

24 January 2022

Kevin Foster MP
Parliamentary Under Secretary of State (Minister for Future Borders and Immigration)
Home Office
2 Marsham Street
London
SW1P 4DF

Dear Minister,

I am writing in my capacity as Independent Anti-Slavery Commissioner to welcome the joint Home Office and Defra review of the Seasonal Workers Pilot for 2019. This has been much anticipated by the sector and its findings are instructive for farmers, scheme operators, law enforcers and government bodies.

However, the report should be put into context. During the 2019 season that it covers, the pilot had only two operators, recruiting a maximum of 2,500 temporary migrant workers between them. Three years on, the seasonal workers (SW) visa route has four operators and has expanded to ornamental horticulture. In 2022, the scheme has places for 30,000 workers, with the option of adding a further 10,000.

While some lessons have undoubtedly been learned and applied in the last three years, the corresponding risks have also multiplied. In addition to a twelvefold increase of workers on the scheme, agencies from as far afield as the Caribbean and Nepal have responded to the new immigration rules by advertising the SW route as a recruitment opportunity into the UK. Evidence suggests that workers migrating over longer distances are at greater risk of exploitation, particularly in the form of recruitment fees, bogus recruitment and debt bondage. Labour agencies in those countries will be more difficult to scrutinise or hold to account.

The 2019 review states that no instances of modern slavery were identified, although other alleged welfare issues were found by operators, through compliance visits and Defra's survey of pilot workers. Many of these issues fall under the definition of forced labour indicators as defined by the ILO.

Concerns include:

- That almost half compliance visits identified workers that had not received their employment contract in their native language.
- That 15% of respondents to the survey said that their accommodation was neither safe, comfortable, hygienic or warm, and 10% that it had no bathroom, running water or kitchen.
- 22% of respondents to the Defra survey alleged ill treatment by farm managers, including racism, discrimination or mistreatment on grounds of workers' nationality.

As the review acknowledges, these conditions are unacceptable, and I am pleased that some action has already been taken, such as extra training for managers and updated guidance to tighten the compliance requirements.

However, while no instances of modern slavery were identified during the 2019 season, there were strong indicators of labour exploitation, and these have continued in recent seasons. I would also suggest that the report may be underestimating the risks for the following reasons:

- First, ongoing feedback from workers is essential for understanding trends and threats. But the 2019 survey is not fully representative of the worker experience. This is due to the limitations of self-selection bias, language barriers and a low response rate of 26%, as the review¹ acknowledges.
- Second, the Home Office and Defra do not have data on how many workers used the provided helplines to raise issues that they were uncomfortable discussing with farm managers. This raises further questions around the effectiveness of the current operator-run helplines as safeguards. In an independent study of the visa scheme commissioned by the Scottish Government², workers complained of struggling to make contact with one helpline, due to limited availability and lack of translation service. Both helplines were described as having “bounded and specific functions” that could make it difficult for workers to gain resolution to their issues during their relatively short stay in the UK.
- And finally, modern slavery and severe cases of labour exploitation tend to be hidden from public view and are rarely discovered during audits and compliance visits.

The 2019 review makes no mention of recruitment fees, which are banned under the SW scheme, but considered acceptable in many countries. I have heard credible reports that rogue agents were typically charging individuals US\$1,000 to access the scheme in 2021, and this was occurring in several labour sourcing countries. Recruitment fees put workers into debt before they enter the country, leaving them financially vulnerable, and at higher risk of exploitation.

I have also heard that other unethical practices have continued in labour sourcing countries in recent seasons. For example, some agencies supplying to the scheme operators are continuing to mislead applicants on the nature of work, or even the sector that they are entering.

I therefore urge you to ensure that the entire seasonal worker scheme process - from home country recruitment, to living and working in the UK - is not being undermined and subverted by unscrupulous actors, whether labour agencies, middlemen, or farmers.

- Concerted efforts need to be taken to educate workers and ensure that they understand their rights during and after the recruitment process.
- Worker voice tools should be rolled out to understand worker experience, at scale and in real time, while the scheme is operating.
- There should be a grievance mechanism, run by a neutral third party and accessible to all workers on the scheme.

¹ Seasonal Workers Pilot 2019 Review - Appendices

² Assessment of the Risks of Human Trafficking for Forced Labour on the UK Seasonal Workers Pilot, Focus on Labour Exploitation and Fife Migrants Forum, March 2021

- For those workers that have paid recruitment fees, provision should be made for remediation. Ethical labour consultancy Impactt has produced a guidance document which suggests some principles and best practice,³ and could be one tool for starting discussions.
- The scheme's existing risks should be assessed and addressed before visa schemes are expanded or rolled out to other areas.

Agriculture has consistently been identified as a high risk sector for labour exploitation by Directors of Labour Market Enforcement. My general message to business is that, if they haven't found instances of labour exploitation risk in their supply chains, they are either not looking hard enough or do not have adequate systems in place. This principle should equally apply to government-backed visa schemes.

As a courtesy, I would like to alert you to the fact that I am also writing to the Rt Hon George Eustice MP at Defra on this matter. I look forward to receiving your response. In the interests of transparency please reply in a way that enables me to publish your letter on my website.

Yours sincerely,



Independent Anti-Slavery Commissioner

³ [Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs – Impactt \(impacttlimited.com\)](https://www.impacttlimited.com)



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DECS Reference: MIN/0236509/22

5 May 2022

Dear Dame Sara,

Thank you for your letter of 24 January and your email of 10 March about the 2019 review of the Seasonal Worker route. I am very sorry for the delay in responding to you.

I am grateful to you for taking the time both to read this report and to set out your observations. We will consider these points carefully. As you note, the report references instances of labour abuse and practices which are clearly unacceptable. Ongoing monitoring of this route has continued since the completion of the 2019 report, with a focus on migrant welfare as part of this.

I am acutely conscious of the challenges of the Seasonal Worker route. I have especially noted the findings of the Director of Labour Market Enforcement which flagged the agriculture sector, and specifically seasonal workers, as presenting a high risk of labour market exploitation.

We are working closely with the Department for Environment, Food and Rural Affairs, and the Gangmasters and Labour Abuse Authority, to ensure our policy in relation to seasonal workers is as effective as possible at ensuring the welfare of workers in this sector.

Amongst these measures, we have implemented a minimum rate of pay for workers on the Seasonal Worker route, requiring they must be paid at least £10.10 for each hour worked. This is intended to support the reduction of debt bondage risks. The Government believes it is important we take meaningful action to discourage poor conditions of employment and to support seasonal workers within this sector.

I also noted your comments regarding allegations of migrant workers being charged recruitment fees, something which is strictly not permitted under the terms of the scheme. We encourage anyone who has been charged recruitment fees to contact the Gangmasters and Labour Abuse Authority who will investigate fully and take enforcement action when recruitment fees are charged.

There are allegations which have been reported, although you will appreciate it would not

be appropriate for me to comment until the relevant investigation has concluded.

With my very best wishes.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Foster", with a large flourish at the end.

Kevin Foster MP
Minister for Safe and Legal Migration