

WSC Briefing on a Fair Work Agency

December 2024

Background to WSC

The [Worker Support Centre](https://www.workersupportcentre.org.uk) (WSC) is a Scotland based charity that promotes decent work and prevents exploitation. We support marginalised and isolated workers in labour sectors where there is a high risk of abuse and exploitation. We work in partnership with workers to build power to secure and advance workplace rights. We prevent human trafficking for forced labour by acting to reduce the risks of worker exploitation. In 2023 and 2024 WSC activities were targeted at workers in seasonal agriculture on the UK Seasonal Worker visa (SWV). During this time, we provided advice, support, and information to 1031 people. To learn more about work, visit www.workersupportcentre.org.uk.

UK Seasonal Worker visa

Workers on the SWV are sponsored by a licensed Scheme Operator and employed by a farm, with their visa valid for six months in horticulture and 2.5 months in poultry. Workers on the SWV have no recourse to public funds and very low unionisation rates, meaning there is limited worker representation. Seasonal agriculture is one of three UK labour sectors characterised by a high risk of modern slavery and labour exploitation by the Director of Labour Market Enforcement (DLME).^[1]

[1] DLME 2024 UK Labour Market Enforcement Strategy 2023-24

The UK's new Fair Work Agency

WSC believes a new FWA should seek to prevent exploitation before it takes place, by operating on an understanding of risk that relates to the International Labour Organisation forced labour indicators and guided by experts on the issue of labour exploitation, including representatives of at-risk workers that are non-unionised.

This should include pro-active inspection, strong engagement with independent worker support organisations as well as trade unions, safe and anonymous reporting routes, and resourcing to meet International Labour Organization (ILO) standards. In particular it should:

1. Operate on an understanding of risk that relates to the International Labour Organisation forced labour indicators.
2. Adopt a prevention-based approach, seeking to prevent situations of exploitation from occurring through a) a risk targeted and proactive inspection regime and b) close connections to independent worker support and representative organisations.
3. Be sufficiently resourced to ensure the UK meets the ILO recommendation of 1 labour inspector to every 10,000 workers.^[2]
4. Ensure safe reporting routes for workers and their support organisations to report complaints anonymously, with no data sharing with immigration enforcement.
5. Include inspection officials located close to high-risk workplaces, particularly in rural locations where there are limited support services or trade union engagement.
6. Ensure the burden of proof lies not with the employee but the employer where there is no agreement with an enforcement decision.
7. Ensure any licensing regime applies to workplaces, enabling in person inspection to ensure standards are upheld.
8. Ensure independence from industry, including ensuring inspection officials do not have close connections to those industries that are considered highest risk.
9. Embed trauma informed practice in its operating procedures, including comprehensive training in trauma informed approaches for all inspectors.
10. Administer and monitor a registry for employers of temporary migrant workers, enabling compliance activity and engagement to be more targeted towards this high-risk cohort of workers.

^[2] ILO 2006, "Strategies and practices for labour inspection". Available at: <https://www.ilo.org/resource/gb/297/strategies-and-practices-labour-inspection>.

Labour market enforcement to prevent exploitation

Between November 2023 and November 2024 WSC submitted 19 reports to enforcement authorities spanning the GLAA, the HSE, the AWET, a Local Authority and HMRC. Issues raised include:

Pay and holiday issues: including non-payment for working hours, non-payment of overtime, holiday pay used to supplement the 32 hours required by the Home Office.

Fees: additional fees for facilities.

Health and Safety: lack of or poor state of repair of equipment, lack of or inadequate sanitary facilities or sheltered areas for breaks, unaddressed injuries, unsafe farm infrastructure, lack of protective clothing.

Working conditions: poor treatment by farm supervisors and management, verbal abuse, discrimination on the basis of nationality.

Accommodation: housing in poor state of repair, crowded or unhygienic.

Productivity requirements on workers: warning letters used as a threat to increase productivity; unrealistic productivity targets.

Dependency on employers: penalisation for requesting a transfer.

In many cases we reported worker issues anonymously due to the concerns workers expressed for their safety when raising complaints. There were mixed outcomes from these reports. Some of the above authorities used information to inform future intelligence operations, some conducted investigations, some did not have the relevant powers to inspect issues of relevance to workers. The following five principles build on WSC's findings from this work.

WSC core principles for labour market enforcement

WSC's extensive engagement on behalf of workers at risk of exploitation has informed the following five core principles for effective labour market enforcement to prevent exploitation. It must be: accessible; trusted; worker-centred; connected; and resourced.

Accessible

For some enforcement agencies there are lengthy and English language only reporting forms solely available online. Without a support service like WSC to facilitate translation of and access to materials, reporting mechanisms are often inaccessible to seasonal agricultural workers.

The FWA should establish complaints and engagement processes that are clear to isolated and marginalised workers, including: translated materials in the main languages spoken in recruitment countries of workers on restrictive visas, succinct forms that are available in a range of formats, including for use on mobile phones; and inspectors with cultural and linguistic understanding.

Trusted

WSC has sought reassurance from enforcement agencies that workers will not be identified if reporting serious incidents at work. In some cases, this is possible and worker anonymity can be preserved, in others this is not possible. Without safe reporting mechanisms workers are not prepared to report to enforcement authorities.

The FWA should prioritise worker safety, ensuring safe reporting with a clear separation from immigration enforcement, and respecting worker's wishes to remain anonymous where required. Safe reporting channels should also be made available to frontline support services, such as WSC.

Worker-centred

The FWA must start from the perspective of isolated and marginalised workers, and develop an inspection regime that is proactive, worker-centred, and responsive. The workers WSC support have very little to gain by engaging with labour market enforcement, and their evidence should be treated with respect.

FWA should establish mechanisms for securing evidence to support claims made by workers, acknowledging the significant barriers to their documenting their situation. Complaints must be responded to promptly in acknowledgement of the very short-term nature of many workers' stay in the UK.

Connected

Labour market enforcement that is too centralised and where inspectors are not based in or near communities at risk of exploitation can fail to connect fully with workers at risk of exploitation due to geographical and practical barriers.

The FWA should take account of the complexity of enforcing across all parts of the UK, including in its constituent countries. Inspectors must be based in locations close to workers at risk of exploitation, including in rural areas with large populations of seasonal migrant workers. Above all inspectors must retain independence from industry and be seen to be acting for and trusted by marginalised workers.

Resourced

Reductions in resources since the 2010 Spending Review to all labour market enforcement authorities have impacted the ability to conduct pro-active inspections of workplaces and have led to a race to the bottom in some sectors. Insufficient resources serve as a practical barrier to officials attending the scene of complaints rapidly and conducting pro-active inspections in all parts of the UK.

The FWA should be sufficiently resourced to enable rapid inspections in languages workers understand. It must meet the International Labour Organization recommended 1 inspector to 10,000 worker ratio and deliver a comprehensive pro-active inspection regime and enforcement.