



Caring about workers' rights: How a well-designed 'Fair Work Agency' could benefit care workers

About us

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.

Summary

This briefing details risks of exploitation for care workers on the Health and Care Worker Visa (H&CWV) and plots how a well-designed Single Enforcement Body (SEB) could best respond to these risks. UK labour market enforcement has been inefficient and fragmented, this briefing looks at how an effective SEB, in the form of the 'Fair Work Agency', could improve UK labour market oversight in order to build resilience against risks of labour exploitation.

1. Introduction

In their 2023/2024 strategy, the Director of Labour Market Enforcement (DLME) classified the care sector as a high-risk sector, highlighting that 'risk in the care sector is assessed as having increased over the year, as there is now greater evidence of deliberate non-compliance.'¹ Such evidence can be seen in the wealth of civil society reports and media coverage on the exploitation of migrant care workers using the Health and Care Worker Visa (H&CWV).² FLEX has long called attention to the risks of exploitation in the care sector and the

1 Margaret Beels, '[United Kingdom Labour Market Enforcement Strategy 2023/24](#)' (GOV.UK, 2023).

2 Emiliano Mellino et al., '[Visa System Forces Care Workers to Stay Silent on Rape and Abuse](#)', *The Bureau of Investigative Journalism*, 11 March 2024; Heather Stewart, '[Exploitation of Care Workers in England Is "Appalling", Says Government Adviser](#)', *The Guardian*, 30 July 2023; Delphine Strauss, '[Union Calls out "Shocking Abuse" of Migrant Careworkers in UK](#)', *Financial Times*, 10 July 2023; Meri Åhlberg, '[How Work Visa Design Is Driving Exploitation of Migrant Care Workers](#)' (Citizens Advice, 11 March 2024).

risks created by restrictive visas.³

In this briefing, FLEX explores how resilience can be built against risks of labour exploitation for care workers on the H&CWV. Our 2017 report 'Risky Business: Tackling Exploitation in the UK Labour Market' outlines indicators of risk and resilience to exploitation. Such indicators include pay, contract terms, migration status and labour market oversight. A lack of effective labour market oversight, with poor enforcement and the prioritisation of immigration control over employment rights, generates risk and fosters an environment where workers facing exploitation are overlooked and fall through the cracks. Conversely, strong, worker centred labour market enforcement, which includes the separation of immigration powers and labour inspection, can build resilience against labour exploitation. This briefing proposes how strong labour market enforcement through a well-designed Single Enforcement Body (SEB) could respond to some of the risks faced by care workers on the H&CWV.

This briefing envisages what is needed for the announcement of the creation of a new workers rights agency, or Single Enforcement Body, the 'Fair Work Agency' to be applicable for care workers on the H&CWV. That said, effective labour market oversight does not cancel out the need to address other indicators of risks of labour exploitation. Alongside an effective SEB, there is also the need to address the risks of exploitation created by the design of the H&CWV and the UK's migration system. This entails ending 'hostile environment' policies and creating safe and fair routes for migrant workers to come to the UK.

2. What is a Single Enforcement Body (SEB)?

UK labour market enforcement is highly fragmented. It is spread across six different enforcement agencies and falls under the responsibility of numerous government departments. The new Government's commitment to a Fair Work Agency which combines three of the six current enforcement agencies⁴ is a welcome and important step towards addressing the confusing and fragmented state of existing enforcement. At FLEX, we continue to advocate for a SEB that combines the functions of all six of the current labour market enforcement agencies as we believe this would make it easier for workers to navigate and enforce their rights.⁵ Whilst a SEB has significant potential to drive up working standards, to be effective and accessible, particularly to workers in the most high risk sectors, the agency will need to be well-designed and well-resourced.⁶ FLEX has previously outlined six priorities for a well-designed SEB.

3 Focus on Labour Exploitation (FLEX) et al., ['Joint Position Paper on Preventing Exploitation in the Adult Social Care Sector'](#) (December 2023); Focus on Labour Exploitation (FLEX), ['Creating a Safe and Fair UK Immigration Policy for Workers'](#) (November 2022).

4 The Fair Work Agency would combine the Gangmasters and Labour Abuse Authority, the National Minimum Wage unit and the Employment Agency Standards Inspectorate. See: Michael Savage, ['Labour Watchdog Will Have "Real Teeth" to Prosecute Rogue Employers, Says Angela Rayner'](#), *The Observer*, 23 June 2024.

5 Focus on Labour Exploitation (FLEX), ['A Single Enforcement Body: What an Effective Single Enforcement Body Looks Like'](#) (December 2023).

6 Focus on Labour Exploitation (FLEX), ['FLEX Response to the BEIS Single Enforcement Body Consultation'](#) (October 2019).

Box 1: For a SEB to be effective, it should:

- 1. Ensure secure reporting** – workers must not have their immigration status checked or considered as part of any reporting of complaints or during labour inspections. Labour inspections should be independent of immigration enforcement.
- 2. Have sufficient resourcing** – evidence drawn from the labour market should be used to assess resourcing. The structure should comprise a central body with regional hubs that hold expert, localised knowledge of their area, to ensure there are no enforcement deserts in the UK.
- 3. Meet international standards for labour inspection** – international best practice must be followed in resourcing and in practice. Enforcement must not only be reactive following complaints, but also proactive, based on risk assessments. The World Bank recommends a ratio of 60% proactive versus 40% reactive inspections and the ILO recommends a ratio of 1 inspector per 10,000 workers.
- 4. Provide fair and efficient remediation** – workers’ cases must be dealt with fairly and efficiently. An effective SEB should also meet workers’ immediate needs, for example through the provision of accommodation referrals and bridging visas.
- 5. Be gender responsive** – enforcement strategies and responses must recognise that gender inequalities significantly affect the experiences of people in the labour market, both in terms of the types and levels of abuse and discrimination.
- 6. Include meaningful worker participation** – workers themselves and their representative organisations, such as trade unions and migrant groups, should be involved in the design of UK labour market enforcement, changes to it and evaluations of it.⁷

It is also worth noting that the enforcement of labour rights in the UK is currently highly reactive and individualised. Workers who believe their employment rights have been violated often have to bring a claim to the Employment Tribunal. Taking your case to tribunal can be a very long and complex process and evidence shows that very few people who experience problems at work will go through this process.⁸ Whilst the UK employment tribunal system is not the focus of this briefing, it is also important to note that strong labour market enforcement requires access to legal aid and a well-functioning tribunal system. A well-designed SEB in no way replaces the need for legal aid and an accessible employment tribunal system, however, it is a positive step away from the current highly inefficient and reactive approach to enforcement, which relies on individuals to enforce their own rights.

7 Focus on Labour Exploitation (FLEX), [‘A Single Enforcement Body: What an Effective Single Enforcement Body Looks Like’](#).

8 Citizens Advice, [‘The Need for a Single Enforcement Body for Employment Rights’](#) (August 2019), 2.

3. Working conditions in the care sector

3.1 Drivers of risks for care workers

Adult social care covers a range of work that supports older people or people living with disabilities or physical or mental illnesses.⁹ This work can include personal care such as help with washing and dressing as well as help with moving around and preparing meals. Care work can take place in numerous settings, which includes the homes of those receiving care (home care or domiciliary care), support in day centres and care provided by care homes and nursing homes (residential care) among others.¹⁰ Although not thoroughly addressed in this briefing, the specific settings of care work and the nature of patients' health conditions influence the risks that workers face.¹¹

Local authorities assess people's care needs and fund the care of eligible individuals. Eligibility depends on a care assessment as well as a financial assessment, with the financial threshold for receiving care funded by the local authority differing between UK nations.¹² Independent domiciliary care providers and residential care homes are the main providers of adult social care in the UK. The majority of these independent care providers are for-profit companies but also include some civil society organisations. Eligible people will have this care arranged and funded by their local authority.¹³

Care work in the UK continues to be undervalued and underfunded.¹⁴ Despite persistent labour shortages in the sector, care workers continue to face low-pay and poor working conditions. Research from the Health Foundation found that a quarter of the UK's residential care workers lived in poverty or were on the verge of poverty.¹⁵ In addition to this, domiciliary care workers may not be paid for travel time in between appointments, or for on-call 'sleep-in' shifts at their places of employment and are therefore at high risk of being paid below minimum wage when taking into account all hours worked.¹⁶

9 For the purpose of this briefing, we will refer to this kind of work as 'care work'.

10 The King's Fund, ['Key Facts and Figures about Adult Social Care'](#), kingsfund.org, accessed 2 July 2024.

11 Unseen, ['Who Cares? Modern Slavery in the Care Sector'](#) (2023).

12 For example, for local authorities to cover residential care fees, people with assets worth more than £23,250 in England and Northern Ireland are normally not eligible. In Scotland, assets are measured between an upper (£35,000) and lower limit (£21,500), with the council paying a standard rate towards residential care costs for those below the lower limit. Those between the limits will pay a contribution to their care home costs, and those above the upper limit must pay their own fees. In Wales, those with capital above £50,000 are not eligible for support with residential care costs, but those on or below the limit will receive contributions from their local authority. See: The King's Fund, ['Key Facts and Figures about Adult Social Care'](#); NI Direct Government Services, ['Your Home, Assets and Residential Care or Nursing Home Fees'](#), nidirect.gov.uk, accessed 2 July 2024; Care Information Scotland, ['Financial Assessment'](#), careinfoscotland.scot, 6 November 2023; Welsh Government, ['Charging for Social Care'](#), gov.wales, accessed 2 July 2024.

13 The King's Fund, ['Key Facts and Figures about Adult Social Care'](#).

14 Whilst not explored in detail in this briefing, the undervaluing of care work relates to the undervaluing of what is perceived to be women's work and its intersection with race and ethnicity. For example, consideration must be given to the amount of unpaid care work that is predominantly carried out by women and girls, often from socially disadvantaged groups, and how this affects both the value placed on this work and further constrains the individuals undertaking this work to gain paid employment and the type and quality of jobs they can access. See: Amelita King-Dejardin, ['The Social Construction of Migrant Care Work. At the Intersection of Care, Migration and Gender'](#) (Geneva: International Labour Organization, 2019); International Labour Organization (ILO), ['Care Work and Care Jobs for the Future of Decent Work'](#) (Geneva: International Labour Organization, 2018).

15 Lucinda Allen et al., ['The Cost of Caring: Poverty and Deprivation among Residential Care Workers in the UK'](#) (The Health Foundation, 11 October 2022).

16 Nye Cominetti, ['Who Cares?: The Experience of Social Care Workers, and the Enforcement of Employment Rights in the Sector'](#) (Resolution Foundation, 23 January 2023); Migration Advisory Committee (MAC), ['Adult Social Care and Immigration: A Report from the Migration Advisory Committee'](#) (GOV.UK, April 2022), 8.

Low paid workers often have low workplace power, leaving them at greater risk of labour law violations from unethical employers.¹⁷ In the case of adult social care this has been exacerbated for migrant workers on the H&CWV by the dependencies on employers who are also visa sponsors. The recent inspection from the Independent Chief Inspector of Borders and immigration (ICIBI) found that, on top of poor wages, care workers face additional employment issues such as very long working days or, conversely, not being allocated sufficient hours of work. The inspection also found incidents of insufficient holidays and breaks, harassment, intimidation, bullying, racism, discrimination, sexual and psychological abuse, and threats of violence from employers across the care sector.¹⁸

3.2 Why a single agency reduces risks for care workers

FLEX has previously highlighted the shortcomings of the UK's modern slavery approach, which is highly reactive, and focuses on exploitation that reaches the trafficking threshold. This approach fails to address lower-level labour abuse or to address the structural drivers of exploitation. By using the continuum of exploitation framework, that recognises labour exploitation as a continuum of experiences which range from decent work through to labour law violations, and up to severe exploitation including human trafficking, we can see that the enforcement of employment rights is integral to understanding labour exploitation.¹⁹

Employment law violations are common in the UK, but the currently fragmented distribution of labour market enforcement responsibilities combined with under-resourcing leaves gaps in enforcement coverage, making it hard to have a clear understanding of non-compliance. Those who lack power in the labour market are at particular risk.²⁰ Responsibility for enforcement is spread across six core agencies, the Employment Agency Standards Inspectorate (EASI), the National Minimum Wage Unit, the Gangmasters and Labour Abuse Authority (GLAA), the Equality and Human Rights Commission (EHRC), the Health and Safety Executive (HSE) and the Pensions Regulator, plus local authorities in some cases.²¹ These agencies sit across various government departments including the Home Office, the Department for Business and Trade, the Department for Work and Pensions, the Department for Levelling Up, Housing and Communities, the Cabinet Office and HMRC. This contrasts with many other OECD countries (such as Ireland,²² the Netherlands,²³ Norway,²⁴ France²⁵ and Australia²⁶) whose labour market enforcement functions predominantly run from a single organisation.²⁷

17 Lindsay Judge and Hannah Slaughter, [‘Enforce for Good: Effectively Enforcing Labour Market Rights in the 2020s and Beyond’](#) (Resolution Foundation, 25 April 2023).

18 Independent Chief Inspector of Borders and Immigration (ICIBI), [‘An Inspection of the Immigration System as It Relates to the Social Care Sector August 2023 – November 2023’](#) (26 March 2024), 54.

19 Focus on Labour Exploitation (FLEX), [‘The Continuum of Exploitation in Practice’](#) (2024).

20 Judge and Slaughter, [‘Enforce for Good’](#), 30, 33.

21 For more information on the responsibilities of each agency, see: Judge and Slaughter, [‘Enforce for Good’](#), 31.

22 In Ireland, the Workplace Relations Commission has had responsibility for enforcing all aspects of individual employment rights along with a Labour Court since 2015.

23 The Netherlands Labour Authority (NLA) enforces almost all aspects of labour law, with a few exceptions for specific sectors.

24 Likewise, Norway has a national Labour Inspectorate that enforces most rights with the exception of the petroleum and aviation industries and anti-discrimination laws.

25 France has a single Labour Inspectorate for all private sector workers.

26 In Australia, the Fair Work Ombudsman enforces most employment rights.

27 Judge and Slaughter, [‘Enforce for Good’](#), 33.

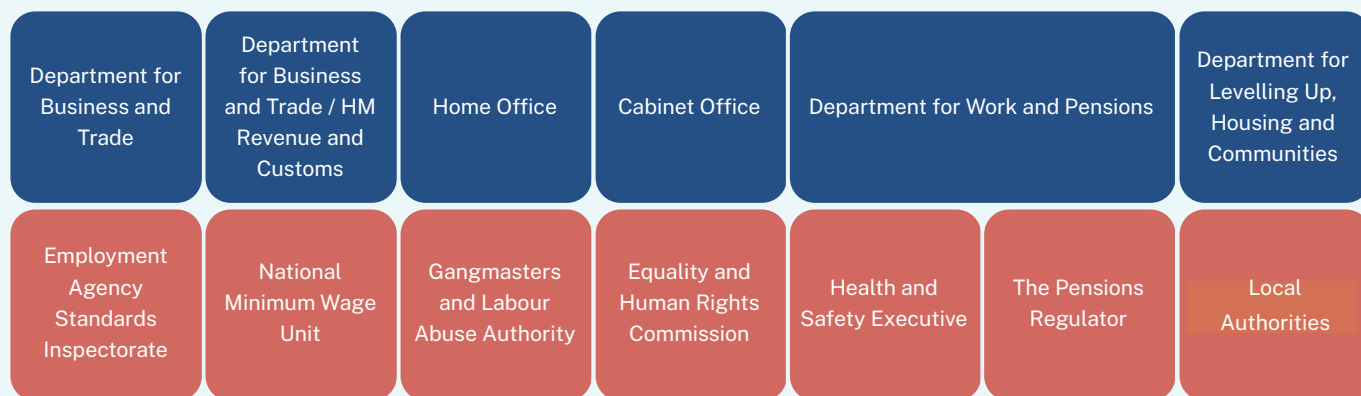


Figure 1: Responsibility for enforcing labour market rights is spread across several government departments.

Note: Blue boxes are Government departments; red boxes are enforcement agencies. Each enforcement agency is part of, funded by, and/or has its strategic framework set by ministers from the department(s) above it. The Equality and Human Rights Commission (EHRC) and Health and Safety Executive (HSE) are Great Britain only but have direct counterparts in Northern Ireland; the Employment Agency Standards Inspectorate (EASI) is Great Britain only; the GLAA covers England and Wales with respect to modern slavery and the UK for Gangmaster licencing; all other bodies cover UK. Chart originally contained in Lindsay Judge and Hannah Slaughter, ‘Enforce for Good: Effectively Enforcing Labour Market Rights in the 2020s and Beyond’ (Resolution Foundation, 25 April 2023). Reproduced with permission.

Effectively combining UK labour enforcement agencies into one single body can help to reduce risks of exploitation for care workers. FLEX’s body of research has demonstrated that where one type of workplace violation takes place, it is often symptomatic of the presence of additional violations.²⁸ As described above, care workers are at risk of multiple workplace violations and a well-designed SEB would be conscientious of mounting violations and be able to address multiple issues simultaneously. This would be much more efficient than the existing fragmented enforcement model that assumes only one type of offence would be present. A SEB that can address violations across a spectrum will help to resolve the shortcomings of the UK’s anti-trafficking approach to labour exploitation, which require violations to reach the trafficking threshold. Instead, a SEB that recognises that lower-level violations accumulate and can escalate to situations of forced labour, will be able to better identify the drivers of risk and structural causes of exploitation and deliver coordinated enforcement efforts.

4. Conditions on the Health & Care Worker Visa (H&CWV)

4.1 Drivers of risks on the Health & Care Worker Visa (H&CWV)

Following the recommendation from the Migration Advisory Committee, care work was added to the Shortage Occupation List (SOL), (now the Immigration Salary List (ISL)), in February 2022, making overseas care workers eligible for the H&CWV. Workers on this visa face both the poor working conditions in the UK adult social care sector described above, as well as harsh and restrictive UK immigration policy.²⁹

28 Focus on Labour Exploitation (FLEX), [‘FLEX Response to the BEIS Single Enforcement Body Consultation’](#).

29 Focus on Labour Exploitation (FLEX) et al., [‘Joint Position Paper on Preventing Exploitation in the Adult Social Care Sector’](#).

Box 2: Overview of conditions on the H&CWV

- H&CWV holders cannot change employers on the visa (unless they apply for a new visa which involves finding a new Home Office approved employer to sponsor the visa within 60 days of leaving the previous employer and paying new visa fees).
- People on the H&CWV can apply for indefinite leave to remain (ILR) in the UK if they have lived in the UK for 5 years and meet the requirements.
- There are some circumstances when those on the H&CWV can study, volunteer and take on some limited additional work.
- Before 11th March 2024 all workers on this visa could bring dependents. Since then, care workers on this visa are no-longer eligible to bring dependents.
- The H&CWV is excluded from the Immigration Health Surcharge (IHS).
- H&CWV holders have no recourse to public funds (NRPF).³⁰

As demonstrated in the figure below, care workers on the H&CWV must be offered a job and assigned a certificate of sponsorship by a UK employer. They can then make a visa application to be able to enter or remain in the UK. Various civil society organisations and media outlets have reported that migrant care workers on the H&CWV are being charged extortionate recruitment fees.³¹ Some of these fees have been charged by facilitators in countries of origin, however there are also instances of workers paying huge fees directly to their employers. Based on information received in 2023 from Unseen's Modern Slavery Helpline on the debts of 109 migrant care workers, their average amount of debt accrued was £11,800. In addition, excessive repayment clauses are also prevalent for workers on the H&CWV. This is where workers are required to pay back costs that the employer has invested in their recruitment if they decide to leave.³² For example, the trade union Unison reported a worker being charged £14,000 on their resignation.³³ Such excessive repayment clauses can leave workers trapped in exploitative conditions due to not earning enough to pay the charge to leave their employer.

30 UK Visas and Immigration (UKVI), ['Health and Care Worker Visa'](#), GOV.UK, accessed 2 July 2024.

31 Åhlberg, ['How Work Visa Design Is Driving Exploitation of Migrant Care Workers'](#); Mellino et al., ['Visa System Forces Care Workers to Stay Silent on Rape and Abuse'](#); Inga Thiemann, ['UK Agriculture and Care Visas: Worker Exploitation and Obstacles to Redress'](#) (Modern Slavery & Human Rights Policy & Evidence Centre, March 2024).

32 Focus on Labour Exploitation (FLEX) et al., ['Joint Position Paper on Preventing Exploitation in the Adult Social Care Sector'](#), 8-9.

33 Chistina McAnea, ['Migrant Care Staff in UK "Exploited and Harassed" by Employers, Says UNISON'](#), unison.org, 10 July 2023.



Figure 2: Health and Care Worker visa application process.

Note: Diagram originally contained in Independent Chief Inspector of Borders and Immigration (ICIBI), ‘An Inspection of the Immigration System as It Relates to the Social Care Sector August 2023 – November 2023’ (26 March 2024). Reproduced with permission.

Workers on the H&CWV face other barriers to leaving their employer due to their dependency on their employer for both their work and their right to stay in the UK. If a worker leaves their employment, they must find another employer who can both offer them a new job and provide them with a new certificate of sponsorship within 60 days (or fewer if their current visa expires earlier), otherwise they will be expected to leave the UK or change to a different form of leave to remain, for example, by switching to another visa. This reliance on the employer for work and for their right to stay in the UK, creates a situation where workers may be fearful of raising complaints or exiting exploitative employment. It also hands unethical employers the powerful threat of being able to withdraw employment and therefore also sponsorship. A recent report from Citizens Advice explains how work visa design is driving the exploitation of care workers. They describe how restrictive visas are a recipe for exploitation, especially when used for low pay jobs with poor conditions. The power imbalance created by workers’ dependency on their employer makes it extremely difficult for an individual to be able to enforce their rights. In cases where individuals do manage to raise complaints and their employer is investigated, their employer’s licence to sponsor visas could be revoked, meaning the individual and all their colleagues on a work sponsored visa would lose both their jobs and their sponsorship.³⁴

34 Åhlberg, [‘How Work Visa Design Is Driving Exploitation of Migrant Care Workers’](#).

The complexity and fragmentation of UK labour market enforcement is further compounded for migrant workers who may be unfamiliar with UK institutions and may face additional language barriers. The isolated location of some care work (for example a lone employee in a workplace which is a private home) can create additional barriers, particularly for migrant care workers who may be unable to make connections in order to gain support and advice. From their inspection into the care sector, the ICIBI highlighted the lack of clear information available to migrant workers on their labour rights in the UK.³⁵ The ICIBI's inspection also found that domiciliary care workers are put at particular risk of exploitation and face further barriers to creating networks for support, since they work in isolation in private homes, away from a wider workforce.³⁶

Whilst immigration policy is not strictly the focus of this briefing and the restrictive nature of this visa should be addressed from an immigration policy perspective,³⁷ it is vital that UK labour market enforcement is aware of the additional vulnerabilities created by restrictive visas and the role of secure reporting pathways as key to their being effective. The prioritisation of immigration enforcement over labour rights enforcement in the UK significantly impedes many migrant workers from enforcing their labour rights. The ICIBI's inspection of the care sector found that fear of being removed from the UK inhibited workers on the H&CWV from effective communication with the Home Office.³⁸ Research from the Modern Slavery & Human Rights Policy & Evidence Centre into UK agriculture and care visas lays out how the UK Government's 'hostile environment' policies (now called the 'compliant environment') which were designed to make life extremely challenging for those who cannot prove their right to stay in the UK, creates a pervasive culture of fear. These policies involve increased collaboration with immigration enforcement, including data sharing. Previous FLEX research has outlined how labour market enforcement agencies share data with immigration enforcement as well as undertaking joint inspections.³⁹ Whilst the hostile environment most acutely impacts those without the right to work or stay in the UK, the culture of fear stretches beyond this group and prevents migrant workers from raising complaints.⁴⁰

4.2 Why a single agency reduces risks on the Health & Care Worker Visa (H&CWV)

Since data sharing prevents migrant workers from enforcing their labour rights, for a SEB to be effective, it is imperative that there is a separation of powers between immigration enforcement and labour market enforcement so that workers know there is no risk of their data being shared without their active and informed consent. A SEB should never carry out joint inspections with immigration enforcement, as this erodes workers' trust in labour market enforcement and stops those whose employment rights are being violated from coming forward.⁴¹ A secure reporting system where, regardless of immigration status, workers feel safe and able to report abuse or exploitation, is fundamental for any labour market inspectorates to be able to effectively fulfil their function.

In relation to the specific drivers of risk on the H&CWV, SEB inspections should monitor the use of repayment clauses on work visas. An effective SEB should have powers to take action against repayment clauses that

35 Independent Chief Inspector of Borders and Immigration (ICIBI), ['An Inspection of the Immigration System as It Relates to the Social Care Sector'](#), 21.

36 Independent Chief Inspector of Borders and Immigration (ICIBI), 54.

37 See: Focus on Labour Exploitation (FLEX), ['Creating a Safe and Fair UK Immigration Policy for Workers'](#).

38 Independent Chief Inspector of Borders and Immigration (ICIBI), ['An Inspection of the Immigration System as It Relates to the Social Care Sector'](#), 20.

39 Focus on Labour Exploitation (FLEX), ['Opportunity Knocks: Improving Responses to Labour Exploitation with Secure Reporting'](#) (April 2020), 27.

40 Thiemann, ['UK Agriculture and Care Visas'](#), 19

41 Focus on Labour Exploitation (FLEX), ['Opportunity Knocks'](#).

are blatantly exploitative.⁴² In addition, vulnerabilities created by restrictive visas should be addressed from other angles, and not only by improving labour market oversight. For example, for workers on the H&CWV, an effective SEB would not solve the issue of the very limited 60-day window to find a new employer and sponsor if a worker loses or leaves their existing employment. The trade union Unison have recommended that local authorities should play a role to resolve this, by operating a central point in the region to track the vacancies of sponsoring employers, enabling care workers to find new employers more easily.⁴³

A well-designed SEB should allow workers to more easily navigate UK labour market enforcement by having a single agency they can contact. This would help to avoid situations where workers are repeatedly signposted to different enforcement agencies, passing along responsibility and leaving workers lost and confused. The current structure allows workers to fall through the cracks where it may appear that their issues do not clearly fall within the remit of any of the enforcement agencies. A well-resourced single agency has the potential to bring clarity to workers and could help workers build trust in UK labour market enforcement.

As noted in our 2019 consultation response to the Department for Business, Energy and Industrial Strategy (BEIS)⁴⁴ on the establishment of a SEB, FLEX recommends that an effective SEB should play an important role in providing advice through a multi-lingual, 24-hour helpline that is resourced in a way that makes it accessible to at-risk migrant workers. It is imperative that the advice given has expertise on the relationship between labour rights and different forms of immigration status. There must be no data sharing between the helpline and immigration enforcement.

In FLEX's SEB consultation response, we explored labour market enforcement models from Austria, Denmark and Sweden where a central labour authority works from central offices as well as regional offices. FLEX recommends that the benefits of this approach be explored for the UK context, where a SEB could be comprised of a central body with localised hubs. This would stop labour market enforcement having little to no staff based in certain areas of the UK. For instance, a Parliamentary Question in December 2020 revealed only one GLAA employee had been based in Scotland and a Freedom of Information Act Request in November 2022 uncovered that only two GLAA employees had been based in Northern Ireland.⁴⁵ A SEB with localised hubs would allow regional offices to hold expert, localised knowledge of the labour market in their area as well as facilitating clear access points for workers, especially for those working in isolated conditions.

5. Lack of regulations and compliance

5.1 Drivers of risks created by the lack of regulation and compliance

Oversight for the care sector is spread across numerous government departments and regulatory organisations, which results in reduced accountability. ICIBI inspectors reported it was unclear who 'owns' responsibility for the oversight of the care sector.⁴⁶ In addition, the prioritisation of immigration enforcement

42 The new Labour Government has committed to addressing this, saying 'We will also look at how we can restrict the use of repayment clauses for relocation and visa costs.' See: Holly Bancroft, '[Vulnerable Workers Coming to UK in Post-Brexit Deal at Risk of Bullying and Sexual Harassment, Report Finds](#)', The Independent, 1 June 2024.

43 Unison, '[Expendable Labour: The Exploitation of Migrant Care Workers](#)', 2023.

44 BEIS existed until 2023 when it was split to form the Department for Business and Trade (DBT), the Department for Energy Security and Net Zero (DESNZ) and the Department for Science, Innovation and Technology (DSIT). Responsibility for national security and investment policy has gone to the Cabinet Office. See: GOV. UK, '[Department for Business, Energy and Industrial Strategy](#)'.

45 Gangmasters & Labour Abuse Authority (GLAA), '[Parliamentary Question – Staff Employed by the GLAA](#)', 30 December 2020; Gangmasters & Labour Abuse Authority (GLAA), '[Freedom of Information Act Request - GLAA Colleagues Based in Northern Ireland](#)', 30 November 2022.

46 Independent Chief Inspector of Borders and Immigration (ICIBI), '[An Inspection of the Immigration System as It Relates to the Social Care Sector](#)', 4-5.

over labour rights enforcement is also evident in the Government's sponsor licensing processes for work visas. Whilst it is prohibited to award a sponsorship licence to companies that have breached immigration law, there are no such restrictions in place for companies that have violated employment law.⁴⁷

In the case of the H&CWV, the ICIBI emphasised the inappropriateness of the sponsor licensing structure for care work and raised concern around the lack of measures taken by the Home Office to mitigate risks for workers on the visa. The ICIBI noted that the Home Office has only put one compliance officer in place for every 1,600 employers licensed to sponsor migrant workers and the Home Office was not prepared for the influx of employers looking to sponsor care workers on the H&CWV. Stakeholders told the ICIBI that the checks carried out by the Home Office compliance team were not effective in identifying employers who wished to abuse the system and they merely checked the legal existence of an organisation and their registered address. Yet the ICIBI found that even this information was not thoroughly checked by the Home Office, since inspectors uncovered '16 pages' of sponsors using the same address.⁴⁸

In December 2023, the Government announced the requirement for all sponsors seeking to employ migrant workers in the social care sector in England to register with the Care Quality Commission (CQC).⁴⁹ This meant that from 4th April 2024 only health and care organisations in England which are regulated by the CQC are able to sponsor care worker visa applications. The CQC informed the Home Office that there is room to circumvent this requirement by making a registration dormant and therefore not being subject to CQC regulation, but still being able to gain a sponsorship licence from the Home Office. The ICIBI reported that the Home Office has not taken action in regard to this. Moreover, not all companies registered with the CQC are inspected, therefore registration with the CQC does not indicate that a company looking to gain a sponsorship licence has received a thorough, expert assessment. Local authorities also pointed out that they were not told when a new sponsor licence was issued, suspended or revoked in their area, which prohibited them from being able to support workers and check they were being paid.⁵⁰

5.2 Why a single agency reduces risks related to the lack of regulation and compliance

As it currently stands, in addition to a highly complicated and fragmented system, UK labour market enforcement is under-resourced. FLEX has repeatedly highlighted the fact that the UK falls well below international recommendations on labour inspections and a very limited number of proactive inspections are carried out.⁵¹

An effective SEB must be well resourced and carry out proactive inspections. This means that, at a minimum, a SEB should meet the ILO target for one inspector for every ten thousand workers.⁵² Regular proactive inspections will reduce the burden of responsibility to enforce employment rights being placed on individual workers and provide a driver for proactive compliance. As explored in the first and second section, this is particularly important for workers who face multiple barriers to enforcing their employment rights such as those on the H&CWV.

47 Mellino et al., *'Visa System Forces Care Workers to Stay Silent on Rape and Abuse'*. However, the new Government has said employers that breach employment law will be barred from hiring overseas workers. See: Labour Party, *'Change: Labour Party Manifesto 2024'*, 2024.

48 Independent Chief Inspector of Borders and Immigration (ICIBI), *'An Inspection of the Immigration System as It Relates to the Social Care Sector'*, 2, 32-33.

49 UK parliament, *'Legal Migration Volume 742: Debated on Monday 4 December 2023'*, hansard.parliament.uk, 4 December 2023.

50 Independent Chief Inspector of Borders and Immigration (ICIBI), *'An Inspection of the Immigration System as It Relates to the Social Care Sector'*, 21, 33, 38.

51 Focus on Labour Exploitation (FLEX), *'The Continuum of Exploitation in Practice'*, 11; Focus on Labour Exploitation (FLEX), *'Risky Business: Tackling Exploitation in the UK Labour Market'* (2017), 24.

52 International Labour Organization (ILO), *'Strategies and Practice for Labour Inspection'* (Geneva, November 2006).

A well-resourced SEB would help avoid confusion about remit and roles like that which we have seen with the H&CWV and the CQC, where the involvement of regulatory bodies whose remit does not include labour market enforcement are called in to help tackle labour market non-compliance. The CQC is the industry regulator, yet the addition of the requirement for visa sponsors to be registered with the CQC was described by government as being put in place ‘in order to crack down on worker exploitation and abuse within the sector’.⁵³ The CQC themselves have raised concerns around their capacity since being given these additional responsibilities.⁵⁴ With effective and well-resourced labour market oversight from a single body, we should see a reduction in situations where lines of responsibility are blurred and passed around to regulators who do not have the relevant resources, expertise or remit.

6. Policy implications for an effective SEB

As explored in this briefing, a SEB has the potential to bring clarity and build resilience against drivers of risk for workers, including those on the H&CWV. However, the effectiveness of a SEB is contingent on its design and resourcing. A SEB needs to take a holistic approach to workers and understand the issues faced by workers in high-risk sectors who have multiple dependencies. A SEB must provide fair and efficient remediation, whilst also being able address workers’ immediate needs. This should include having powers to issue accommodation referrals or bridging visas that give workers the opportunity to pursue employment matters.⁵⁵ An effective SEB must be well resourced to be able to conduct sufficient proactive inspections. Having a structure that includes regional offices with expert local knowledge can help facilitate proactive inspections as well as providing workers with points of access on the ground. It is essential that there be a separation between immigration and labour market enforcement powers, so that labour market inspections are never conducted in conjunction with immigration enforcement. An effective SEB must provide safe pathways for workers to report issues without fear of repercussions from their employer or immigration enforcement.

53 Home Office, [‘New Laws to Cut Migration and Tackle Care Worker Visa Abuse’](#), GOV.UK, 11 March 2024.

54 House of Commons, [‘Health and Social Care Committee Oral Evidence: Social Care: Changes to Legal Migration Measures, HC 411’](#) (19 December 2023); Care Quality Commission (CQC), [‘Our Regulatory Policy Position on Modern Slavery and Unethical International Recruitment’](#), cqc.org.uk, 8 November 2023.

55 There is a precedent for this, where someone who has been identified by the National Referral Mechanism (NRM) as having been trafficked, they can be given temporary permission to stay in certain circumstances such as when pursuing a compensation claim. See: Home Office, [‘Temporary Permission to Stay for Victims of Human Trafficking and Slavery’](#), GOV.UK, 30 May 2024.
