

UK agriculture and care visas: worker exploitation and obstacles to redress

Research Summary

March 2024

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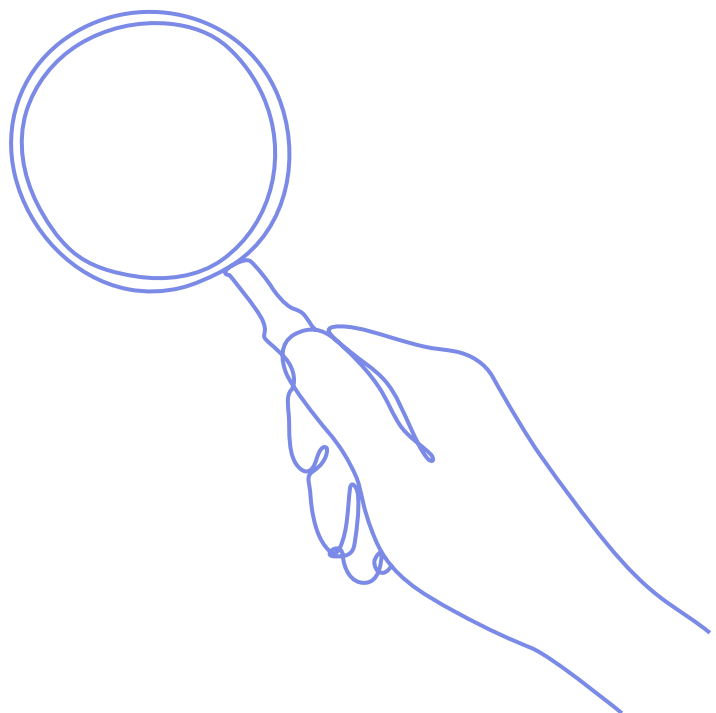
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Research by:



This is a summary of the report: *UK agriculture and care visas: worker exploitation and obstacles to redress*, based on research conducted by five academics (led by Primary Investigator Dr Inga Thiemann) in partnership with four non-governmental organisations (NGOs): Focus on Labour Exploitation (FLEX), Joint Council for the Welfare of Immigrants (JCWI), Southeast and East Asian Centre (SEEAC) and Kanlungan Filipino Consortium (Kanlungan), with support from UNISON. The project was funded through an open call for proposals by the Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC), which in turn is funded and supported by the UK Arts and Humanities Research Council (AHRC). The full report can be accessed on the Modern Slavery PEC website at modernslaverypec.org/resources/uk-agriculture-care-visas-vulnerability-exploitation.

The Modern Slavery PEC has actively supported the production of this Research Summary. However, the views expressed in this summary and the full report are those of the authors and not necessarily of the Modern Slavery PEC.



Key findings

1. The conditions attached to visa routes for both the care and agricultural sectors ('tied' visas, and – in the case of the agriculture visa – short-term) exacerbate migrant agriculture and care workers' precarious position, creating a situation of 'hyper-precarity' and increasing vulnerability to exploitation. It is common for migrant workers in both sectors to earn low wages, pay high recruitment and transfer fees, and suffer from inappropriate salary deductions and lack of information on employment rights. Workers also risk being made irregular if they leave their employer or lose their job.
2. Migrant workers' vulnerability to exploitation is compounded by the set of policies known as the 'Hostile/Compliant Environment'. Its impact on workers with precarious migration status, such as the majority of our interviewees, entails apprehension about reporting mistreatment or exploitation to the authorities or pursuing redress about poor conditions, due to fear of Immigration Enforcement action. In particular, this affects those working irregularly or with uncertainty about their status.
3. Our findings point to deception by intermediaries. Our interviewees' situations ranged from false promises regarding their employment and conditions while in the UK – especially pay – to misleading information regarding the length of their employment, and lack of appropriate information on their contractual terms and rights.
4. Our findings show significant issues of debt and deductions from wages across both sectors, both associated with illegal recruitment fees and arising from travel, training and accommodation costs, as well as high visa application fees. Both visas are issued subject to the No Recourse to Public Funds condition, further amplifying workers' financial precarity.
5. Migrant workers' barriers to reporting concerns or exploitation are compounded by the fact that they have trouble accessing employment rights and their contractual entitlements. Government agencies charged with enforcing employment rights are underfunded and do not have capacity to audit workplaces proactively, while the alternative of pursuing claims through Employment Tribunals is often impractical.

Background

The UK's exit from the European Union triggered significant changes to the immigration system. As part of these reforms, the government introduced unique, temporary visa schemes for work in the agricultural and care sectors. In agriculture, the government introduced the Seasonal Worker visa (SWV) to allow workers from overseas to come to the UK to work for periods of less than six months initially as a 'pilot' in 2019. For the 2023 and 2024 growing seasons, up to 55,000 visas are available in horticulture for each growing season.

On 1 January 2021, the government introduced a Skilled Health & Care Worker visa (H&CWV), which is a subtype of the Skilled Worker visa, with key differences being that applicants pay lower visa application fees and do not have to pay the Immigration Health Surcharge (a fee for their healthcare). In 2022, care workers were added to the Shortage Occupation List, allowing employers to sponsor workers earning £20,960 per annum. In contrast to the SWV, the H&CWV permits workers to renew their visas and provides a route to settlement. It currently allows visa holders to bring dependents, although this will no longer be permitted for care workers from April 2024.

Nonetheless, the H&CWV limits labour mobility as it requires employer sponsorship; when moving to a new role, a worker must find another licensed sponsoring employer and update their visa within 60 days, making a new application that includes the payment of a further fee. These requirements can be difficult to comply with, particularly for workers in a low paid and precarious work sector (see below). They therefore leave workers susceptible to their immigration status becoming irregular, or fuel exploitation by pressuring workers to remain in a role despite poor conditions. As well as workers on the H&CWV, the care sector comprises migrant workers with a range of migration statuses, including the Overseas Domestic Worker Visa (ODWV, which is more restrictive as it is limited to a non-renewable six-month period), European Economic Area nationals with (pre)-settled status, student visas, and irregular migrant workers.

It is helpful to study the visa regimes for agricultural and care work alongside one another because of the sectors' commonalities, including the increase of low-paid, precarious work, reliance on migrant labour, social and/or geographical isolation, low rights awareness amongst workers, and negligible levels of unionisation.

Our report's key aim is to analyse the effects of these migration schemes on workers' vulnerability to exploitation and modern slavery.¹ Distinctively, the report also examines workers' access to protective labour market structures, such as union membership and mechanisms of statutory enforcement and redress. Finally, we assess whether the current enforcement mechanisms contribute to workers' vulnerability to exploitation and modern slavery. This comparative study allows us to identify cross-sectoral effects and instances of best-practice that shape our recommendations for reform.

1. The term 'modern slavery' encompasses slavery, servitude, trafficking, and forced labour. We understand the concept of exploitation more broadly, including situations where workers face repeated violations of employment standards. It is also informed by the International Labour Organisation (ILO)'s [list of forced labour indicators](#).

Methodology

The project was an equal collaboration – one in which parties have played an equivalent role – between the academic researchers and organisations listed above. The frontline partners were involved in every stage of the project, providing their input and expertise, ensuring the co-production of research design and findings. The methodology drew on FLEX’s ‘participatory migrant community approach’ in closely collaborating with migrant and community organisations with the objective of producing research that is inclusive and sensitive to migrant workers’ lived realities. We carried out:

1. Two rounds of focus groups in each sector: The first round took place at the beginning of the project, to gather input on the design of worker interviews and stakeholder surveys. The second round took place once the academic team had analysed the findings from the interviews and surveys, with participants providing feedback on the key findings and the draft recommendations. The focus groups in the care sector comprised migrant care workers, while those for agriculture included migrant agricultural workers and support organisations.
2. Semi-structured qualitative interviews with 20 migrant agricultural workers and 15 migrant care workers to understand their visa situation and issues arising from this, their working and living conditions, their knowledge of and access to mechanisms for the enforcement of rights, and the changes they would like to see in relation to their work environment, enforcement avenues or migration regime.
3. Surveys (n=19), primarily of a qualitative nature, to gather stakeholder input on the issue. We received 11 responses from support organisations (i.e., NGOs, charities, legal advice centres, other third sector organisations), 3 responses from trade unions, 3 responses from agriculture employers, and 2 responses from labour market enforcement bodies. In addition, one employers’ representative and one agriculture sector-related training initiative’s representative reached out, preferring to be interviewed instead, and their input has been incorporated in the analysis.

The small sample size for the interviews corresponded with what was feasible within the project’s short timescale, but did not represent a significant disadvantage because of the depth of the interview data. The data incorporated rich detail on workers’ motivations, decision-making, experience, and perceptions in a way that large-scale surveys or mapping exercises cannot capture. The primarily qualitative design of surveys was purposeful in order to achieve a more in-depth engagement, given the relatively limited number of stakeholders active in the examined areas, their constraints, and difficulties in accessing some of those.

Findings

1. The conditions attached to visa routes for both sectors exacerbate migrant agriculture and care workers' precarious position, creating a situation of 'hyper-precarity' and increasing vulnerability to exploitation.

- a. Visa routes that are short-term and tie workers to specific employers or industries in low paid and precarious sectors create conditions which enable exploitation of workers and put them at risk of conditions amounting to modern slavery. Of the two visas that are the focal point of the project, the short visa length is a specific issue for the SWV. However, all visa types examined by the project are marked by significant limitations on labour mobility. On the SWV scheme, workers can only request a change in employer within their operator. The research revealed that a lack of accessible information on their rights and who to contact creates further obstacles to workers changing employers. H&CWV holders often find it difficult to find a new sponsor after leaving an employer when on a sponsored visa. Lack of recourse to public funds and potential loss of employer-provided accommodation created an additional obstacle to changing employers, leaving workers at risk of destitution.

For both sectors, the research found that the general risk factors arising from these restrictive visas are exacerbated by the issues associated with these areas of work, including low wages, long working hours, high recruitment and transfer fees, inappropriate salary deductions, lack of information about how to change employers and other employment rights, immediate risks of loss of immigration status, and, for farm workers and in-home care workers, loss of accommodation when losing employment. In the care sector, workers on the ODWV and irregular migrant workers are at the sharpest end of workplace precarity, but the H&CWV is also associated with exploitative conditions. As one worker expressed it:

'No one told me about employees' rights... We weren't able to even get the hard copy of our contract. No employee rights, no handbook, nothing'

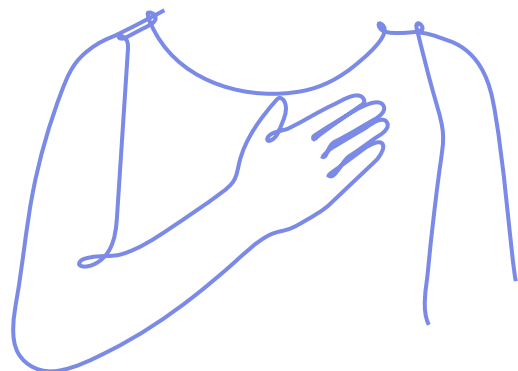
Jasmine²

2. All names cited are pseudonyms.

- b. Our findings show significant issues of debt and deductions from wages across both sectors, which are both associated with illegal recruitment fees, and can arise from travel, training and accommodation costs, and high visa application fees. Requiring migrant workers to pay costs such as travel and visa fees is contrary to principles established by [the International Labour Organisation](#) (ILO) and [the Institute for Human Rights and Business](#). The application fees for each visa type (£259 for a SWV for six months and £247 for the H&CWV for up to three years at the time of data collection) significantly exceeded the estimated processing costs to the Home Office (£137 and £129 respectively), even before recent increases to £298 and £284.
- c. Migrant workers' vulnerability to exploitation is compounded by the set of policies known as the 'Hostile/Compliant Environment', which was implemented primarily through the Immigration Acts of 2014 and 2016 and strictly constrains the ability to live, work, and access services and state support for those who cannot prove their legal status in the UK. Our research found that both visa schemes risk making workers irregular, including if they lack a route to renew their visa (on the SWV), if they were brought to the UK by an agency under the wrong visa (as can happen in the care sector), if they cannot find a new sponsor after leaving an employer when on a sponsored visa like the H&CWV, or if their employer or scheme operator runs out of available work before their planned return date (for the SWV). Our research confirms previous findings which show that the non-renewable ODWV has also led many migrant care workers to become irregular after six months. For those working irregularly in the context of the Hostile Environment, their lack of migration status often makes them feel apprehensive about reporting mistreatment or exploitation to the authorities, due to fear of Immigration Enforcement action, deterring them from pursuing redress.

'I was always panicking all the time, any time I heard about the sound of the police... especially when the ambulance came to my workplace then, I would run to the toilet and start praying!'

Kehinde

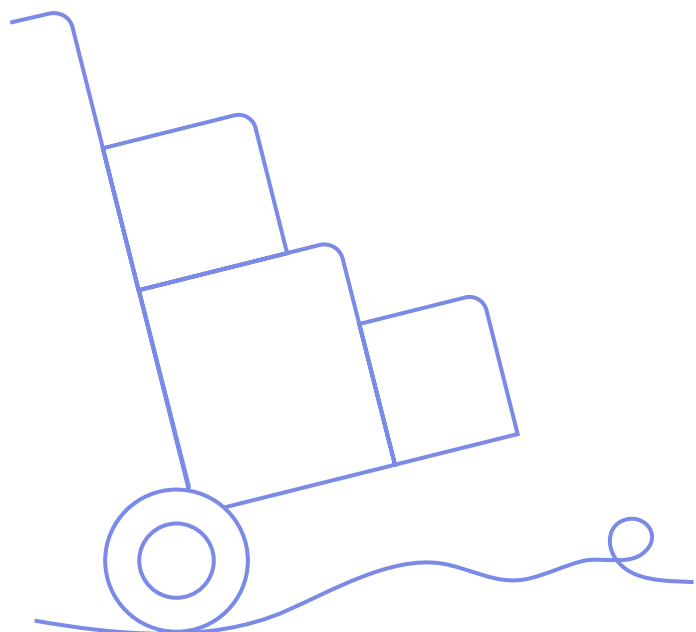


2. In both agriculture and care, findings point to a number of issues associated with the role of intermediaries, which compounded migrant workers' vulnerability to exploitation.

- a. Our research revealed widespread discrepancies between actual and promised terms, suggesting deception by intermediaries, which is one of the ILO forced labour indicators. Interviewees described situations ranging from false promises regarding their employment and conditions while in the UK, to the length of their engagement, and failure to provide appropriate information to workers on their contractual terms and rights.
- b. The debt and deductions from wages across both sectors were often associated with recruitment fees that are illegal in the UK, but also arose from travel, visa and / or accommodation costs.
- c. Reports of non-compliance with workplace rights such as breaks and paid leave in the agriculture sector suggests that sponsors are failing to consistently comply with their duties to monitor the welfare of workers under the terms of the scheme.

'If I worked for six months, I think it'd be enough [money]. But I only got the opportunity to do the job for two months, because winter came and there's no more jobs on the farm'

Bagus



3. Migrant workers' barriers to reporting concerns or exploitation are compounded by a fragmented, under-resourced and non-proactive labour inspection system.

- a. Our interview and focus group findings demonstrate the rarity with which health and safety inspections occurred. Albeit limited, our responses from enforcement agencies tend to support the view that most wait for affected workers to make complaints (referred to as 'reactive' enforcement in the literature) rather than actively audit workplaces for non-compliance ('proactive' enforcement).
- b. Migrant workers are often reluctant to come forward with concerns about their exploitation for reasons including unfamiliarity with the system of labour inspection bodies, lack of comprehensive knowledge about their entitlements, language barriers, and fear that complaining would lead to immigration enforcement action and could jeopardise their ability to remain in the country or to return to the UK in the future. This makes it even more crucial to have a proactive inspection strategy that does not rely on worker complaints, especially in industries employing large numbers of migrant workers, alongside safe reporting pathways preventing data sharing between labour inspectorates and Immigration Enforcement.
- c. Our research highlights the fragmented enforcement landscape, where various agencies with different personnel and organisational cultures are responsible for enforcing the suite of employment laws. The role of the Director of Labour Market Enforcement was established in 2016 to combat this fragmentation by encouraging cross-agency collaboration, and the agriculture and care sectors have been identified as priorities for this cooperation. However, our findings demonstrated the rarity of health and safety inspections even in these high risk sectors.



Recommendations

Full detail on the below recommendations (and additional recommendations not included here) is available in the full research report. Our evidence shows that the current schemes are in urgent need of reform to ensure protection of workers' rights and wellbeing.

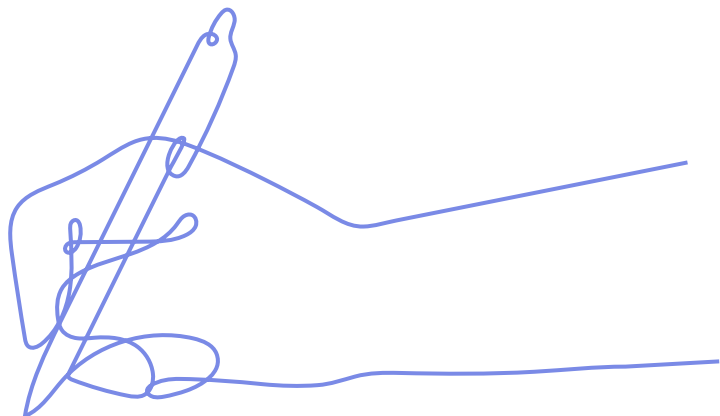
These recommendations should also be read subject to the proviso that the most comprehensive way to mitigate against the risk would be to ensure all work visas include an option for renewal, allow visa holders to have access to social entitlements (e.g., remove the 'no recourse to public funds' condition) whilst they are in the UK, and offer a pathway to settlement within a reasonable timeframe. However, the academic team have formulated specific recommendations that are possible to implement within the short and medium terms that would ameliorate the risk of exploitation and employment rights violations in the context of the research objectives, empirical findings, and significant input from our project partners.

1. To address the limited labour mobility identified on both the SWV and H&CWV, **we recommend that UKVI / Home Office amend the visa schemes to make it viable in practice to change employers.** Our specific recommendations include amendments to 'Workers and Temporary Workers: guidance for sponsors, sponsor a seasonal worker' for the SWV (e.g., requiring written reasons for refusal) and removing the obligation to update visas and providing a longer period to change employer on the H&CWV.
2. To address the effect of the SWV's short timescale on debt and ability to seek redress, **we recommend the Home Office enable visa extension applications where a worker: (a) can secure a job for a duration longer than six months, (b) can secure a new role or an extension of their current role within the UK, or (c) intends to commence legal action or seek advice on employment matters.** Additionally, to address the heightened risk of exploitative conditions for workers currently on the ODWV, we recommend the Home Office amend the Immigration Rules for the Skilled Worker Visa and the ODWV to allow ODWV holders to apply for the H&CWV from within the UK, or to allow for renewal of the ODWV where the worker can secure a relevant job.
3. To address the significant issues relating to recruitment, including the charging of illegal fees, **we recommend that the Modern Slavery Unit and UKVI consider establishing a working group of enforcement agencies, Scheme Operators, NGOs, and academics to determine a comprehensive method of regulating recruitment** in line with the IOM's Montreal Recommendations on Recruitment. **We recommend the Department for Health and Social Care implements regulations to abolish repayment fees** or, as a minimum, to require them to be set at a reasonable level and to be waived for workers who leave their employer because of poor working conditions.

4. To address the fragmentation of labour market bodies, **we recommend that the Director of Labour Market Enforcement (or other appropriate body) undertake an urgent review in order to establish a clear division of responsibilities** between the Home Office / UKVI, DEFRA, and the various labour enforcement bodies, and make this information available to the public. We also **recommend that the UK Government and relevant agencies urgently establish a firewall to separate the police and labour inspectorates from immigration enforcement** and create secure reporting and inspection pathways.
5. To allow workers additional avenues to challenge unreasonable behaviour by employers, **we recommend that the Home Office require employers to create internal systems of dispute resolution as a condition of sponsorship. Further, we recommend that the UK Government explore mechanisms for establishing an independent and accessible external dispute resolution mechanism.**

Areas for further research

Further research is required to explore workers' experiences on both visa schemes as regards attempts to change employers and to enforce rights through engagement with labour inspection bodies and attempts to bring Employment Tribunal claims, as well as any barriers experienced in doing so. Once the recently announced changes to the H&CWV to prevent workers bringing family members to the UK are implemented, further research will be required to determine how this affects rights at work and exploitation. In general, longer term studies that capture the experiences of a wider range of migrant workers on these schemes will add further to the evidence base. These may build further on the project's experience of recruiting participants via social media, which facilitates contact with workers beyond those already in contact with NGOs.



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The Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC) was created by the investment of public funding to enhance understanding of modern slavery and transform the effectiveness of law and policies designed to address it. The Centre funds and co-creates high quality research with a focus on policy impact, and brings together academics, policymakers, businesses, civil society, survivors and the public on a scale not seen before in the UK to collaborate on solving this global challenge.

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The Modern Slavery and Human Rights Policy and Evidence Centre is funded and actively supported by the Arts and Humanities Research Council (AHRC), part of UK Research and Innovation (UKRI), from the Strategic Priorities Fund.

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