and a lack of knowledge around the transfer process.

## 2.5 Inspections, labour market enforcement, and monitoring

According to Home Office guidelines, scheme operators have a duty to conduct “robust and comprehensive monitoring” of workers they are sponsoring, including ensuring that workers are treated fairly, have adequate health and safety protections, and are housed in hygienic and safe accommodation. However, only about one in 10 people (9%) we surveyed said that someone from outside their work had asked to talk to them about working conditions – for example, a labour inspector or auditor. Several scheme operators and retailers stated that they believed there were inadequate or limited proactive inspections on farms in the UK by labour market enforcement agencies, with most inspections happening reactively.

Industry representatives that we interviewed mentioned a wide range of complaints mechanisms available for workers, including apps, hotlines, encouraging workers to contact their recruitment team in their home country, as well as WhatsApp channels, emails, and phone lines – multilingual support staff. One trade association interviewed explained that these avenues may not always work effectively in practice, as workers may have to go through several avenues before getting redress, and that there may be a need for an independent hotline for workers to raise complaints.

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<sup>3</sup> Please note, this question on whether or not workers were paid at least 32 hours a week (averaged over their pay period) was added to the survey after the change in guidance in April 2023. Only responses after this guidance was put in place were included in this finding.



### 3. Recommendations

Many workers in this study reported issues with accessing transfers. Out of those surveyed, more than half of those that requested a transfer had their request rejected. Interviews with workers highlighted that workers were not always aware why transfers were rejected and did not always feel comfortable requesting transfers, in part due to power imbalances between workers and employers/scheme operators, and some did not know that they could request a transfer. Transfer issues have been ongoing for some time, with FLEX and FMF (2021) raising concerns about these processes several years ago. However, there does not appear to have been practical positive improvements for workers on this matter since then, aside from this rule being further clarified in subsequent guidelines. The inability to transfer in practice may leave workers unable to leave exploitative conditions, increasing risk of harm.

This report demonstrates that the financial burden that workers shoulder in order to migrate using this route, and the restrictive nature of the visa, can limit workers' ability to leave their employer, due to urgently needing to earn money to pay back debt or save to justify the migration investment. This is exacerbated in situations where workers are underpaid or given less hours than promised, something that was frequently raised by workers in interviews.

Industry representatives interviewed raised a wide range of avenues for workers to seek redress for issues. However, workers often reported barriers to seeking redress, including language barriers, and fears of being dismissed or getting less work for raising concerns, indicating that current avenues may not adequately protect workers in practice.

With industry representatives interviewed in this study identifying many of the challenges raised in this report, including the need to improve transfer systems for workers, the UK Government has a genuine opportunity to action policy changes and make significant improvements for workers. To address the issues identified above, and to make the SWS safer and fairer for workers, the following recommendations should be considered:

#### **Independent monitoring, sharing of information and proactive enforcement of scheme and licensing rules and UK employment law.**

- 1. Gaps in data must be addressed:** Recruitment practices, illegal charging, migration costs and incidence and level of debt should be actively and closely monitored, as well as the availability of work and evidence to support assertions of a labour shortage, particularly in light of expansions of this route. The UK government should proactively monitor and publish information on average hours of work and wages received by workers. The UK government should also make clear to workers using the scheme and through published, publicly available information, the avenues which are available for workers to report concerns. This includes independent avenues for workers who do not want to report to their sponsor or scheme operator. The UK government should also collect and publish anonymised information as to what

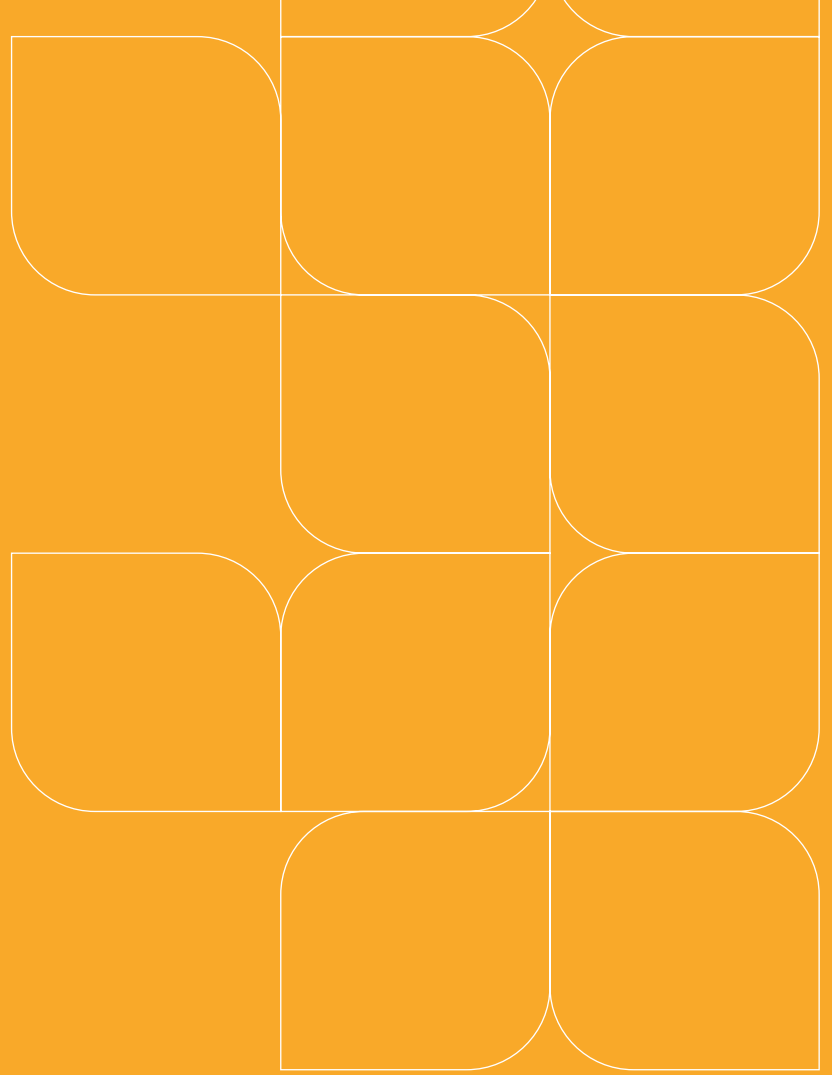
actions are taken in response to any structural issues identified. This includes any provisions to support, accommodate and provide redress to workers who have lost work or accommodation due to raising a complaint.

### Access to rights

- 2. Effective monitoring of employer transfer pathways.** As per scheme guidelines, this should include transparent criteria for making a transfer request and the process for considering such request. There should also be an independent complaints mechanism. This should be communicated to workers at the point of recruitment. Workers should not be responsible for paying the costs of a transfer and should be financially supported during gaps between jobs (e.g. transport costs and accommodation costs) and in any period in the UK before work starts and after it ends.
- 3. 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 licence for any reason, workers whom they have sponsored should be transferred to a different Scheme Operator.
- 4. Ensure a guaranteed income for six months for agricultural workers who have travelled to the UK on the promise of work.** Compliance with the National Living Wage and the provision of a minimum of 32 paid hours a week needs to be independently monitored.
- 5.** As workers have no recourse to public funds, **provide an independently managed emergency fund** for workers who have not received the minimum income required by the rules (32 hours per week, on average). This should be costed into the scheme.

### Enforcement and redress

- 6. Ensure secure reporting mechanisms and a separation between the enforcement and monitoring of working conditions and immigration enforcement,** recognising that people on insecure and temporary immigration statuses are often reluctant to report abuse due to fear of facing immigration consequences.
- 7. 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.
- 8.** Establish clear **independently run complaints mechanisms** which are informed by the needs of workers to make sure they are accessible and are enforced in practice. Scheme Operators must ensure that workers are aware of this mechanism prior to arriving in the UK.



**“I don’t have absolutely nobody and I don’t understand them [eyes look teary]. Sometimes they speak to me and I can’t reply back and it makes them angry or at least I think they act angry because they shout at me.”**

Olga, Woman, 28, from Belarus. 19th December 2022.

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