

# Seasonal Agricultural Worker Accommodation

## WORKER SUPPORT CENTRE BRIEFING

SEPTEMBER 2024

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### Background to the issue

The [Worker Support Centre](#) (WSC) supports marginalised and isolated workers in Scotland to secure and advance their workplace rights. We aim to prevent human trafficking and to promote decent work. We prioritise casework in line with the International Labour Organization [forced labour indicators](#), seeking to tackle worker: vulnerability; restriction of movement; isolation; threats; and abusive working and living conditions. In 2023 and 2024, WSC services were targeted at workers on the [Seasonal Worker visa](#) (SWV) in agriculture, a 6-month visa in horticulture, and 2.5-month visa in poultry. Workers on the SWV are sponsored by a licensed Scheme Operator and employed by a farm, 32,724 individuals were issued a SWV from [65 different countries in 2023](#). Seasonal agricultural work has been by UK Government [experts](#) as at a high risk of labour exploitation.

Workers on the SWV across the UK are [almost all](#) housed in employer provided accommodation, encompassing caravans or metal containers. This accommodation is charged at a rate set out in the [Agricultural Wages Order](#) (AWO) and [HMRC](#) of up to £9.99 per day. WSC encounters a wide range of problems with seasonal worker housing, including: **Uninhabitable and unsafe accommodation; Poor price-quality ratio; High additional charges and penalties; Discrimination in accommodation provided; and Short-notice evictions and homelessness**. WSC's review of legislation finds a significant gap concerning seasonal worker temporary accommodation, which falls outside standards and enforcement regimes.

### Recommendations for action

**WSC is calling on the Scottish and UK Governments to address gaps in legislation and oversight by:**

- 1. Introducing amendments to housing legislation to clarify the local authority duty to inspect seasonal worker accommodation and the relevant standards to be applied.**
- 2. Publishing Local Authority specific guidance accompanying the Agricultural Wages Order clarifying types of accommodation and occupancy rates to which the maximum charge of £9.99 per day applies.**
- 3. Clarifying the legal status of occupants of seasonal worker accommodation.**

## Seasonal worker experiences of accommodation

During January-July 2024 WSC supported 417 individuals with issues related to the SWV. Of these 81 workers reported issues with their housing. Accommodation issues span the following areas:

- **Uninhabitable and unsafe accommodation:** Damp and mould growth; excess cold; crowding and lack of space; lack of privacy and security – entry without notice - and surveillance; inappropriate non-residential infrastructure used for housing; lack of hygiene, sanitation, or drainage facilities.
- **Poor price-quality ratio:** The permitted rate of accommodation deductions increased by 89p per day in April 2024, from £9.10 per day to £9.99 per day, an increase of 9%. The total rent for a single worker can reach £300 per month: where there are 4-6 people occupying a single unit, therefore this reaches £1200-1800 per unit per month. On the minimum guaranteed 32 hours per week at National Minimum Wage of £11.44 per hour, accommodation charges represent 19% of a worker's net pay, prior to additional charges.
- **High additional charges and penalties:** High additional charges are reported by workers for electricity, fuel, and services such as laundry or travel associated with accommodation that may mean workers' pay falls below the national minimum wage (NMW)/Agricultural Minimum Wage (AMW). Workers also report penalties charged for untidy accommodation or broken items without there being provided an inventory upon entry.
- **Discrimination in accommodation provided:** SWV workers report being placed in a different standard of accommodation on farm sites to other workers, with one set of units for workers on the SWV and one set for non-SWV workers.
- **Short-notice evictions and homelessness:** Many of the 61 workers that WSC supported with dismissal cases in 2024 also faced very short notice eviction from accommodation. We also supported people during this time that had become homeless as a result of short-notice evictions.

Accommodation has been prioritised by workers as part of WSC's 'Worker Power' project as an area of focus. WSC supports workers to raise issues related to their accommodation with their employers and Labour Providers. We have also raised issues with local authorities, the Health and Safety Executive, the Agricultural Wages Enforcement Team, and the Gangmasters and Labour Abuse Authority. However, due to the absence of regulations or a responsible authority and the lack of worker's legal status in law, there are many obstacles to accessing redress.

## Overview: Gaps in seasonal worker accommodation oversight

This overview summarises WSC findings from a review of accommodation regulation and relevant legislation carried out with support from legal specialists, coupled with data from our case reports made regarding poor housing to local authorities and enforcement authorities.

The [Agricultural Wages Order](#) requires "accommodation other than a house shall not exceed £9.99 for each day in the week for which living accommodation is provided" and caveats that where a local authority is "satisfied that accommodation...is unfit for human habitation and a notice has been served...in respect of that accommodation, the benefit of its provision shall have no value." However the [Agricultural Wages \(Scotland\) Act 1949](#) makes no reference to local authority power to inspect accommodation in order to make such a determination. WSC also finds exemptions in all other legislation requiring local authority oversight of housing:

## Absence of Local Authority Oversight

**Caravan site oversight:** [The Caravan Sites and Control of Development Act 1960](#) makes provision for Local Authority oversight of caravans, including adequate sanitary facilities. Local authorities license and inspect sites under this Act. However Schedule 1 of the Act exempts seasonal agricultural accommodation. Under the Act a local authority may request the power to license exempted sites from the relevant Minister. Angus Council is the only known local authority in the UK to have requested this power and has operated a licensing scheme since 2012. Angus Council licenses caravan sites in accordance with the [Model Standards for Residential Mobile Home Site Licenses](#). These Model Standards relate solely to site infrastructure including sanitation, layout and parking rather than the internal state of caravans. Issues reported by WSC to Angus Local Authority in August 2024, related to uninsulated accommodation, with poor sanitary facilities provided on caravan sites in Angus, are still awaiting a response.

**Houses in Multiple Occupation (HMO):** HMOs are defined under the [Housing \(Scotland\) Act 2006](#). This applies to living accommodation for three or more persons who are not all members of the same family. However, it is dependent on whether the accommodation is considered 'mobile', how large they are and how long they have been there:

*In Gordon v Kirkcaldy District Council 1990 SC 107 it was decided that static caravans were dwelling houses as they could not be towed. They had all been there for several years. If there is sufficient degree of permanence and immobility it is likely to be a house.*

Under HMO licensing, a local authority can inspect a house and issue an amenity notice requiring the landlord to carry out repairs. The local authority can also impose a limit on the number of persons living in a HMO to reduce overcrowding. In its response to the [ITN investigation](#) into seasonal worker accommodation of 5th September 2024, [Aberdeenshire Council](#) stated that it does not consider seasonal worker caravan accommodation to be HMOs, and therefore would not inspect it as such.

**Tolerable Standard and Repairing Standard:** Local Authorities have a duty under the [Housing \(Scotland\) Act 1987](#), and [Housing \(Scotland\) Act 2006](#), to ensure that all houses in their area meet the Tolerable Standard and Repairing Standard. However this requirement only applies to accommodation for seasonal workers if local authorities make byelaws to make this the case. WSC has not found any local authorities that have made such byelaws.

## Absence of enforcement authority Oversight

**Gangmasters and Labour Abuse Authority (GLAA) [Licensing Standards](#)** for food and farming sectors include in License Standard 4 requirements on the 'Quality of Accommodation' provided. However, the GLAA has [recently indicated](#) it cannot pro-actively inspect farms as its standards apply to labour providers. WSC has previously reported issues related to crowded housing, and housing in a poor state of repair in tied accommodation in Scotland to the GLAA without reported action.

**Health and Safety Executive (HSE):** HSE has responsibility under the [Health and Safety at Work etc Act 1974](#) for health, safety or welfare issues identified in work related premises. In response to a recent ITN investigation, HSE [stated](#) it views housing oversight as the role of Local Authorities. WSC has previously

reported extreme cold, draughts or poor sanitation facilities in temporary accommodation to the HSE and has been directed towards local authorities for resolution.

**Agricultural Wages Enforcement Teams (AWET):** The Agricultural Wages Order enforced by the AWET references accommodation, sets a maximum rate for accommodation deductions at £9.99 per day / £69.93 per week yet states that accommodation deductions are not permitted if a Local Authority has deemed accommodation to be “unfit for human habitation”. However, as outlined above, it is unlikely that any local authorities are inspecting accommodation to make such an assessment.

**UK Visas and Immigration (UKVI) Compliance Unit:** [The Immigration Rules for Sponsors of workers on the Seasonal Worker Visa](#) specify that visa sponsors should ensure that workers are: "housed in hygienic and safe accommodation that is in a good state of repair". So far no UKVI compliance reports have been openly published to detail what accommodation inspections have been carried out against which standards. It is understood that workers regularly raise accommodation issues during inspections, but the Home Office has [indicated](#) it falls within local government responsibility to address these issues.

## Limits of Industry oversight

**The Fresh Produce Consortium (FPC) Temporary Accommodation Guidance:** The FPC is a trade association comprised of businesses across the fresh produce supply chain. The FPC produces [Temporary Accommodation Guidance](#) which as of 2024 is no longer publicly available to non-members. FPC [state](#) that this guidance is not intended to be an industry standard, but sets out legal requirements or good practice. Previous publicly available versions of the [Guidance](#) have been limited in ambition, for example setting a minimum single bed size below a standard single bed size, not requiring an inside toilet, and making no mention of insulation. These standards are industry implemented and enforced.

**Red Tractor Standards:** The voluntary [Red Tractor Fresh Produce Standards](#) include the standard (PL.6) that ‘Any temporary, on site accommodation provided must be habitable and have suitable basic services.’ This standard is not detailed and does not specify whether basic services listed should be found inside units or elsewhere. They are also limited in ambition, only requiring heating in accommodation if used between 1 October and 31 March. Red Tractor is an industry led and implemented standard.

## WSC accommodation case studies

The WSC engaged with 63 workers on issues related to their housing in 2023 and 81 workers so far in 2024. The following case studies provide a picture of the issues faced by workers.

### Unsafe, unhygienic and costly accommodation

A worker reported being accommodated in caravans without working lighting or hot water. They asked the farm to address the issue but after weeks of waiting the problems had not been resolved. Workers reported not receiving 32 hours work per week, whilst being made to pay for their caravan plus gas and electricity to the farm on top of the accommodation payment. This cost was therefore felt to be very high to the workers, coupled with the fact that the caravans were unsafe and unhygienic.

### Short notice dismissal & eviction

A group of workers reported being dismissed for “gross misconduct”. They did not have representation in this case. Workers were given three days to leave their place of employment and accommodation. In all cases accommodation was tied to employment.

### Quality of caravans

A group of workers from a particular farm complained about poor accommodation with complaints focussed on the lack of insulation and cold, excessive mould, lack of hot water and holes and leaks – of water from washing facilities into bedrooms, on to carpets and mattresses. These workers asked their employer to be moved to caravans of a better standard on the same farm but said their request was denied.

## Conclusion

WSC finds worker housing that is unfit for human habitation, unsafe and very poor value. Yet, whilst the AWO sets the maximum rate that can be charged per worker for accommodation other than a house at £9.99 per day, there is no accompanying guidance on what standard or occupancy rate accommodation should meet. WSC’s review of legislation in this area finds a significant gap with regards to local authority oversight of this accommodation, which falls outside housing and caravan site legislation. There is also a related lack of clarity about workers’ status in relation to their accommodation; it is unclear whether they are tenants or occupiers and therefore whose responsibility it is to repair accommodation and ensure it is habitable. These apparent gaps in legislation and oversight should be urgently addressed to improve housing standards for all workers.

For more information contact the Worker Support Centre on [support@workersupportcentre.org.uk](mailto:support@workersupportcentre.org.uk)

See our website: [www.workersupportcentre.org.uk](http://www.workersupportcentre.org.uk)

**If you are a seasonal agricultural worker and need help call our helpline on 0800 058 1633**