

The Business, Energy and Industrial Strategy Committee

Post pandemic economic growth. UK labour market

Focus on Labour Exploitation (FLEX) written evidence

July 2022

Introduction

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.

FLEX's work builds on the understanding that labour exploitation is situated at the extreme end of a spectrum ranging from labour compliance through to labour law violations, culminating at extreme exploitation in the form of offences such as forced labour and human trafficking for labour exploitation. These are at once serious crimes, human rights breaches, and violations of labour law.

FLEX welcomes this Business Committee Inquiry into the UK labour market. We have conducted research and policy work which we consider to be relevant to the inspection. There is a strong body of evidence highlighting ongoing concerns with the immigration route for workers to migrate to work in the agricultural sector in the UK, the Seasonal Worker visa. These include the findings from a recent investigation by The Bureau of Investigative Journalism into the charging of (illegal) recruitment fees,¹ together with the Government's own, delayed evaluation of the pilot scheme (published December 2021) as well a letter from the UK's former Independent Anti-Slavery Commissioner to the Minister dated 24th January 2022, welcoming the review of the 2019 pilot and setting out her concerns, the conclusions and recommendations of which are supported by our research.² FLEX's own relevant work includes a 2017 report which examines the impact of migration status, labour market structures, and immigration control measures on vulnerability to exploitation,³ a 2018 briefing highlighting the risks of temporary migration schemes for the agricultural and horticultural sectors,⁴ and a 2021 assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot.⁵ We have also published an analysis and statement following the

¹ <https://www.thebureauinvestigates.com/stories/2022-05-27/migrant-fruit-pickers-charged-thousands-in-illegal-fees-to-work-on-uk-farms>

² <https://www.antislaverycommissioner.co.uk/media/1733/iasc-letters-to-ministers-about-exploitation-risk-for-migrant-agricultural-workers.pdf>

³ FLEX. 2017. Risky business: Tackling exploitation in the UK labour market. Available at: <https://www.labourexploitation.org/publications/risky-business-tackling-exploitation-uk-labour-market>

⁴ Preventing exploitation in the shadow of Brexit: The risks of temporary migration programmes September 2018. Available at: <https://www.labourexploitation.org/publications/preventing-exploitation-shadow-brexit-risks-temporary-migration-programmes>

⁵ <https://www.labourexploitation.org/publications/assessment-risks-human-trafficking-forced-labour-uk-seasonal-workers-pilot>

delayed publication in December 2021 of the government's evaluation of the 2019 Seasonal Workers Pilot,⁶ and have highlighted the increased risks to Ukrainian nationals on the scheme, as well as other nationals who have migrated to the UK from Ukraine, following the invasion of Ukraine and ongoing war.⁷

In addition to conducting research, FLEX is informed by the experiences of frontline organisations through formal and informal networks and partnerships. In 2015, FLEX established the Labour Exploitation Advisory Group (LEAG) - a coalition of organisations working directly with people who have experienced or are at risk of labour exploitation in the UK. LEAG promotes discussion, information-sharing and collaboration as well as learning from best practice and linking practice to policy.⁸

FLEX believes partnership with, and participation of, those affected by labour abuse and exploitation is crucial to effective research and to inform policy making. Workers' knowledge can help identify unintended consequences and shape better policy solutions. Despite their expertise by experience and despite being the ones most affected by such policy decisions, workers at risk are rarely involved by policy-makers in developing solutions to labour exploitation. FLEX believes that working together with workers to generate knowledge and advocate for change will lead to better evidence-based policies and on-the-ground change, and that participatory research approaches are a means to achieve this by working 'with', rather than 'for' or 'on', at-risk workers.⁹ FLEX strongly recommends that in order to prevent unintended consequences for workers employed in high risk sectors that active efforts are made to facilitate input to and learning from people with lived experience of front line work in these sectors in order to inform any recommendations for addressing labour shortages.

Summary

1. The end of free movement, and linked developments in the UK's immigration policy, has propelled a series of ad hoc changes with little consultation or proper evaluation from the government regarding the risks and their mitigation. Workers are being treated as commodities, brought in to fill gaps in the labour market and then sent away and entering the UK on routes on which they cannot access legal rights or safeguards in practice.¹⁰ In this environment, the government opens and closes routes without proper scrutiny or consideration of the risks of exploitation caused by such policies. In responding to the reduced number of workers from the EU, the UK has introduced a

⁶ <https://www.labourexploitation.org/publications/flex-response-government's-review-first-year-seasonal-workers-pilot>

⁷ <https://labourexploitation.org/news/filling-gaps-preventing-increased-risks-exploitation-ukrainian-workers-seasonal-worker-visa>

⁸ LEAG members include: FLEX (founder and secretariat), [Latin American Women's Rights Service](#) (Chair), Unite the Union, East European Resource Centre, British Red Cross, Kalayaan, Bail for Immigration Detainees, Kanlungan, Work Rights Centre, Glass Door

⁹ <https://www.labourexploitation.org/what-we-do/research-0>

¹⁰ <https://www.labourexploitation.org/news/treating-workers-commodities-short-term-work-visas-and-risks-exploitation>

new Points Based System, expanded the Shortage Occupation List (SOL) and expanded the short-term visas focused on specific sectors via the agricultural seasonal workers visa scheme.

2. Restrictive immigration routes, such as temporary migration programmes, are associated with increased risks for workers.¹¹ An understanding of the restrictive immigration policies' compounding effects on migrant worker vulnerability to labour abuse and exploitation should be embedded within attempts to address labour shortages. Central to this is the need for enforcement bodies to have the tools and resources to mitigate such risks and ensure that migrant workers are able to access support and protection without fear of immigration enforcement action.

Impacts of the Coronavirus Pandemic

3. The COVID-19 pandemic brought workers' precarity further to light by exposing the multiple, layered vulnerabilities workers faces due to their position in the labour market and restrictions related to their immigration status, such as having limited access to social security. These vulnerabilities related to employment, immigration and social security policy intersect to restrict people's options, eroding their ability to negotiate decent work.
4. Between June 2020 and July 2021 FLEX conducted a study to collect information on the experiences of migrant workers in low-paid and insecure work during the Covid-19 pandemic, focusing on barriers to accessing employment rights and social protections, and the associated risks of labour abuse and exploitation. This information included an online survey conducted via the grassroots trade unions IWGB and UVW (337 respondents of which 88% were from migrants); interviews and focus groups conducted by FLEX with union caseworkers and officials (6), other frontline civil society organisations (14) and workers (3); and interviews and focus groups with fellow workers conducted by Peer Researchers (9). The sectors covered by this research included cleaning, security, hospitality, courier and logistics and transportation among others.¹²
5. The research identified the following primary issues:¹³
 - *Not being paid wages owed.* The single largest issue reported by survey respondents was not being paid the full or correct wages, which 44% of participants had experienced at least once since March 2020.
 - *Physical and mental health risks.* This included being exposed to Covid-19 through work (17%), being asked to work in ways that felt dangerous, including

¹¹ <https://www.labourexploitation.org/publications/risks-exploitation-temporary-migration-programmes-flex-response-2018-immigration-white>

¹² <https://www.labourexploitation.org/publications/no-viable-alternatives-social-insecurity-and-risk-labour-exploitation-during-covid-19>

¹³ *Ibid.*

with poor social distancing or without Personal Protective Equipment (12%), and being forced to work despite being ill (8%). Of the survey respondents, 23% reported deteriorated mental health and wellbeing because of the pandemic.

- *Redundancies and loss of work.* A significant proportion of research participants were made redundant (33%), had to accept new terms of employment to retain their job (24%), or were simply not given any work (11%), which intensified existing fears and feelings of insecurity, and further reduced workers' bargaining power.
- *Excessive workload and sexual harassment.* Approximately one sixth (16%) of survey respondents saw their workloads increase during the pandemic, the majority of whom (63%) were not paid for this additional work. The data shows that employers exploited this power imbalance, using people's fear of losing employment to impose additional work as well as to sexually harass them.

[Sexual harassment] has doubled, tripled during the pandemic because supervisors and managers threaten workers with firing them and to avoid this, they [workers] have to go out with them [supervisors and managers], have a coffee, visit them at home. This is happening a lot. We're concerned about it. They are demanding sexual favours in particular from female workers, taking advantage of the crisis, in exchange for not firing her or reducing her hours, or for providing a better working environment.

Cleaners and Facilities Branch Chair, IWGB, 28 April 2021¹⁴

Workers' rights and protections

Links Between Access to Social Protections and Risk of Exploitation

6. Trends in the labour market, such as the increased reliance on outsourcing, subcontracting and self-employment, are making it harder to scrutinise employers.¹⁵ The growing complexity of supply chains makes it more difficult to identify where responsibility lies when abuse occurs. In-work poverty is at record levels¹⁶ and an estimated one in six UK workers are in insecure employment, a trend that has been intensified even further by the coronavirus pandemic.¹⁷ Workers on low incomes are finding it harder to assert their rights at work as a consequence of the erosion of the power and reach of trade unions, which traditionally played a key role in monitoring and enforcing labour standards, particularly as they applied to the most vulnerable. The growth of the gig-economy and the platforms' insistence on self-employment status further removes workers from protections.

¹⁴ *Ibid.*, p.35.

¹⁵ https://hctar.seas.harvard.edu/files/hctar/files/weil.strategic_approach08.pdf

¹⁶ <https://www.ippr.org/files/2021-05/no-longer-managing-may21.pdf>

¹⁷ https://www.livingwage.org.uk/sites/default/files/Living%20Hours%20Final%20Report%20110619_1.pdf

7. Sectors with a high-proportion of workers with compounding, multidimensional ‘precarity’ based on their position in the labour market (being in low-paid and insecure work) and their situation as migrants (having restricted access to work and welfare) are more likely to be high-risk.
8. This layering of vulnerabilities produced by labour market and restrictive immigration policy can limit people’s options to the point of creating ‘unfreedom’, compelling them into coercive working relationships and eroding their ability to negotiate decent work.¹⁸ Intersectional discrimination, linked to gender and racial inequalities, and experienced both at the individual and institutional levels, are also key factors compounding risk of exploitation.
9. The structural vulnerabilities of a workforce are central to a sector’s risk. As such, the multiple and crosscutting vulnerabilities that workers experience sculpt the nature of the impacts on a given sector. The previous DLME, Matthew Taylor highlighted the need to explore the connections between migration status and vulnerability within the most recent strategy.¹⁹

Gig economy

10. FLEX’s working paper “*The gig is up*”: *Participatory Research with Couriers in the UK App-Based Delivery Sector*²⁰ focuses on the experiences of app-based couriers in the food and goods delivery sector of the ‘gig’ or ‘platform’ economy. Based on the responses of 76 workers, the study found:
 11. Lack of access to employment rights: Our research found that most couriers lack access to employment rights such as sick pay, holiday pay and pension and National Insurance contributions. Not being able to access sick pay means that if couriers get ill or injured, they must take unpaid time off to recover or have no choice but to continue working despite being ill. Of our survey participants, 59% reported having no access to financial support when ill or injured, while 18% had access to an emergency fund. Participants raised concerns around the lack of transparency over the terms and conditions of employment between them and the platforms, including over terminations and appeal processes.
 12. Issues with pay: 63% reported being paid below the minimum wage, based on self-reported wages after work-related expenses. We found that couriers’ low pay and underpayment are caused by long unpaid times, such as waiting times at the restaurants and travelling times from one delivery to the other; costs associated with

¹⁸ Lewis, H., Dwyer, P., Hodkinson, S. and Waite, L. (2015) ‘Hyper-precarious lives: Migrants, work and forced labour in the Global North’, *Progress in Human Geography*, 39(5), pp.580-600.

¹⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040317/E02666976_BEIS_UK_Labour_Market_Enforcement_Strategy_2021-22_Accessible.pdf.

²⁰ <https://www.labourexploitation.org/publications/participatory-research-couriers-uk-app-based-delivery-sector>

the job, such as equipment, fuel, and insurance; and the piece rate payment system, that together with an ever-increasing workforce, drives fees lower and lower. For workers on low wages, income insecurity can lead to serious financial problems. 71% of respondents had experienced financial difficulties, including 33% who had to rely on loans or other financial help from family or friends to get by, 20% not being able to pay their rent or bills on time and 18% who had to rely on government benefits.

13. *Safety concerns and violence at work:* 82% of respondents experienced violence at work, including 59% who experienced being shouted or sworn at, 24% who had been threatened with physical violence while on the job, 24% who had had their vehicle stolen, 20% who had been assaulted or attacked, 16% who had been shoved, 16% who had the food or parcel they were delivering stolen and 10% who had their vehicle intentionally damaged. The safety risk faced by couriers is exacerbated by many factors, such as the fact that some apps don't allow drivers to see where they are delivering until they accept an order, making it hard to avoid dangerous areas.
14. *Sexual harassment:* 18% of survey respondents had experienced some form of sexual harassment at work, however this percentage jumps to 57% for women and non-binary participants. Sexual harassment is often underdiscussed in the sector because of the lack of appropriate reporting channels acting as a barrier for workers to report/discuss sexual harassment; app-based deliveries being a male dominated sector where sexual harassment is not seen as a priority; and fear of repercussion/termination when reporting.
15. Of all survey respondents that had experienced safety issues on the job, 73% said they had not reported the incident as they felt reporting would not make a difference and 5% feared reporting it. Moreover, of those that did report an issue, 67% reported the accident to the platform company without them taking any action, and 22% reported it to the police but did not receive any help.

The Gig Economy & Zero-Hour Contracts

16. One-sided flexibility means that couriers can have their supplier agreement with the platform terminated without any explanation or ability to challenge the decision of the platform. Unfair terminations make couriers' work much more precarious and insecure as they fear retaliation if they join a union or complain about working conditions or pay. When asked about whether they have been afraid of having their account closed, respondents to a FLEX produced survey answered yes if they complained about unfair treatment (43%), reported/complained about bad working conditions or pay (31%), organised a strike or a boycott (27%), joined a trade union (18%) and reported/ complained about harassment or abuse at work (16%).²¹

²¹ <https://www.labourexploitation.org/publications/participatory-research-couriers-uk-app-based-delivery-sector>, p.7.

17. The classification of couriers as self-employed also allows companies to transfer excessive amounts of risk to workers, creating insecurity for workers. One way in which this is done is by companies putting all costs on couriers, including unpaid waiting times and unpaid time traveling between jobs, and any costs associated with the job, such as equipment, fuel, and insurance, which would normally be paid for by the companies. Platforms also avoid responsibility for costs that are normally expected of employers to cover such as pensions and National Insurance contributions and sick pay, creating a high risk of destitution for workers in an event of an accident or event that can cause them to lose their income. Lastly, platforms set terms and conditions and wages for couriers but take no responsibility for below minimum wage payments and dangerous conditions. This is often the case in traditional sectors of the economy where outsourcing and subcontracting are the norm. **Addressing worker precarity, for example by regulating zero-hour contracts and false self employment, would enable more workers to report and stand up to employer non-compliance.**

Out-Sourcing

18. Employment relationships in the service industries have become increasingly fissured, through practices such as outsourcing and subcontracting. Fissuring has created longer and more complex supply chains and allowed lead companies- brands at the top of the chain- to avoid liability for labour rights violations while retaining the power to influence, if not determine, the wages and conditions of workers employed by their suppliers and contractors. Lead companies are able to shape the conditions of work through, for example, demands for lower costs, tight delivery deadlines and unstable sourcing relationships. This is true for sectors that have long involved extensive subcontracting networks, such as apparel and agriculture, as well as for a variety of service industries that have more recently fissured.
19. Through outsourcing, lead companies are able to leverage their purchasing power to benefit from lower prices. Cleaning companies must compete for contracts based on cost and flexibility. To remain competitive, they often squeeze workers' pay and benefits and use increasingly casual, temporary or low-hour contracts. Suppliers who do not keep step are put at a disadvantage relative to competitors willing to adopt poor practices to win business. The risk of labour abuse that this downward pressure creates is passed on to contractors, as companies are not liable for wages or conditions of those who are not direct employees, such as outsourced cleaners.
20. Fissuring creates longer and more complex supply chains and allows lead companies – brands at the top of the chain – to avoid liability for labour rights violations while retaining much of the power to influence, if not determine, the wages and conditions of workers employed by their suppliers and contractors. Lead companies across various sectors are shifting what are considered non-core activities – everything from cleaning and catering to manufacturing and accounting – onto other businesses at

home and abroad to focus on creating a brand recognisable to consumers and investors.

21. FLEX emphasises the need to regulate outsourced companies and labour suppliers (agencies and gangmasters) through, for example, extending the GLAA licensing system to more high-risk sectors. Furthermore, there is a need to recognise the role that lead companies play in driving exploitation through their contracting and purchasing practices and make them liable for non-compliance in their supply chains through, for example, joint and several liability or mandatory due diligence legislation
 22. UK labour laws are designed to regulate direct employment relationships and do not address changes brought about by the fissuring of workplaces. Without legislation compelling companies to prevent labour abuse and exploitation in their supply chains, workers, consumers and the state face an uphill battle holding business to account.
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Short term work visas

23. There have been warnings for years that the end of free movement with the EU without any proactive mitigation would lead to labour shortages. In practice, rather than planning sensibly for migration routes, immigration changes have been rushed with a scramble to open short-term routes with little or no notice when labour shortages have reached crisis point and with little regard for corresponding Labour Market Enforcement capacity. This was clear, for example, in September 2021 when the government announced, with little warning, that it would introduce short term temporary visas in two industries.²² These were 5,000 three-month visas for HGV drivers and 5,500 three-month visas for poultry workers.²³ There were 2,150 visa applications received under this scheme. Of those applications, 86% (1,845) were made by Poultry workers, 8% (170) by Pork Butchers and 6% (135) by HGV drivers. There were 1,770 visas issued to Poultry workers, 130 visas issued to HGV drivers and 115 visas issued to Pork Butchers.²⁴
24. The majority (1,430 or 78%) of visa applications for Poultry workers were from nationals of Bulgaria (515), Romania (455) and Ukraine (455). For HGV drivers, 78% of visa applications were from Bulgarian (80) and Polish (25) nationals and for Pork Butchers, 88% were from nationals of Ukraine (100) and Uzbekistan (50).²⁵ These announcements were made with little detail and with no evidence that their creation built on learning from similar migration schemes, proactively addressed exploitation risks, or encompassed planning to ensure the longer-term sustainability of the workforce. More recently, despite the Bureau of Investigative Journalism's investigation highlighting the risks of illegal recruitment fees being charged and lack of accountability in the recruitment supply chain, the UK Government Food Strategy,

²² <https://www.gov.uk/government/news/up-to-5500-poultry-workers-to-help-deliver-christmas-dinners>

²³ <https://www.gov.uk/government/news/up-to-5500-poultry-workers-to-help-deliver-christmas-dinners>

²⁴ Data from these schemes can be found in Vis_02 of the Entry clearance visas summary tables.

²⁵ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2021/why-do-people-come-to-the-uk-to-work>

published June 2022,²⁶ sets out further expansion to the scheme, with the release of the additional provision of 10,000 visas under the Seasonal Worker Visa Route, including 2,000 for the poultry sector. The visas for the poultry sector will have an even shorter duration and will cover the 8 weeks prior to Christmas.²⁷ This means that in total 40,000 visas will be made available for seasonal workers in 2022. The strategy does not clarify how this additional recruitment will be regulated or any corresponding increase in resourcing for Labour Market Enforcement to account for the increased number of workers on farms and additionally in the poultry sector, a sector in which workers have previously found to have been trafficked.²⁸ Government have not set out how workers will be incentivised to migrate to the UK to work for a period as short as eight weeks, nor have they explained how they will ensure that recruitment processes for poultry workers are safe and poultry workers are protected by UK employment rights given the challenges in protecting rights on short term visas.²⁹

25. The UK has two existing short term visa routes for low paid work. These are the Overseas Domestic Worker (ODW) visa and the Seasonal Workers Pilot (SWP), now the Seasonal Worker visa (SWV) for work in agriculture. There was no formal process or announcement around the agricultural seasonal worker route formally evolving from being a pilot into a visa route and the evaluation of the 2019 pilot was only published at the end of December 2021, by which time significant expansion of the scheme had already taken place. Both existing short term visa routes have been found to carry a high risk of exploitation. The Seasonal Workers pilot has been expanded significantly since the 2019 Seasonal Worker pilot, and often at short notice, in response to labour shortages.

Table 1. Expansion of the SWP (evaluated year highlighted in green)³⁰

Year	Number of workers recruited	Sectors, roles	Pilot operators	Sourcing countries
2019	2,481	Edible horticulture	Concordia Pro-Force	5 nationalities on the scheme: 90.7% from Ukraine, 7.2% from Moldova

²⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082026/government-food-strategy.pdf

²⁷ Answer to a parliamentary question tabled by Daniel Poulter MP 16 June 2022 <https://questions-statements.parliament.uk/written-questions/detail/2022-06-09/15228>

²⁸ <https://www.theguardian.com/world/2015/aug/10/lithuanian-migrants-chicken-catchers-trafficked-uk-egg-farms-sue-worst-gangmaster-ever>

²⁹ Parliamentary question by Daniel Poulter MP, answered on 28th June 2022 <https://questions-statements.parliament.uk/written-questions/detail/2022-06-21/22394/>

³⁰ Updated from FLEX's response to the Government's review of the first year of the Seasonal Workers Pilot (Published January 2022)

<https://www.labourexploitation.org/publications/flex-response-government's-review-first-year-seasonal-workers-pilot>

2020	7,236	Edible horticulture	Concordia Pro-Force	14 nationalities on the scheme: 87% from Ukraine, 4% from Moldova, 3% from Belarus
2021	Up to 30,000	Edible horticulture Haulage drivers Poultry workers	AG Recruitment and Management Ltd Concordia Ltd Fruitful Jobs Pro-Force Ltd	58 nationalities on the scheme: 67% from Ukraine, 8% from Russia, 4% from Bulgaria, 3% from Belarus, Moldova and Tajikistan.
2022	Up to 40,000	Edible horticulture Ornamental horticulture Poultry (up to 2,000 workers)	AG Recruitment and Management Ltd Concordia Ltd Fruitful Jobs Pro-Force Ltd	Unlimited number of sourcing countries. 35 nationalities on the first quarter of 2022 only (compared to 19 in the same quarter of 2021): 43% from Ukraine, 15% from Tajikistan, 8% from Moldova, 6% from Nepal 6% from Russia.
2023	30,000 (to be confirmed)	Edible horticulture Ornamental horticulture	AG Recruitment and Management Ltd Concordia Ltd Fruitful Jobs Pro-Force Ltd	Unlimited number of sourcing countries.
2024	28,000 (to be reviewed) (Kevin foster here)	Edible horticulture Ornamental horticulture	AG Recruitment and Management Ltd Concordia Ltd Fruitful Jobs Pro-Force Ltd	Unlimited number of sourcing countries.

26. **Risks of exploitation are high in short term work visas**³¹ and short term initiatives of this type do not address the structural issues in the UK labour market. Nonetheless, as these visas continue to be expanded, with the growth of the Seasonal Worker visa, it is vital that measures are put in place to mitigate against labour exploitation.

³¹ <https://www.labourexploitation.org/publications/risks-exploitation-temporary-migration-programmes-flex-response-2018-immigration-white>

27. While well-designed visa routes can enable safe travel and legal work, poorly designed schemes can create significant risks by restricting workers' bargaining power. **The UK needs to ensure it is not facilitating exploitation by treating workers as commodities who cannot access legal rights or safeguards.** Otherwise, it will lead to a two-tier workforce, with those entering on short term visa routes cut off from basic rights or access to employment law - both of which are key to preventing exploitation. This would also undermine decent employers and drive down labour standards thereby increasing the challenges of recruitment.
28. **The UK needs to plan for a more sustainable, fairer approach that ensures the protection of workers and industries rather than proceeding with unplanned opening and closing of routes without consultation, or proper monitoring of recruitment and working conditions, learning from existing schemes as to the practicalities and risk areas, or even allowing time for parliamentary scrutiny.**
29. As such short-term routes are economically risky for workers and generally mean significant periods away from family and home communities, there is a risk that only those who are young and less experienced, or have few alternative options apply, meaning they are already more vulnerable due to push factors such as debt or poverty. The government needs to take into account vulnerabilities created by the nature of the routes themselves and those that are exacerbated by circumstances (e.g., language barriers, debt, poverty, lack of knowledge of their rights, lack of support networks, etc.) If workers who enter on the scheme are left open to exploitation this undercuts other employers and workers, driving down labour standards, in addition to the harms caused to the individuals themselves.
30. FLEX's research into the Seasonal Workers Pilot in Scotland FLEX, together with Fife Migrants Forum (FMF) carried out independent research into the Seasonal Workers Pilot between March 2020 and February 2021. The research aimed to understand the risks of exploitation, including of trafficking for forced labour, for people coming to Scotland via the SWP to work in the horticultural sector.³² A framework for analysis based on the International Labour Organization (ILO) indicators of forced labour in adults was used to interpret the data.
31. Rather than aiming to identify individual cases of forced labour or trafficking, the aim of the research was to establish the risks of this for workers on the scheme. Findings are based on interviews with a total of 62 workers and triangulated through a desk-based review of existing literature and quantitative data from a comprehensive survey completed by 84 workers. Of these 84 workers, 73 per cent were SWV workers whilst 27 per cent were non-SWV workers, offering a control comparison sample.³³ Findings

³² Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot, March 2021. Available at: <https://www.labourexploitation.org/publications/assessment-risks-human-trafficking-forced-labour-uk-seasonal-workers-pilot>

covered risks of the three dimensions of forced labour: unfree recruitment; work and life under duress and impossibility of leaving an employer.

32. A **high risk of unfree recruitment** was identified due to unclear or incomplete information on working conditions being shared with workers prior to travel, an issue also identified by employers who found a mismatch between the job offer and workers' expectations. This was compounded by a reported lack of translation or provision of contracts in the workers' languages prior to arrival together with 62% of workers reporting incurring debts to travel on the scheme. This of course increased their dependency on the work on UK farms, diminishing their ability to query conditions or pay if these were not as expected.

"In 3 weeks I earned £300 only. Other guys earned even less than this. We were told we will earn £300 a week."

Nikolai, SWV worker from Belarus, 28 July 2020

"When you start having agents and [names Pilot Operator] you have two different middle-men and if information isn't flowing correctly, they're not representing the employer."

Interview with employer, 9 November 2020

33. Findings which put workers at risk of the second dimension of forced labour; **risk of work and life under duress** included the dependency on one employer for work and accommodation so exacerbating the power imbalance between worker and employer as challenging conditions could lead not only to loss of work but also destitution (accommodation was provided by the employer for 98% of workers) together with reports of unsafe living conditions. Reported piece rate payments (payments for the amount picked) and the unlawful use of zero-hour contracts together with productivity targets and work being withdrawn when these were not met, combined with accommodation costs and deductions for equipment, clothing and other services left workers economically vulnerable (particularly in the context of debt already incurred). 66% of SWV workers reported receiving threats of loss of work and 17 percent reported threats of deportation from their employer.

"Our caravan is really cold and wet. I have to put a hat on when I sleep. Our caravan is full of mould, the wall are mouldy, our mattress is mouldy. We sleep on mould."

Nastia, Seasonal Worker from Moldova working at a Scottish farm in 2020.

34. The research also identified the **risk of impossibility of leaving an employer** for workers on the scheme with 62% of workers interviewed reporting being refused transfers to a different farm. Workers being unable to transfer employers together with reports of incurred debt to join the SWP, and with accommodation provided by their employer suggests a high level of risk of not having a realistic option to leave an employer.

³³ Ibid page 29.

“I borrow the money from the criminals, because it’s impossible to get a loan from the bank in Belarus.”

Stepan, SWV worker from Belarus, 22 October 2020

35. The research found that these risks were compounded by the short-term nature of the visas and the work together with workers unlikely to be unionised or to have support or information networks in place. Inspections and enforcement of the pilot was led by UKVI (UK visas and immigration) who are not experts in labour market enforcement and who many workers would be fearful of complaining to.
36. Government’s evaluation of the Seasonal Worker Pilot 2019, published December 2021
On 24th December 2021, the Government published the long-awaited review of the first year of the Seasonal Workers Pilot (2019), an evaluation carried out by DEFRA and the Home Office, which recognises several areas needing improvements, ‘particularly with concern to migrant welfare’.³⁴
37. The review relies on data either collected by the Home Office, DEFRA or the pilot operators recruiting workers onto the scheme, including 124 worker interviews conducted during inspections to 15 farms.³⁵ Whilst it recognises self-selection bias as a key limitation, it is important to note that workers depend on these bodies to access work on the scheme, and possibly also to provide their accommodation, and may therefore be reluctant to provide negative feedback. In order to encourage trust and reassure workers about the protection of their anonymity and interests, it is recommended that reviews of this kind be carried out by competent individuals independent of the activity being audited.³⁶ In addition, the overall number of inspections and farms visited is very low, particularly considering the fact that this was the first year of a pilot scheme that brought up great concerns around migrant worker welfare. Finally, the data provided by the Government’s review is very brief, leaving many of the key factors which would allow us to evaluate the level of risk workers are exposed to under the SWP outside of the review.
38. FLEX have published a statement which analyses and evaluates the review, according to the published data³⁷ and risks to the workers on the scheme of the three dimensions that make up forced labour, as defined by the ILO.³⁸ These include;

³⁴ Home Office and DEFRA. 2021. “HO and DEFRA SWP Review 2019”.
<https://www.gov.uk/government/publications/seasonal-workers-pilot-review/seasonal-workers-pilot-review-2019>.

³⁵ Home Office and DEFRA. “HO and DEFRA SWP Review 2019”.

³⁶ ILO. 2013. “Audit Matrix for the ILO Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001)”. Geneva: ILO

³⁷ FLEX response to the Government’s review of the first year of the Seasonal Workers Pilot, January 2022
<https://www.labourexploitation.org/publications/flex-response-government’s-review-first-year-seasonal->

39. **Risk of unfree recruitment.** Almost half of the Government’s compliance visits identified workers who had not received their employment contract in their native language. The review also notes that the information provided at the recruitment stage to potential worker applicants ‘did not always accurately reflect the accommodation available.’³⁹ In addition, 10% of DEFRA’s survey respondents reported not being made aware of all terms and conditions of their placements before starting work, while a further 19% reported that operators failed to adhere to their contractual agreements.⁴⁰
40. **Risk of work and life under duress.** The Government’s review does not provide sufficient information to assess all relevant indicators of risk under this area; however, a number of concerning findings were included in the review:
- Home Office inspections found that workers at four out of 15 sites were not provided with the health and safety equipment they were legally required to receive (i.e. wet weather gear, steel toe capped boots), which forced workers to purchase their own.
 - Over a fifth of DEFRA’s survey respondents (22%) reported not being ‘treated fairly by farm managers’.
 - Experiences of racism, discrimination, or mistreatment by managers (e.g., disrespectful language, being given worse tasks and/or accommodation) were linked to workers’ nationality.
 - DEFRA’s survey also identified a range of issues with the quality of the accommodation provided: 15% said their accommodation was neither safe, comfortable, hygienic nor warm and 10% said their accommodation had no bathroom, no running water, and no kitchen.
 - The evaluation shows that **only 84% of workers indicated that they were fully paid for their work** and that the majority of those reporting that Pilot operators did not adhere to all contractual agreements referred to ‘pay/financials’, which was followed by the broad-ranging category of ‘Working conditions/Hours worked’.
41. **Risk of impossibility of leaving employer.** The SWV route allows workers on the scheme to change employers within the horticulture sector and instructs operators to grant transfers ‘whenever possible’. This is a key preventative rule that has been further clarified in updated versions of the Government guidance for this route to say that ‘participating workers can change employers if they wish and must normally be allowed to do so’.⁴¹ Unfortunately, the Government’s review only reports on effective

[workers-pilot](#)

³⁸ International Labour Organization (ILO). 2012. “Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children.” Geneva: ILO.

³⁹ Home Office and DEFRA. “HO and DEFRA SWP Review 2019”.

⁴⁰ HM Government. 2021. “Seasonal Workers Pilot 2019 Review. Appendices. A Summary of Data Used to Inform the Seasonal Workers Pilot 2019 Review.” London: HM Government.

⁴¹ Home Office. 2022. “Guidance for Sponsors: Sponsor a Seasonal Worker,” <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker>

transfers, which means that we cannot know whether workers were also refused transfer requests or experienced long waiting times. FLEX's research provides a very concerning picture in this regard, with a large number of workers interviewed (62%), reporting having been refused a transfer.⁴²

42. **Opportunities to report abuse and enforcement of workers' rights**

Despite the many issues listed above, based on data provided by Pilot operators, the Government's review reports an overall complaint rate of 1%, with a follow-up rate of 80% by the operators to address any issues formally. Presumably in recognition of the fact that such a low complaint rate is an indicator of a shortcoming rather than a success, the review specifies that the monitoring template for 2020 will 'capture information on complaints addressed through informal procedures'.⁴³ In addition, one in five (20%) of DEFRA's survey respondents stated that they weren't able 'to file complaints easily, if needed'.⁴⁴

43. The review also notes the limited use of local healthcare services, with only three GP and one hospital visit per 100 workers, which it attributes to the lower likelihood of poor health in what was a predominantly young group of workers. Whereas this could be interpreted as cost-effective by some, it is important to ensure that any barriers to accessing medical healthcare are addressed, particularly given the physical nature of the work and the COVID-19 pandemic. In addition, local services provide victims with a key opportunity to access independent signposting to advice and safely disclose labour exploitation.

Recruitment fees

44. There has for some time been concerns about the charging of recruitment fees within the SWV scheme. Though prohibited within the scheme it has not been clear what, if any, mechanisms prevent fees being charged or provide redress if this happens. Recruitment fees are an increasing risk with the expansion of the scheme worldwide, including to countries where the UK's GLAA may not have enforcement agreements in place with local labour market enforcement agencies.

45. It is illegal to charge recruitment fees and scheme operators found to do so would be at risk of having their license withdrawn. However, as the scheme has expanded internationally so, has recruitment and the recruitment supply chain, with a lack of clarity around accountability or proactive checks to ensure that people are not being made to pay for jobs.

[accessible-version](#)

⁴² FLEX and FMF. 2021. "Assessment of the Risks of Human Trafficking for Forced Labour on the UK SWP.", 61.

⁴³ Home Office and DEFRA. "HO and DEFRA SWP Review 2019".

⁴⁴ HM Government. 2021. "Seasonal Workers Pilot 2019 Review. Appendices.", 16.

46. A recent investigation by the Bureau of Investigative Journalism has published allegations by Nepalese workers on the SWV of the charging of significant fees in order to access the scheme with the implication being that these were not an isolated incidents⁴⁵ While the charging of fees has been widely condemned it is not clear how the scheme and the recruitment process are being restructured to ensure that fees do not continue to be charged, that there is an accessible compensation scheme in place as well there are strong deterrents against charging of recruitment fees. Instead, UK Government's food strategy (June 2022) releases 10,000 additional visas, including 2,000 into the poultry sector, bring the total number of visas available during 2022 to 40,000.⁴⁶
47. Proactive additional steps are needed to ensure that the structure of the scheme is sustainable for workers. Recruiting workers internationally for short periods of time carries large costs, even without the charging of (illegal) recruitment fees. There is a need to ensure that once all the legitimate costs, including passport and visa fees, flights, accommodation and other living costs are counted workers still stand to feasibly make a reasonable amount of money based on a realistic amount of work, taking into account differences in experience and skills level, weather conditions and harvests. Workers should not be expected to risk incurring debts which they cannot be certain about paying back to migrate to work on the SWV scheme as this dramatically increases risk of exploitation.

Ukrainian nationals on the Seasonal Worker Visa

48. As part of the UK's response to the invasion of Ukraine, Ukrainian workers who had entered the country to work in farms under the Seasonal Worker Visa route had their visas extended beyond six months and until the end of 2022.⁴⁷ This extension, however, does not allow them to bring family members to safety, access public funds, or leave their work in agriculture, even if there is no work available. It also maintains their dependency on their employer – including for income, housing and immigration status.⁴⁸
49. FLEX, together with others, wrote to the Home Secretary and Minister of Immigration early in March 2022⁴⁹ to highlight the increased risks of exploitation for Ukrainian workers on the Seasonal Worker Visa (SWV) due to the dangerous

⁴⁵ <https://www.thebureauinvestigates.com/stories/2022-05-27/migrant-fruit-pickers-charged-thousands-in-illegal-fees-to-work-on-uk-farms>

⁴⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082026/government-food-strategy.pdf

⁴⁷ It is not clear if there is any cut off date for eligibility.

⁴⁸ At the time of writing, there are three 'Ukraine schemes' or immigration routes specifically for those affected by the conflict in Ukraine. These are: The **Ukraine Sponsorship Scheme** (Homes for Ukraine Scheme); the **Ukraine Family Scheme** visa; the **Ukraine Extension scheme**

⁴⁹ <https://www.labourexploitation.org/publications/letter-home-office-risks-ukrainian-nationals-seasonal-workers-visa>

combination of their changed circumstances due to the invasion of Ukraine, the restricted terms of the Seasonal Worker visa, and the general risks associated with agricultural work and the SWV (see FLEX's assessment of the risk of forced labour on the Seasonal Workers Pilot).⁵⁰ Concerns set out in the letter include that workers are highly dependent on their employers, including for information, accommodation and work. They have no option to change sectors or work outside the scheme, as well as no guarantee that they will in fact be given work within the scheme due to the work's seasonal nature. This, combined with the fact that Seasonal Worker visa holders have no recourse to public funds, brings with it the risk of destitution and debt. Workers on the scheme also cannot bring family members from Ukraine to safety in the UK. We noted that 19,920 SW visas issued in 2021 (67% of the total) were to Ukrainian nationals.⁵¹

50. On 29th March, the Government announced the introduction of the Ukraine Extension Scheme.⁵² FLEX welcomes the increased options which this additional scheme will give to many Ukrainians in the UK, including people working in agriculture on the Seasonal Worker Visa. The ability to work in any sector, access public funds and to study will do much to prevent exploitation.
51. We are pleased that the Ukraine Extension Scheme addresses many of the recommendations in our letter and takes into account findings from our longer term work into risks experienced by those on the Seasonal Worker visa.⁵³ We are keen to work proactively with government, Seasonal Worker visa scheme operators, community groups, legal advisors and others to ensure that these increased options can be accessed by workers in practice and that support is in place to prevent exploitation escalating as a result of the invasion of Ukraine.
52. Workers on the Seasonal Worker visa are in the UK temporarily. They are living and working in rural and relatively isolated areas. They may not speak English and will need support to access information and advice on their immigration options and on practical measures to enable them to safely remain in the UK for longer than they initially intended and to live here with their families. This will include finding employment, housing, and schooling for children. To make sure that workers on the Seasonal Worker visa are able to make use of the options available to them under the Ukraine Extension Scheme and to successfully avoid exploitation additional measures are needed:

⁵⁰ See also [Seasonal Workers Pilot review](#), 2019, DEFRA, Home Office, published December 2021; [FLEX's response to the Government's review of the first year of the Seasonal Workers Pilot](#), January 2022; and [Dame Sara Thornton raises concerns over labour exploitation risk for migrant workers in the agricultural sector](#), January 2022.

⁵¹ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2021/why-do-people-come-to-the-uk-to-work>

⁵² <http://questions-statements.parliament.uk/written-statements/detail/2022-03-29/hcws736>

⁵³ See for example; [Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot](#), March 2021, FLEX

- There is an urgent need for specialist immigration advice and practical assistance to enable Ukrainians on temporary visas to understand and make informed decisions about the immigration options that are best for them, and to ensure that individuals can meet basic needs such as housing and income in the interim.
 - We are concerned that there is no eligibility within the rules for the Ukraine Extension Scheme for individuals whose visas expired before 1st January 2022 or who entered the UK after 18th March 2022.
 - We are additionally concerned that workers on the Ukraine Extension Scheme will not be able to quickly and easily bring their families to safety in the UK. They will instead need to apply to sponsor family members under the Homes for Ukraine scheme, assuming they can meet the accommodation requirements, or to arrange for someone else to sponsor them if not. Both of these options will mean delays, and the second increases safeguarding and exploitation risks.
 - There is no clear provision for non-Ukrainian nationals effected by the war in Ukraine.
53. The UK's reliance on rapidly developed and frequently changing visa schemes exposes how unfit for purpose the UK's asylum system is in practice, with its long delays and uncertainty prohibiting integration and rebuilding lives. The visa schemes available have inevitably left gaps in support, and people who do not fit easily into one of the new schemes will slip between them.

Recommendations – people effected by the war in Ukraine:

- A. Clear and accessible information on the available visa and asylum options must be proactively communicated to all Ukrainian nationals in the UK, as well as other nationals effected by the war in Ukraine, with targeted outreach to those on the Seasonal Worker visa.
- B. Specialist legal advice on immigration and on welfare entitlements needs to be made available to all Ukrainian nationals as well as other nationals effected by the war in Ukraine. Peoples' circumstances may not fit easily within any of the new visa schemes, and people will need reliable information and support to understand their options and how to navigate the immigration system to avoid losing their immigration status. This support is particularly important in the context of the UK's hostile environment, where exploiters may use immigration control and deportation as a threat to maintain control over those with insecure immigration status. People need to know they are safe to come forward and seek help whatever their immigration circumstances are to avoid an increased risk of exploitation.
- C. There should be increased resourcing for prevention efforts with the Gangmasters and Labour Abuse Authority working with SWV scheme operators and farms engaged in the scheme to ensure that workers have access to advice and information and are supported to access the options available to them.
- D. Workers on the Ukraine Extension Scheme should be eligible to bring family members to the UK.

- E. Ukrainian SWV holders should have immediate access to public funds and confirmed eligibility to work in sectors other than agriculture while an application to the Ukraine Extension Scheme is pending. Eligibility for the scheme must be extended to people with UK visas issued after 18th March.
- F. There needs to be long-term planning towards integration. Local Authorities should be equipped and resourced to work together with specialist organisations to provide access to services, language classes, education, employability skills and options, general advice, support and information.
- G. Given the long-term impact of the vulnerabilities created by the current situation in Ukraine, there needs to be reassurance and clarity over options for Ukrainians to maintain a regular status beyond the three years currently offered on the existing Ukraine schemes.

Recommendations - the Seasonal Worker visa:

- H. FLEX welcomes the commitment from the Government to continue monitoring this scheme, as well as its stated commitment to worker welfare, which will be considered one of four thematic areas for future reviews. To enable independent monitoring and transparency of the scheme data collected by scheme operators such as where workers are placed should be made publicly available. This would also help facilitate targeted information and support. The DLME 2021/22 strategy, published December 2021⁵⁴ also recommends that *“the Home Office and BEIS commit to regular and ongoing monitoring of the impact of the new immigration system on labour market compliance, building on existing structures such as its Vulnerability Advisory Group. In addition, there should be an independent evaluation of these impacts after 18 months of the new system; Lead: Home Office and BEIS. Timescale: monthly monitoring and evaluation to report by the end of 2022.”*⁵⁵
- A. In response to issues identified through its 2019 evaluation of the Seasonal Workers Pilot, Government has strengthened the guidance for this route and introduced some important updates, including making it clear that the use of zero-hours contracts is banned on the scheme, and to “establish a clear employer transfer pathway, including transparent criteria for making a transfer request and a process for considering such requests”. However, a number of additional steps are needed in order to further reduce the level of risk faced by workers engaging in this scheme, including:⁵⁶
 - I. Ensuring that employment contracts are shared with SWV workers in their country of origin, translated into workers’ native languages, with relevant information provided (e.g., employers’ details, working hours, remuneration,

⁵⁴ United Kingdom Labour Market Enforcement Strategy 2021/22 Interim Director of Labour Market Enforcement Matthew Taylor

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040317/E02666976_BEIS_UK_Labour_Market_Enforcement_Strategy_2021-22_Accessible.pdf

⁵⁵ Recommendation 6 (b)

⁵⁶ For the full list of recommendations to the UK and Scottish Government, please refer to: FLEX and FMF. 2021. “Assessment of the risks”, 10-16.

accommodation costs and other deductions, etc.) and signed by employers and workers prior to travel. There should be information sessions in the UK to explain the terms.

- II. Enforcement of existing regulations to ensure that workers do not pay recruitment fees, supply chain accountability mechanisms to be in place with resourcing for enforcement, and the existence of a scheme to reclaim fees which are charged.
 - III. Provide an independently managed emergency fund for workers who have not received adequate work, or for whom the work has not been as described, who need to be able to return home and repay expenses.
 - IV. Set minimum standards for accommodation to be upheld for seasonal agricultural workers with charges for accommodation and all other related costs to be set out in contracts and published. Employers must be prohibited from charging workers for accommodation or transport to work if for any reason their wages drop below the real living wage.
 - V. Increase the resources to and monitoring obligations on the GLAA and any future Single Enforcement Body to ensure there is capacity to conduct regular proactive inspections of SWP participating workplaces, strengthen the GLAA licensing scheme by monitoring overseas labour providers, and help prevent and address non-compliance through proactive labour market enforcement (regulation alone is ineffective, particularly when visa restrictions limit workers' bargaining positions).
 - VI. There should be enforcement of other standards, e.g., accommodation, health and safety.
 - VII. Workers should be provided with clear and accurate information on rights (in relevant languages), where to get help and what to do if labour laws or employment conditions are breached e.g., wages are not paid.
 - VIII. Guarantee SWV workers a complaints mechanism through which workplace grievances may be aired and remedied during their time in the UK.
 - IX. Offer financial support to trade unions to organise and provide advice to SWV workers.
 - X. Ensure independently run secure reporting mechanisms which can make compensation or redress payments 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.
- B. Additionally, to avoid the creation of a two-tier workforce, all work visas must meet the following minimum standards which enable workers to exercise rights and redress in line with UK employment law:
1. Workers should have the freedom to change employers with practical support to do this
 2. Visas should be renewable subject to ongoing employment and have a route to settlement

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3. Allow workers who faced exploitation and enter the National Referral Mechanism (NRM) to have permission continue to work in any sector so reducing their dependency on their employer
4. All work visas should enable access to the NHS and recourse to public funds
5. All work visas should enable access to sick and maternity pay

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