

Submission to the Director of Labour Market Enforcement

Responding to the open call for
evidence to inform the DLME
Labour Market Enforcement
Strategy 2025-2026.

Worker Support Centre

December 2024

Background to WSC

The [Worker Support Centre](#) (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. The prioritisation of our cases is closely connected to risks articulated in the ILO forced labour indicators, including: abuse of vulnerability; restriction of movement; isolation; intimidation and threats; and abusive working and living conditions.¹ WSC support includes advice, mediation, advocacy and assisted reporting to enforcement agencies. Our worker engagement informs policy change activity to address harms faced by those in high-risk work. 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 in relation to the SWV. 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).²

Importantly the SWV is an example of a tied and temporary migration programme identified by a wide range of government and non-government experts to increase

¹ ILO 2024 Hard to see, harder to count. Handbook on forced labour surveys.

² DLME 2024 UK Labour Market Enforcement Strategy 2023-24

risk of exploitation to the workers on them.³ The increased risks present in the SWV include the temporary nature of the visa, the segregated workforce, lack of trade union representation, multiple dependencies of workers on employers including for accommodation and access to healthcare, and barriers to reporting workplace abuse.

WSC casework for workers on the SWV of relevance to the labour market enforcement includes the following issues:

- **Dismissals**, including in response to performance, complaints raised by workers or absence of work available.
- **Lack of independent worker representation**, including trade union representation, and workplace processes for independent worker support.
- **Wage theft**: non-payment for hours worked.
- **Misuse of holiday pay** to cover required hours or lack of work.
- **Occupational safety and health hazards**, including poor equipment or infrastructure, and unaddressed injuries.
- **Poor treatment and discrimination**, including threats and aggression.



MID-YEAR REPORT

January – July 2024

³ See for example: United Nations, 22 July 2024, Visit to Canada - Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences. Scottish Government 2023 Safeguarding workers on temporary migration programmes. Migration Observatory 2018, Exploiting the opportunity? Low-skilled work migration after Brexit. Mantouvalou V 2022 The UK Seasonal Worker visa, European Law Open 1, pp 711-719. NZ House of Representatives Education and Workforce Committee 2022 Inquiry into migrant exploitation.

The Employment Rights Bill and labour market enforcement

The Employment Rights Bill introduced on 10 October 2024 initiates a series of employment law and enforcement reforms that could have a significant impact on those with whom WSC works.

Clauses 72-112 and Schedules 4-7 relate to enforcement under a new Fair Work Agency (FWA). WSC recommends the FWA must act to prevent severe exploitation, by operating a forced labour indicator led approach. 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.

As will be outlined in this submission, WSC has engaged extensively with labour market enforcement authorities on behalf of workers at risk of exploitation and draws on this experience and expertise, as well as input from workers and the lived experience of work in high-risk sectors of our staff and Board in our submission to the DLME.

Responses to DLME questions

1. Employment rights enforcement priorities and governance

What do you believe should be the priorities for employment rights enforcement as we transition to the FWA?

Based on our detailed practical experience of engaging with labour market enforcement authorities over the past three years on behalf of and alongside workers at risk of exploitation, 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, guided by experts on the issue of labour exploitation, including representatives of at-risk workers that are non-unionised. Enforcement authorities should conduct pro-active enforcement, see case study of Control Test Inspections (CTIs) below, to identify workplace risks of exploitation rather than relying on complaints from marginalised workers.

The FWA will take some time to be set up. What should priorities be for the enforcement bodies before then?

The existing enforcement bodies should use this time to review their ability to assist socially, geographically and practically marginalised and isolated workers. This work should consider: ability to reach workers; trust and confidence in workers; accessibility of reporting channels; worker safeguarding in reporting; responsiveness rate of enforcement bodies to complaints; understanding of isolated workplace contexts – including rurally isolated locations.

In 2024, WSC has supported workers to raise workplace standards related complaints with enforcement authorities from seven separate workplaces. WSC either supported workers to navigate the reporting systems of, or directly reported anonymous data to, the Gangmasters and Labour Abuse Authority (GLAA), Agricultural Wages Enforcement Teams (AWET), the Health and Safety Executive (HSE), HMRC and a Local Authority (LA). We also attempted to raise similar issues with the UK Visas and Immigration Compliance Unit but were not provided a safe means of doing so.

Labour market enforcement cases raised spanned:

- Non-payment for work;
- Holiday pay used to cover work time;
- Threats and poor treatment of workers by managers;

- Discrimination based on nationality;
- Lack of sanitary facilities at work;
- Dangerous work equipment and infrastructure;
- Unsafe tied accommodation; and
- Unaddressed injuries at work.

WSC worked with authorities to provide further information and detail in a safe and confidential way so that they could either pursue complaint inspections or to ensure that future workplace visits are informed by such information. In the case of the GLAA we were told in response to our reports that they had limited capacity and would only pursue cases if they were collated thematically across a number of farms using labour from the same licensed labour provider.

WSC believes it is important for LME Authorities to look at the issues listed above and consider how it can best address these core risks that relate closely to the forced labour indicators, seeking to develop a pro-active labour market enforcement response that connects with the risks of forced labour.

What should be FWA medium to longer-term priorities and why?

WSC core principles for labour market enforcement

WSC believes there are a range of priorities for effective labour market enforcement for marginalised and isolated workers based on our work. We have structured these as core principles for labour market enforcement: accessible; trusted; worker-centred; connected; resourced.

Accessible

For some enforcement agencies there are lengthy and English or limited language only reporting forms solely available online. WSC has translated these forms for seasonal agricultural workers, the majority of whom do not speak English, and has helped complete them in person with workers who do not have the IT facilities to be able to do so without support. Without a support service like WSC, enforcement reporting mechanisms are often inaccessible to seasonal agricultural workers.

The FWA should establish complaints and engagement processes – clearly displayed in workplaces and on payslips - 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 forms,

including for use on mobile phones; 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, so that workers may feel more comfortable engaging with as their representatives. This could be achieved by ensuring that inspections following a report include a large sample of the workforce, see AWET CTIs below.

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.

The 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. Enforcing migrant workers' rights is complexified by the range of laws that apply to them spanning areas of reserved and devolved competences. Whilst employment and immigration law are reserved for example, agricultural wages, housing and healthcare are devolved. These areas have significant implications for any enforcement targeted at preventing exploitation.

A new FWA must take account of the complexity of enforcing reserved and devolved areas of law and interact closely with devolved labour market enforcement functions such as the AWETs. Inspectors must be based in locations close to workers at risk of exploitation, including – in the case of seasonal agriculture – in hyper 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.⁴

A new FWA must 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.

The FWA will have a statutory duty to publish annual reports and a triannual strategy, overseen by a social partnership board with tripartite representation from business representatives, trade unions and independent experts. What data and reporting should the FWA publish to ensure good accountability and transparency, via these publications or otherwise?

It is important that the FWA publishes data about number of workers engaged, level of engagement, languages in which workers were engaged, actions taken, resolutions achieved and timeframes for resolution. It should be judged on the resolutions and outcomes it achieves for workers, and the views of the workers with which it engages.

⁴ Phillips J, 24 October 2024 Parliamentary answer to question 10142 just 7 GLAA compliance, enforcement or joint inspections took place in Scotland in 2023 and the same number in 2022.

2. Communication and engagement

How do you expect stakeholders to be engaged by the FWA and what do you see as the benefits?

It is important that the FWA engages independent worker organisations, such as the WSC through its governance structure, whether by creating space for representatives of workers that are un-unionised on its Board, or by creating a governance committee that guides the Board in areas related to workers that are un-unionised.

It is also important that organisations conducting frontline engagement with workers have a facility for regular, at least monthly, engagement with FWA operational colleagues, to ensure timely response to issues and to address any thematic issues that are arising.

By which channels might awareness of the FWA be increased before and once it is established and why do you recommend them?

Engagement with frontline organisations is a good means of ensuring that literature and procedures developed by FWA are trialled with workers and discussed with workers. WSC Worker Power sessions are a good way of engaging workers in discussion about the appropriateness of labour market enforcement reporting mechanisms and to discuss what aspects could be improved. Information about the work of the FWA should be made available in all workplaces, as well as on payslips and there should be regular engagement from FWA officials with workers through the provision of information sessions in at risk sectors, together with independent support organisations.

Where can communications around compliance and enforcement be improved such that workers are aware of their rights and their obligations? What evidence do you have that they work?

The FWA should share information through workplaces and via labour providers, with FWA inspections seeking to ensure that this information is clearly displayed and accessible to workers. Communication should always be translated into the first languages of workers so that there is no doubt it is understood. An example of information sharing WSC has developed with the Scottish Government is a booklet specific to seasonal agricultural workers setting out their rights and entitlements that

is provided by WSC to workers in their native languages but also at ports of entry to Scotland by Border Officials. This booklet is translated into eight languages and is used by WSC Outreach staff to talk to workers about their rights and entitlements.⁵

Who do you see as the key partners for the FWA thinking both of other agencies or wider stakeholders (for example, by sector) and why?

WSC recommends the FWA has strong and ongoing engagement with independent worker support organisations as well as trade unions. It is important that the FWA engages independent worker organisations such as WSC through its governance structure, whether by creating space for representatives of workers that are un-unionised on its Board, or by creating a governance committee that guides the Board in areas related to workers that are un-unionised.

It is also important that organisations conducting frontline engagement with workers have a facility for regular, at least monthly, engagement with FWA operational colleagues, to ensure timely response to issues and to address any thematic issues that are arising.

3. Resourcing and prioritisation

What should the 3 enforcement bodies be doing now to ensure the FWA achieves sustained and lasting improvements in employer compliance?

WSC believes the 3 enforcement bodies should begin implementing a prevention-based approach, seeking to prevent situations of exploitation from occurring through a risk targeted and proactive inspection regime.

The way Agricultural Wages Inspectors operate includes elements of good practice through its pro-active inspection regime, and ability to seek remedies for workers following findings of non-compliance. The Scottish Agricultural Wages Board was established under the Agricultural Wages (Scotland) Act 1949 and produces Agricultural Wages Orders (AWO) which set terms and conditions for agricultural workers, including the minimum gross wages and conditions for holiday and sick pay entitlement. Agricultural Wages Inspectors (AWI) conduct a schedule of Control Test

⁵ See SASA 2024 Information on your rights and support while in Scotland if you are on the Seasonal Worker visa <https://www.sasa.gov.uk/covid-19-guidance/seasonal-agricultural-workers>

Inspections at 120 agricultural businesses annually across Scotland. The AWI also conduct complaints led inspections at businesses in response to allegations of non-compliance with the AWO. Following an inspection, an Enforcement Notice may be issued in cases of findings of non-compliance with AWET correspondence, these form a legal requirement for the employer to reimburse employees. If an employer wishes to challenge this Enforcement Notice then they must take this to the Employment Tribunal. There are 21 Scottish Government staff working as AWI across Scotland, who report to the Rural Payments and Inspections Division.⁶ .

How should the FWA prioritise its resource between compliance measures (helping employers) and enforcement measures (punishing poor practice, deliberate and serious non-compliance)? How might its success in both areas be assessed?

As set out below in response to question 4a) the Gangmasters' Licensing Authority (GLA pre-2016) approach to compliance by operating a licensing regime, being present in communities, and educating the food and farming sector of its standards is a strong model for replication. This model involved compliance and enforcement, as the compliance activity set the level playing field and provided clarity around the standards that are sought and how they should be achieved. This was coupled with enforcement activity. In WSC's work we most often see workers that are facing multiple abuses in the same workplaces. In those workplaces where there are high standards we see very few workers, this suggests to us that the level playing field approach is no longer working, that there are agricultural employers that are not only falling short of standards but are doing so repeatedly across a range of standards. We believe an important first step is to set clear standards for employers, ensure understanding and adherence, then to monitor and enforce on a regular basis – particularly in sectors where workers face multiple barriers to raising complaints.

What are the key labour market non-compliance risks for which the FWA needs to be ready? What is the evidence for this?

WSC has seen an increase in contacts during 2024. From January - November 2024 WSC provided advice, support and information to 626 individuals in relation to the SWV. This compares to 405 people in 2023.

⁶ See Fairlie J 13 November 2024 Scottish Parliamentary answers to questions S6W-30991, S6W-30992, S6W-30995, S6W-30997.

WSC worked with enforcement authorities in detail during 2024 to seek means of reporting worker issues anonymously due to the concerns workers expressed for their safety when raising complaints. 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. The majority of these reports outlined issues that had been raised by several workers on farms employing workers on the seasonal worker visa and were reported to enforcement agencies anonymously. Other reports were direct complaints from individual workers which were submitted to the relevant body with the support of the WSC. The main issues outlined in these reports that are of relevance to the FWA are:

- **Pay and holiday issues:** non-payment for working hours, non payment of overtime, denied holiday pay and sick pay , not receiving the mandated 32 hours of work.
- **Fees:** additional fees for facilities.
- **Health and Safety:** lack of or poor state of repair of equipment, lack of/inadequate sanitary facilities or sheltered areas for breaks, unaddressed injuries, high-risk, unsafe farm infrastructure, lack of protective clothing.
- **Working conditions:** poor treatment by farm supervisors and management, verbal abuse and discrimination on the basis of nationality.
- **Accommodation:** poor state of repair, crowded, unhygienic.
- **Productivity requirements:** warning letters/fear of dismissal used as a threat to increase productivity; unrealistic productivity targets & dismissals with lack of process on grounds of productivity.
- **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 limited 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.

Through these examples, WSC has identified how difficult it is for workers to anonymously report issues faced in UK high-risk workplaces and hopes that the FWA would seek to develop a suitable reporting mechanism to ensure that intelligence from frontline organisations can directly inform enforcement activity.

**Focussed enforcement issue: Productivity rates and hours worked
(See confidential evidence Annex 1, 2 and 3)**

WSC considers the lack of clarity on the relationship between product picked, productivity rates and actual hours worked by workers on the seasonal worker visa to be a key issue of non-compliance to be urgently addressed by the FWA.

All workers on the seasonal worker visa must be paid the National Living Wage (England) or Agricultural Minimum Wage (Scotland). The evidence accompanying this submission details payslips, employment contracts, staff handbook and dismissal letters from a range of workplaces and a range of workers that show the use of items/product picked to determine hours worked rather than workers' time at work being calculated on an hourly basis for most tasks. They also show the use a “mark up” to connect the amount accrued through product picked with the hourly rate, and suggest that workers are asked to meet certain ‘productivity targets’, i.e. they are asked to pick a certain amount of product within a certain amount of time and this determines the payment they will receive.

Workers report not being informed of productivity targets at point of recruitment but only when they arrive on farms and their understanding is that they will be paid hourly, which they feel is deceptive. For some workers, failing to meet productivity targets triggers disciplinary procedures, as outlined in the accompanying evidence. Successive warning letters can then trigger dismissals and workers have complained about the use of first or second dismissal warning letters as a threat in order to increase worker productivity with limited training or measures taken to support the worker. This evidence provides an overview of the use of productivity rates/targets for workers on the SWV.

WSC has supported many workers in 2024 of workers reporting a disconnect between the hours on their payslips that relate to product picked, and the hours they spend working. Common types of work and workplace activities for which workers report not being paid are travel between fields, time between picking and products being scanned or collected, travel from accommodation to the fields and toilet breaks.

To ensure the new FWA is ready to monitor compliance with the payment of the National Living Wage (England) or Agricultural Minimum Wage (Scotland) and there is clarity as to how this interacts with productivity targets, we have asked the DLME – as part of our Seasonal Worker Interest Group submission to:

- Formally respond to this evidence and to inform WSC and the Seasonal Worker Interest Group if further evidence is required to advance these issues; and
- Ask HMRC NMW team to investigate the sector to understand the relationship between product picked, productivity rates and actual hours worked by workers. In particular, we would like HMRC to produce:
 - A comprehensive and clear guidance document on issues around piece rate methodology and how this interacts with workers' rights under minimum wage legislation and guidance

- Advice on the lawfulness of using holiday pay to top up workers' pay in line with the 32hr requirement
- Advice on the lawfulness of costs charged to workers for services, transport and utilities

Holiday pay will be a new area of enforcement for the FWA. Where are the key priority areas as regards holiday pay non-compliance (for example, by employment model or by sector) and how might these risks be tackled?

This year WSC received 7 complaints from workers on the seasonal worker visa who said that they were not provided with the guaranteed 32 hours of paid work per week and that to meet such requirements, the employer had added holiday pay to their payslips without prior discussion with or knowledge of the worker. Please see separate confidential submission.

WSC hopes that the FWA will ensure holiday is taken voluntarily by all workers, rather than used as a means of navigating immigration requirements.

4. Moving towards a FWA

What do you value about the present practices of the 3 employment bodies that you want to see continued by the FWA and why?

The GLAA licensing system successfully improved working conditions in licensed sectors. In particular its work prior to 2012 in which it focussed on prevention activity and the pro-active monitoring of its license standards, and strong engagement with workers in their communities. This work is detailed in reports on its work. Recent developments of the GLAA have seen it extended beyond its licensing regime into the field of modern slavery.

The GLA licensing regime is set out in various reports from the earlier period of GLA activity (prior to its evolution into the GLAA) in which a broad range of stakeholders cited its model as one of best practice.⁷ At this time breaches of employment law were remedied and rectified for workers, by the GLA:

⁷ See Robinson C 2015 FLEX Working Paper 01 Preventing Trafficking for Labour Exploitation and Wilkinson M, Craig G and Gaus A, 2009 An Evaluation of the Gangmasters Licensing Authority.

In December 2007, staff at Pride Management Services of Southall were granted a total of £26,000 in holiday arrears. GLA Chairman Paul Whitehouse said: 'This is exactly the type of result that the GLA seeks...'⁸

Additionally the significant numbers of unannounced inspections and license revocation procedures conducted at this time were said to have a strong impact on raising standards across the board.

WSC does not regularly work with HMRC since they do not cover Scotland with respect to agricultural wages, which is a devolved area. In this regard, the Scottish Agricultural Wages Board (SAWB) includes elements of good practice. The SAWB is a tripartite body comprised of worker representatives (currently nominated by the trade union Unite the Union), employer representatives nominated by the National Farmers Union Scotland (NFUS) and Scottish Land and Estates and independent members appointed by the Scottish Government. The SAWB was established under the Agricultural Wages (Scotland) Act 1949 and produces Agricultural Wages Orders (AWO) which sets terms and conditions for agricultural workers, including the minimum gross wages and conditions for holiday and sick pay entitlement.

Agricultural Wages Inspectors (AWI) conduct a schedule of Control Test Inspections at 120 agricultural businesses annually across Scotland. The AWI also conduct complaints led inspections at businesses in response to allegations of non-compliance with the AWO. Following an inspection, an Enforcement Notice may be issued in cases of findings of non-compliance with Agricultural Wages Enforcement Team correspondence, these form a legal requirement for the employer to reimburse employees. If an employer wishes to challenge this Enforcement Notice then they must take this to the Employment Tribunal. There are 21 Scottish Government staff working as AWI across Scotland, who report to the Rural Payments and Inspections Division.⁹ This practice could be used to achieve rapid results for workers, in the same way the GLA is said to have done in its early days.

What would you like to see done differently?

WSC recommendations for enforcement under a new Fair Work Agency

A new Fair Work Agency (**FWA**) should seek to prevent exploitation before it takes place, by:

⁸ Ibid Wilkinson et al 2009 p.15

⁹ See Fairlie J 13 November 2024 Scottish Parliamentary answers to questions S6W-30991, S6W-30992, S6W-30995, S6W-30997.

1. Operating on an understanding of risk that relates to the International Labour Organisation forced labour indicators, guided by experts on the issue of labour exploitation, including representatives of at-risk workers that are non-unionised.
2. Adopting 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. Being sufficiently resourced to ensure the UK meets the ILO recommendation of 1 labour inspector to every 10,000 workers.¹⁰
4. Ensuring safe reporting routes for workers and their support organisations to report complaints anonymously, with no data sharing with immigration enforcement.
5. Including inspection officials are located close to high-risk workplaces, particularly in rural locations where there are limited support services or trade union engagement.
6. Ensuring the burden of proof lies not with the employee but the employer where there is no agreement with an enforcement decision.
7. Ensuring any licensing regime applies to workplaces, enabling in person inspection to ensure standards are upheld.
8. Ensuring independence from industry, including ensuring inspection officials do not have close connections to those industries that are considered highest risk.
9. Embedding trauma informed practice in its operating procedures, including comprehensive training in trauma informed approaches for all inspectors.

In addition, WSC believes that if the UK intends to continue to operate immigration schemes that increase workers' risks of exploitation such as the Seasonal Worker visa, then employer registries should be introduced for employers of temporary migrant workers, in support of a new risk focused labour market enforcement framework by:

10. Establishing, administering and monitoring a registry for all employers of temporary migrant workers, enabling compliance activity and engagement to be more targeted towards this high-risk cohort of workers.

¹⁰ ILO 2006 Strategies and practice for labour inspection.

The enforcement bodies currently use different approaches for compliance and enforcement – which of these do you think are most effective and should therefore be preferred for the FWA and why?

As set out above, the GLA approach to compliance by operating a licensing regime, being present in communities, and educating the food and farming sector of its standards is a strong model for replication. In this way it is hard to separate compliance from enforcement, as the compliance activity sets the level playing field and provides clarity around the standards that are sought and how they should be achieved. This must then be followed by enforcement activity if employers are subsequently found to be falling foul of such standards. In WSC's work we most often see workers that are facing multiple abuses in the same workplaces. In those workplaces where there are high standards we see very few workers, this suggests to us that the level playing field approach is no longer working, that there are agricultural employers that are not only falling short of standards but are doing so repeatedly across a range of standards. We believe an important first step is to set clear standards for employers, ensure understanding and adherence, then to monitor and enforce on a regular basis – particularly in sectors where workers face multiple barriers to raising complaints.

In establishing the FWA is there any good practice you would like to highlight from other UK and/or international regulators/enforcement bodies, either in the labour market enforcement space or beyond?

Employer registry

A range of provinces in Canada have established public registries for both labour recruiters and employers seeking temporary foreign workers.¹¹ Canadian employer registries, where in place, are added to labour legislation and represent a mandatory requirement for all employers of temporary foreign workers. Where employer applicants are successful then they are issued with a registration certificate proving they are eligible to recruit temporary foreign workers. An application may not be approved if inaccurate or insufficient information is provided, if labour laws or occupational health and safety laws have been broken, or if an employer is not

¹¹ See for example British Columbia (Government of BC 2023 Active employer registrations. Available at <https://services.labour.gov.bc.ca/TFWRegistrationSearch>) and Nova Scotia (Nova Scotia 2024 Temporary foreign workers – Employer registration fact sheet. Available at https://novascotia.ca/lae/employmentrights/fw/foreignworker_employer_registration_information.asp)

deemed to carry out business “legally, honestly, with integrity or in the interest of the public.”¹² These registries are reported to have enabled provincial authorities to target workplace inspections and compliance activity on the basis of accurate and up to date information.

WSC believes that employer registries should be introduced for employers of temporary migrant workers, in support of a new risk focused labour market enforcement framework, by establishing a registry for all employers of temporary migrant workers, enabling compliance activity and engagement to be more targeted towards this high-risk cohort of workers.

Trade Unions

Seasonal agricultural workers with whom WSC engages do not have any workplace representation nor are members of trade unions. Unite the Union, the UK’s biggest union representing agricultural workers states that the numbers of seasonal workers unionized is low to none.¹³ Unite representatives highlight the difficulties that unions face reaching workers in horticultural settings, hostility of employers, and the resource intensity of organising mobile, rural agricultural workers as well as the short-term nature of the SWV.¹⁴

The International Labour Organization classifies temporary and agency workers amongst “hard-to-organise workers.”¹⁵ Workers on the SWV are hyper transient, present in the UK for just six months and often move workplaces within that period. These workers are also highly dependent on their labour recruiter and/or employer. Globally trade unions and worker representative groups have adopted a range of approaches to the increasing obstacles to organising growing numbers of ‘hard-to-organise workers’. These approaches include: **segregated**, when trade unions adopt a parallel organising structure and approach for temporary migrant workers; **hybrid**, when trade unions develop a hybrid structure for temporary migrant workers, with bespoke membership terms and fees; **transnational**, when trade unions attempt to offer a non-geographically bounded offer, so that hyper mobile workers can take their union membership with them; and **community**, creating partnerships with community groups and leaders and delivering transformational trade unionism establishing migrants as leaders with support from the trade union movement.

Examples exist of UK trade unions creating alternative models of representation for temporary migrant workers, including Unite the Union’s community unionism model

¹² Ibid.

¹³ FLEX 2021 Assessment of the Risks of Human Trafficking for Forced Labour on the UK Seasonal Workers Pilot. P.16

¹⁴ Ibid. P.69

¹⁵ International Labour Organization 2017 Organising and representing hard-to-organise workers: implications for Turkey. ILO, Geneva

of support for overseas domestic workers.¹⁶ However, where workers are not unionised due to practical and sustained barriers, including seasonal agricultural workers who have remained un-represented in the UK since 1946, little effort has been made by successive governments to recognise a need for engagement to bridge this essential gap towards representation. As an independent worker support organisation, WSC bridges this gap through our work to build worker power and establish worker-led standards and by working with trade unions to try and develop models for worker representation. It is critical that the FWA take account of the absence of representation in certain high-risk sectors and ensure representation of workers from those sectors in the interim whilst the government also supports efforts to bridge the gap in independent worker representation for individuals in those sectors.

¹⁶ Jiang Z 2016 When the 'unorganizable' organize: The collective mobilization of migrant domestic workers in London.