

## **MITIGATING AGAINST THE RISKS OF HUMAN TRAFFICKING FOR LABOUR EXPLOITATION**

**MAY 2019**

### **SUMMARY**

This briefing is a response to the Government's December 2018 Immigration White Paper, 'the UK's Future Skills-Based Immigration System' and specifically, its three proposed temporary migration programmes for workers. It provides clear steps for Government to take in their design, management and evaluation so that workers coming to the UK will be better protected from labour abuses and exploitation, including human trafficking and forced labour. This briefing is complementary to FLEX's report *'The risks of exploitation in temporary migration programmes: A FLEX response to the 2018 Immigration White Paper'* also published today.

### **Recommendations to the UK Government on the proposed future temporary migration programmes**

1. Remove cooling-off periods between visas and provide pathways to permanent residence and family reunification for migrant workers at all wage levels.
2. Embed labour protections into the design of any new TMPs proposed by making specific requirements of employers who wish to hire migrant workers on any TMPs.
3. Increase the resources and remit of labour inspectorates to ensure the enforcement of legislation to prevent forced labour, including labour law
4. Provide migrant workers with access to public funds.
5. Provide migrant workers with information on their labour rights and support options to help identify and seek remedy for cases of abuse.
6. Establish a multilingual helpline for workers.
7. Integrate trade unions and workers' organisations into the design, governance and evaluation of temporary migration programmes.
8. Take steps to eradicate direct and indirect discrimination from TMPs.
9. Expand the Gangmasters and Labour Abuse Authority's licensing of labour providers to other high-risk sectors.
10. Ensure workers do not face barriers to changing employers.

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### **Proposed Temporary Migration Programmes in the Immigration White Paper**

In December 2018, the UK Government published its long-awaited Immigration White Paper entitled *The UK's future skills-based immigration system*<sup>1</sup> (hereafter the Immigration White Paper), which outlined its plans for a future immigration system after the UK leaves the European Union ('Brexit'). The Government states in the Immigration

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<sup>1</sup> UK Government. 2018. 'The UK's future skills-based immigration system'.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf)

White Paper that Brexit will mean an end to free movement, thereby bringing EU nationals under domestic immigration control and requiring new visa pathways to allow EU citizens into the UK. Ensuring UK industry has enough workers after Brexit is a key focus of many public and private sector stakeholders who have been, to varying degrees, reliant on EU labour. The Immigration White Paper reflects this by proposing three temporary migration programmes (TMPs) to bring workers to the UK on short-term visas. These are:

### **1. Seasonal Workers Pilot**

This pilot will bring 2,500 workers per year to the UK from outside the EU<sup>2</sup> to work on farms within edible horticulture on six-month visas. Workers will not be allowed to return to the UK under the same route for a further six months ('cooling-off period'). The pilot is already operational, having been introduced under Immigration Rules on 11 December 2018<sup>3</sup> and is referred to within the White Paper under Section 6. Workers will be tied to a sponsoring operator company who will then send them to an employer farm.

### **2. 12-month short-term visa**

This proposed new route would allow workers at any skill level to come to work in the UK for a maximum period of 12 months. This would be followed by a 12-month cooling-off period during which the person cannot reapply under the scheme. Workers will not be tied to any specific employer, operator or sector. It will be open to people from "low risk" countries only, though these countries have not yet been specified by government.

### **3. UK-EU Youth Mobility Scheme**

This would be an expansion of the pre-existing Youth Mobility Scheme (YMS), although amended to take into account "EU specificities". The current YMS allows individuals aged 18 to 30 from eight countries to come to the UK to work or study for up to two years. The visa is non-renewable. To date, the YMS has not been a major source of labour migration to the UK.

## **Temporary migration programmes present a high risk of labour exploitation**

Lessons from temporary migration programmes (TMPs) from around the world and historically, including within the UK, have shown that migrant workers moving for work under these schemes are at risk of abuse or exploitation. This is due to two inter-related factors:

1. Migrant workers themselves, regardless of the type of scheme under which they migrate, can have specific vulnerabilities to abuse or exploitation not experienced by non-migrants. These can include, amongst others, payment of recruitment fees overseas which are then inflated artificially to construct a situation of 'debt bondage', a form of modern slavery; insecure migration status which, within country contexts that criminalise undocumented working, such as the UK, can lead to an inability to work in formalised, better protected sectors; and low knowledge of their labour rights and the local language, alongside limited support networks.
2. Specific design and implementation features of TMPs can risk compounding these existing vulnerabilities or creating new ones, as explained below.

## **Prevention of human trafficking through well-designed labour migration policy**

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<sup>2</sup> For the sake of simplicity, the term 'EU nationals' or 'EU migrants' will be used to refer to nationals of all EU countries bar the UK, as well as nationals of Iceland, Lichtenstein, Norway and Switzerland.

<sup>3</sup> Home Office. 11 December 2018. 'Statement of Changes in Immigration Rules.'

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/764738/Immigration\\_Rules\\_-\\_11\\_December\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764738/Immigration_Rules_-_11_December_web.pdf)

Under the United Nations Human Trafficking Protocol, ‘abuse of a position of vulnerability’ is identified as a method by which people can be trafficked. It is defined as intentionally using, or otherwise taking advantage of, an individual’s personal, situational or circumstantial vulnerability to recruit, transport, transfer, harbour or receive that person for the purpose of exploitation.<sup>4</sup> Research by FLEX, the Labour Exploitation Advisory Group (LEAG) and others has shown that when people are put in a position of vulnerability by labour abuses, labour market structures or restrictive immigration policies, they are at higher risk of labour exploitation.<sup>5</sup> This is because labour exploitation occurs at the sharp-end of a continuum of labour violations, ranging from decent working conditions through to lower level abuses such as wage underpayments to the most severe cases, including human trafficking and forced labour. As such, it is crucial that any post-Brexit labour migration programmes seek to mitigate against these risks and avoid creating or exacerbating vulnerabilities. This should be viewed as an important pillar of the Government’s anti-slavery strategy after Brexit.

### **Lessons from past and existing TMPs in the UK and overseas**

TMPs such as the three proposed by the Government in the Immigration White Paper risk compounding migrant workers’ vulnerabilities due to aspects of their design and implementation. This is evidenced by former UK TMPs, the ‘Seasonal Agricultural Workers Scheme’ and the ‘Sectors Based Scheme’.

#### **Case Study: The UK Seasonal Agricultural Workers Scheme – labour abuses and poor conditions**

Until 2013, the UK operated the Seasonal Agricultural Workers Scheme (SAWS) which allowed the agriculture and horticulture sectors to employ migrant workers for short-term, seasonal agricultural and food processing work. Eligibility rules, quota sizes, and operations changed through the years to accommodate the sector’s need for labour, especially during peak seasons.<sup>6</sup> Permission to work in the UK was granted for a maximum of six months. Participants could reapply after three-month cooling-off period, with many workers returning to the same farms.<sup>7</sup> Workers on the scheme were entitled to receive the national minimum wage, paid holiday, agricultural sick pay, night work pay, on-call allowance, rest breaks, and pay even if bad weather stopped work.

The SAWS was managed by a total of nine operators on behalf of the UK Border Agency, five of whom were ‘sole operators’ supplying labour only to their own farms, while the remaining four were ‘multiple operators’ supplying labour to a number of different growers. The scheme operators were not only in charge of recruiting workers and allocating them to employers, but also of monitoring their pay and working conditions.<sup>8</sup> The Gangmasters Licencing Authority (now the Gangmasters and Labour Abuse Authority, GLAA) registered ‘multiple operators’ and had the power to conduct inspections. In addition, once a year, the UK Border Agency conducted inspections on farms and operators that were using SAWS workers.

Despite these preventative measures, different investigations reported cases of misinformation about the number of working hours which would be available, underpayment of wages, long working hours, no days off for rest, and poor living

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<sup>4</sup> United Nations. 2003. ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime’.

<https://www.ohchr.org/en/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

<sup>5</sup> LEAG. 2017. Between Decent Work and Modern Slavery. <https://labourexploitation.org/publications/between-decent-work-and-modern-slavery>

<sup>6</sup> MAC. 2013. ‘Migrant Seasonal Workers: The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme’. p.48.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257242/migrant-seasonal-workers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257242/migrant-seasonal-workers.pdf)

<sup>7</sup> Ibid. p.59

<sup>8</sup> Ibid. p.51-52.

conditions.<sup>9</sup> One study uncovered a strawberry picker earning £6 after working for three to four hours,<sup>10</sup> while another described migrants working in isolated environments and living under poor conditions without the ability to change employers.<sup>11</sup>

Participants on the SAWS had to work for the farmer to whom they were allocated. Though workers were technically allowed to change employer, in practice this was “almost impossible” as they could only switch to another farm site with permission from their scheme operator, five out of nine of whom were also their employer.<sup>12</sup> Guidance issued to workers said they could only switch employers “for exceptional reasons”; otherwise leaving their employment would mean having to return home and wait for three months before being eligible for a new placement.<sup>13</sup> From the perspective of employers, the SAWS provided a ‘flexible and reliable workforce’ that was “unlikely to leave for other work ... or when conditions are particularly difficult”<sup>14</sup>. However, from the perspective of workers, the scheme made them more vulnerable to labour abuses and exploitation by effectively tying them to their employer<sup>15</sup> and impeding their ability to remove themselves from unsafe situations.<sup>16</sup> Aware of the power imbalance that comes with tied visas, some employers used the threat of removal from the UK to implement decreases in pay.<sup>17</sup>

### **Case Study: The UK Sectors Based Scheme – some positive features but drivers of human trafficking still present**

The Sectors Based Scheme (SBS) was introduced in 2003 to address shortages in low-skilled jobs in hospitality (hotels and catering) and food processing (meat, fish and mushroom processing). It was originally open to migrants aged 18-30 from any non-EU country, but this was later restricted to Romanian and Bulgarian nationals in 2007. The SBS was quota-based with 10,000 workers allowed annually per sector. In 2005, the hospitality sector was removed from the scheme and the quota for the food processing sector was reduced to 3,500.<sup>18</sup> In 2013 the entire scheme was discontinued.

The SBS had some positive features that are worth noting. SBS workers were required to be working full-time, making their earnings more secure and regular compared to workers on other schemes, such as SAWS, who were not guaranteed hours. Gross pay and employment terms and conditions had to be equal to or exceed those normally given to a resident worker doing similar work.<sup>19</sup> Median hourly earnings on the SBS in 2011 ranged from £6.92 to £8.37 an hour, which was at least 13% more than the National Minimum Wage at that time.<sup>20</sup> Unlike with the SAWS, workers were not

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<sup>9</sup> López-Sala, A. et al. 2016. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’. p.14. <http://www.temperproject.eu/wp-content/uploads/2015/06/Working-Paper-1-DF2.pdf>

<sup>10</sup> Ben Rogaly. 2008. ‘Intensification of workplace regimes in British horticulture: The role of migrant workers’. *Population, Space and Place*. 14(6). p.14. <http://sro.sussex.ac.uk/11584/>

<sup>11</sup> López-Sala, A. et al. 2016. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’. p.14. <http://www.temperproject.eu/wp-content/uploads/2015/06/Working-Paper-1-DF2.pdf>

<sup>12</sup> Consterdine, E. and Samuk, S. 2015. ‘Closing the Seasonal Agricultural Workers Scheme: A triple loss’. <https://www.sussex.ac.uk/webteam/gateway/file.php?name=mwp83.pdf&site=252>; Lopez-Sala, A. et al. 2016. Temper Working Paper Series. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’. <http://www.temperproject.eu/wp-content/uploads/2015/06/Working-Paper-1-DF2.pdf>

<sup>13</sup> Migration Observatory. 2018. ‘Exploiting the opportunity? Low-skilled work migration after Brexit’.

<https://migrationobservatory.ox.ac.uk/resources/reports/exploiting-the-opportunity-low-skilled-work-migration-after-brexite/>

<sup>14</sup> MAC. 2013. ‘Migrant Seasonal Workers: The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme’. p.62.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257242/migrant-seasonal-workers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257242/migrant-seasonal-workers.pdf)

<sup>15</sup> Consterdine, E. and Samuk, S. 2015. ‘Closing the Seasonal Agricultural Workers Scheme: A triple loss’.; Lopez-Sala et al. 2016. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’.; ALP. 2012. ‘Position paper: Seasonal Agricultural Workers Scheme (SAWS)’. [http://labourproviders.org.uk/wp-content/uploads/2012/11/position\\_paper-seasonal\\_agricultural.pdf](http://labourproviders.org.uk/wp-content/uploads/2012/11/position_paper-seasonal_agricultural.pdf)

<sup>16</sup> López-Sala, A. et al. 2016. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’. p.14. <http://www.temperproject.eu/wp-content/uploads/2015/06/Working-Paper-1-DF2.pdf>

<sup>17</sup> Donna Simpson. 2011. ‘Salads, Sweat and Status: Migrant Workers in UK Horticulture’. [http://sro.sussex.ac.uk/76011/1%282012.12.01%29\\_Simpson%2C\\_Donna.pdf](http://sro.sussex.ac.uk/76011/1%282012.12.01%29_Simpson%2C_Donna.pdf)

<sup>18</sup> MAC. 2013. ‘Migrant Seasonal Workers: The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme’. p.22 <https://bit.ly/2u8vadv>

<sup>19</sup> Ibid. p.30

<sup>20</sup> Ibid. p.33

required to live 'on site' in employer-provided accommodation, making them less dependent on their employers and providing more opportunities for integration.

According to a 2006 report from the Home Office, employers felt that the scheme was a good way of dealing with labour shortages, but that the one-year period for which an SBS permit was initially valid was too short owing to the time and effort needed to train and induct workers.<sup>21</sup> However, there was a 60% decline in the use of the scheme between 2007 and 2011.<sup>22</sup> The MAC notes that employers may have been put off by delays in the application process, or not have needed to hire more workers since the SBS could lead to permanent employment. Alternatively, employers may have been choosing to employ migrants on casual terms instead, through agency contracts: "As staff taken on as required by the SBS would receive greater protection [...], particularly after twelve months, employers may have been disincentivised from using the scheme".<sup>23</sup>

Additionally, and highly problematically from an anti-trafficking perspective, a 2005 Home Office review of the scheme found cases of workers paying over £10,000 to access the scheme, which was more than they could realistically repay from their earnings during the course of their 12-month stay.<sup>24</sup> Recruitment fees and the resultant debt, is one of the key drivers of forced labour and human trafficking.

Discrimination has also been identified as a characteristic of TMPs. Some TMPs, including the Canadian Seasonal Agricultural Workers Program and the now discontinued SAWS in the UK, have allowed employers to specify the preferred sex and nationality of the migrant workers employed during recruitment. This highly problematic feature of TMPs has allowed employers to directly discriminate based on social stereotypes and racist or sexist perceptions. For example, the Spanish strawberry sector has typically employed women based on a perception that women workers are more obedient, competent and 'suitable' for the work.<sup>25</sup> Similarly, research from Canada has shown how recruitment agencies hiring workers for the Live-in Caregiver Programme have used racialised recruitment strategies to recruit "more pliant and accommodating" Southeast Asian women over Caribbean women.<sup>26</sup> Finally, the disproportionate power TMP employers have over their employees due to restrictive elements such as tied visas, 'live-in' requirements and no recourse to public funds increases the risk of sexual harassment and gender-based violence, which disproportionately impacts women workers and makes reporting such crimes difficult.

### What needs to be done?

FLEX welcomes the Government's decision to ensure that workers are not tied to a specific employer under any of the proposed schemes as tied visas are recognised to drive exploitation by preventing workers from leaving abusive situations. However, there remain a number of measures that must be put in place to protect workers coming to the UK under any TMPs after Brexit. These measures will serve to prevent labour abuse and human trafficking for labour exploitation, aligning with government aims to tackle modern slavery within the UK and helping to secure a decent labour market for all.

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<sup>21</sup> Dench, S. et al. 2006. Employers' use of migrant labour. Research, Development and Statistics Directorate, UK Home Office Online Report 04/06. p.52. <https://webarchive.nationalarchives.gov.uk/20110218141405/http://rds.homeoffice.gov.uk/rds/pdfs/06/rdsolr0406.pdf>

<sup>22</sup> MAC. 2013. Migrant Seasonal Workers: The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme. p.35 <https://bit.ly/2u8vadv>

<sup>23</sup> Ibid. p.35

<sup>24</sup> Migration Observatory. 2018. 'Exploiting the opportunity? Low-skilled work migration after Brexit'.

<https://migrationobservatory.ox.ac.uk/resources/reports/exploiting-the-opportunity-low-skilled-work-migration-after-brex-it/>

<sup>25</sup> López-Sala, A. et al. 2016. 'Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy'. p.30.

<http://www.temperproject.eu/wp-content/uploads/2015/06/WWorking-Paper-1-DF2.pdf>

<sup>26</sup> Johnstone, M. and Lee, E. 2013. 'Global Inequities: a gender-based analysis of the live-in carer program and the Kirogi phenomenon in Canada'. [https://www.researchgate.net/publication/265598049\\_Global\\_Inequities\\_A\\_Gender-based\\_Analysis\\_of\\_the\\_Live-In\\_Caregiver\\_Program\\_and\\_the\\_Kirogi\\_Phenomenon\\_in\\_Canada](https://www.researchgate.net/publication/265598049_Global_Inequities_A_Gender-based_Analysis_of_the_Live-In_Caregiver_Program_and_the_Kirogi_Phenomenon_in_Canada) p.5

## **1. Remove cooling-off periods between visas and provide pathways to permanent residence and family reunification for migrant workers at all wage levels**

The Government should remove the six-month and one-year cooling-off periods from the SWP and the 12-month visa respectively, and provide migrant workers at all wage levels with pathways to permanent residence and family reunification, either immediately or after a specified period of time. Providing pathways to permanent residence, and the rights and benefits that accompany that status, including family reunification, to all workers would rightly recognise that people on lower wages, including workers in social care, construction, agriculture and hospitality, contribute economically, socially and culturally to the UK. It would also help protect employment standards across the UK economy by preventing a constant churn of new workers entering the labour market. The longer people stay in a country the greater the chance of integration and developing knowledge, skills and networks that reduce risks of exploitation.

## **2. Embed labour protections into the design of any new TMPs proposed by making specific requirements of employers who wish to hire migrant workers on TMPs**

The Government should set out in guidance key conditions for employers who wish to hire migrant workers through TMPs. These should be developed in consultation with worker representatives and employers. We recommend that employers should:

- a. Provide all workers with a day-one statement of the terms of their contracts and their labour rights;
- b. Guarantee workers a base salary or a minimum number of hours;
- c. Ensure no worker on TMPs is on a zero-hours contract;
- d. Have clear rules for overtime working and how it will be paid;
- e. Sign up to the Employer Pays Principle<sup>27</sup>, which sees employers investigate whether recruitment payments have been made by workers and ensure this cost is paid back to them;
- f. Ensure workers are paid the same or higher wages as those offered to resident workers in the sector;
- g. Source opinion from the relevant trade union about the terms of employment;
- h. Cover the cost of health and related insurance;
- i. Cover the cost of travel to the UK to undertake work under TMPs. This may be deducted from workers' wages, but deductions must be capped at a reasonable rate and based on market prices;
- j. Ensure decent standards in accommodation with a cap on how much can be charged, including for utilities. For workers with no guaranteed earnings, accommodation and utilities must be free if earnings fall below a set level;
- k. Set out any and all wage deductions that are allowed, including caps where relevant;
- l. Prove that they can pay workers the guaranteed base amount (see point b) even if the business income is unexpectedly low, for example due to a poor harvest;
- m. Prove that any previously employed or engaged migrant workers have had their salaries paid in full.

Additionally, employers who have previously violated labour laws must be excluded from participation in any TMPs.

## **3. Increase the resources and remit of labour inspectorates to ensure the enforcement of legislation to prevent forced labour, including labour law**

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<sup>27</sup> Institute for Human Rights and Business. Undated. 'Leadership Group for Responsible Recruitment: The employer pays principle'. [https://www.ihrb.org/uploads/news-uploads/Employer\\_Pays\\_Principle\\_-\\_Leadership\\_Group\\_for\\_Responsible\\_Recruitment\\_updated2.pdf](https://www.ihrb.org/uploads/news-uploads/Employer_Pays_Principle_-_Leadership_Group_for_Responsible_Recruitment_updated2.pdf)

Due to the inherent risks in TMPs, labour inspection and labour law enforcement should be greatly increased to prevent abuse and exploitation. The UK currently has one of the poorest resourced labour inspectorates in Europe, less than half the International Labour Organisation's (ILO) recommended ratio of one inspector per 10,000 workers.<sup>28</sup> UK labour inspection relies predominantly on worker complaints to trigger investigations,<sup>29</sup> which is problematic: the most at-risk workers are the least likely to make complaints, and language barriers make migrant workers even less likely to do so. FLEX recommends that UK labour inspectorates' resources are increased to reach the ILO recommended ratio of one inspector per 10,000 workers at a minimum.<sup>30</sup> Additionally, we recommend that regular and proactive investigations are undertaken into the working conditions experienced under TMPs to evaluate whether abuse or exploitation are present.

This should include increases in resources and capacity for both the Gangmasters and Labour Abuse Authority (GLAA) and the Employment Agencies Standards Inspectorate (EASI) as they hold crucial roles in overseeing TMPs and protecting labour standards on them.

- The GLAA must provide a licence for anyone providing workers under the Seasonal Workers Pilot, even if their business is located overseas. This will require the GLAA to work across a very wide geographical spread, understanding local labour laws in potentially every country outside the EU, and to monitor the adherence of overseas labour providers to local labour laws and GLAA licensing standards. It is crucial that the GLAA is resourced properly to license and monitor labour intermediaries and proactively inspect labour sites under the SWP.
- EASI oversees labour intermediaries in the rest of the UK economy, investigating breaches of the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Businesses Regulations 2003, and is responsible for protecting the rights of agency workers. In 2018/19, EASI was responsible for overseeing 18,000 employment agencies covering 1.1 million workers. It has a staff of only 13 and a budget of £725,000. For EASI to effectively carry out its current work, let alone additional oversight of labour providers bringing workers from overseas, it will need a significant increase in its resources.

#### **4. Provide migrant workers with access to public funds**

All workers in the UK, including those on TMPs, should be granted access to public funds and services such as healthcare, unemployment support and homelessness assistance. No recourse to public funds can create extreme risk of abuse and exploitation and could leave many on TMPs with no real option to leave abusive or exploitative situations as, if they cannot immediately find new employment, they will risk destitution.

#### **5. Provide migrant workers with information on their labour rights and support options to help identify and seek remedy for cases of abuse**

All new entrants into the UK labour market should be provided with information about UK labour rights and laws, a list of recognised support providers including contacts for legal services and migrant support organisations as well as trade unions, with clear pathways provided for them to report abuse safely if it is encountered. They should also receive guidance and assistance on documenting the terms and conditions of work received in the workplace in order that such evidence can be used to assert their rights at work and in support of claims of abuse, mistreatment or exploitation in the future.

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<sup>28</sup> FLEX. 2017. 'Risky Business: Tackling exploitation in the UK labour market'. <https://www.labourexploitation.org/publications/risky-business-tackling-exploitation-uk-labour-market>

<sup>29</sup> Director of Labour Market Enforcement. 2018. 'United Kingdom labour market enforcement strategy 2018/19'. p.40. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf)

<sup>30</sup> FLEX. 2017. 'Risky Business: Tackling exploitation in the UK labour market'. <https://www.labourexploitation.org/publications/risky-business-tackling-exploitation-uk-labour-market>

## **6. Establish a multilingual helpline for workers**

The government should establish a new 24-hour helpline for migrant workers with support available in the most commonly spoken languages by these workers. This helpline would need to be trusted by workers and so mechanisms should be established to ensure that workers may report all types of labour abuse anonymously. Labour inspection in the UK currently relies predominantly on complaints to guide resources and investigations. It is therefore crucial that there is a clear route for workers on TMPs to report issues in order to identify and prosecute abuse and provide remedy. There is currently little provision of labour rights advice for those who do not have a good level of English. The charity-run Modern Slavery Helpline provides translation in most common foreign languages, but their focus is not on employment advice and is targeted at victims of modern slavery crimes.

## **7. Integrate trade unions and workers' organisations into the design, governance and evaluation of temporary migration programmes**

Integrating trade unions and other workers' and migrant community organisations into both the design and governance/monitoring processes of temporary migration schemes would help ensure that the rights of migrant workers are a key consideration. It would also help make sure these schemes take into account the risks associated with specific occupations and sectors. The Seasonal Workers Pilot currently has an internal evaluation planned and pilot operators are conducting their own audits as the scheme is rolled out. However, there is no worker-led or independent process of auditing and evaluating the scheme.

## **8. Take steps to eradicate direct and indirect discrimination from TMPs**

This should include consulting widely with a variety of experts and organisations working to combat discrimination under guidance from the Equalities and Human Rights Commission, the Scottish Human Rights Commission, and the Northern Ireland Human Rights Commission when designing the TMPs so as to remove or mitigate features that might indirectly discriminate against certain social groups. There should be clear rules against direct discrimination by recruitment agencies and employers, particularly in the recruitment process, and these rules should be enforced. In addition, data should be collected on who is participating in TMPs as well as any complaints made by workers on those schemes. This data should be disaggregated at a minimum by gender, age, ethnicity, disability, nationality/country of origin, and sector of work.

## **9. Expand the Gangmasters and Labour Abuse Authority's licensing of labour providers to other high-risk sectors**

To prevent deception in recruitment, including recruitment fees that could lead to debt bondage, the GLAA's licensing of labour providers should be extended from agriculture to other high-risk sectors, including construction, cleaning, hospitality and care work. These sectors are considered 'high-risk' due to significant levels of outsourcing and subcontracting; flexible or insecure work arrangements such as zero-hours contracts, agency work and false or dependent self-employment; isolated working conditions; accommodation on site; low wages and piece-rate payments; and limited power of workers due to low or no unionisation and ease of replacement. Licensing labour providers in high-risk sectors would ensure early identification of abuses and to enable swift licence revocation for breaches of standards.

The GLAA has proved itself effective in identifying and preventing human trafficking for labour exploitation through its licensing system and there have been repeated calls from civil society organisations and domestic and international bodies for its remit to be extended.<sup>31</sup> The Council of Europe Group of Experts on Action against Trafficking in

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<sup>31</sup> See FLEX. 2013. 'Preventing Trafficking For Labour Exploitation'. Working Paper 01.; Centre for Social Justice. 2013. 'It Happens Here'. p.139; and MAC. 2014. 'Migrants in Low Skilled Work'. p.5.

Human Beings in its 2012 report on the UK recommended that the GLAA's licensing function be extended to sectors such as hospitality (including catering companies and hotels) and construction.<sup>32</sup>

## **10. Ensure workers do not face barriers to changing employers**

FLEX welcomes the proposal that workers be able to move freely within the labour market on the twelve-month scheme set out in the Immigration White Paper. However, workers under the SWP will not have the same freedom and will instead be limited to working in the horticulture sector and require permission from their Pilot Operators, either Concordia UK or Pro-Force Limited, to change employer. Unless it is closely monitored, this system is likely to enable labour abuse as evidence shows to have been the case under the previous SAWS. The Government must make sure that workers' requests to change employer are respected. Any requests made should be reported to the Government and those that are rejected must be accompanied by clear reasons why. The Government should set clear guidelines for operators regarding when it is acceptable to reject a request to change employer and communicate these clearly to workers.

**In conclusion, there are clear ways in which the proposals in the White Paper can be improved in design and implementation to protect workers from labour abuse and exploitation. FLEX looks forward to engaging with the Government and key stakeholders, including migrants' rights organisations, trade unions and businesses, to design post-Brexit migration policies that protect the rights of migrant workers and ensure no one is made vulnerable to human trafficking for labour exploitation.**

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Focus on Labour Exploitation (FLEX) works to end human trafficking for labour exploitation. To achieve this, FLEX works to prevent labour abuses, protect the rights of trafficked persons, and promote best practice responses to human trafficking for labour exploitation through research, advocacy and awareness raising. FLEX is a registered charity based in the UK.

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<sup>32</sup> GRETA. 2012. 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom'. [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta\\_report\\_united\\_kingdom\\_2012\\_en\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta_report_united_kingdom_2012_en_0.pdf)