

**REPORT**  
MARCH 2021

# **ASSESSMENT OF THE RISKS OF HUMAN TRAFFICKING FOR FORCED LABOUR ON THE UK SEASONAL WORKERS PILOT**



**FOCUS ON  
LABOUR  
EXPLOITATION**



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**Focus on Labour Exploitation (FLEX)** is a research and policy organisation working towards an end to labour exploitation. FLEX seeks to achieve this vision through the prevention of labour abuses, protection of the rights of those affected or at risk of exploitation and by promoting best practice responses to labour exploitation through research and evidence-based advocacy.

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**F**OCUS ON  
**L**ABOUR  
**E**XPLOITATION

**ASSESSMENT  
OF THE RISKS OF  
HUMAN TRAFFICKING  
FOR FORCED LABOUR  
ON THE UK SEASONAL  
WORKERS PILOT**



# CONTENTS

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<b>ACRONYMS AND ABBREVIATIONS</b>	<b>6</b>
<b>EXECUTIVE SUMMARY</b>	<b>7</b>
<b>RESEARCH FINDINGS</b>	<b>9</b>
<b>RECOMMENDATIONS</b>	<b>10</b>
<b>INTRODUCTION</b>	<b>17</b>
<b>SECTION ONE: BACKGROUND TO THE SEASONAL WORKERS PILOT</b>	<b>18</b>
<b>SWP TERMS AND CONDITIONS</b>	<b>20</b>
<b>THE PROBLEM THE SWP SEEKS TO ADDRESS</b>	<b>20</b>
<b>SWP RISKS OF HUMAN TRAFFICKING FOR FORCED LABOUR</b>	<b>21</b>
<b>GOVERNANCE OF THE SWP</b>	<b>22</b>
<b>SECTION TWO: BACKGROUND TO THE HORTICULTURAL SECTOR</b>	<b>24</b>
<b>SCOTTISH HORTICULTURAL SECTOR</b>	<b>24</b>
<b>NATURE OF THE HORTICULTURAL SUPPLY CHAIN</b>	<b>25</b>
<b>NATURE OF EXPLOITATION IN UK AGRICULTURE</b>	<b>26</b>
<b>SECTION THREE: CONCEPTUAL AND ANALYSIS FRAMEWORK AND METHODOLOGY</b>	<b>27</b>
<b>HUMAN TRAFFICKING</b>	<b>27</b>
<b>FORCED LABOUR AND INDICATORS OF FORCED LABOUR</b>	<b>27</b>
<b>RISK OF HUMAN TRAFFICKING FOR FORCED LABOUR</b>	<b>28</b>
<b>RESEARCH METHODOLOGY</b>	<b>29</b>
Ethical considerations	30
Limitations of the methodology	30
Scottish focus of the research	31

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<b>SECTION FOUR: RESEARCH FINDINGS</b>	<b>32</b>
<b>PROFILE OF THE WORKERS</b>	<b>32</b>
<b>RISKS OF UNFREE RECRUITMENT</b>	<b>34</b>
Forced labour indicator: Deception about the nature of the work	34
General working conditions: Debt at recruitment	38
<b>RECOMMENDATIONS</b>	<b>40</b>
General working conditions: Existence or absence of a contract	40
<b>RISK OF WORK AND LIFE UNDER DURESS</b>	<b>41</b>
Forced labour indicator: Threats of denunciation to authorities and of deterioration in working conditions	41
Forced labour indicator: Degrading living conditions and dependency on employer for housing	45
Forced labour indicator: Limited hours and piece rates creating excessive dependency on employers	50
General working conditions: Risks to health and safety faced by workers	55
<b>RISK OF IMPOSSIBILITY OF LEAVING EMPLOYER</b>	<b>58</b>
Forced labour indicator: Reduced freedom to terminate labour contract	58

---

<b>SECTION FIVE: GOVERNANCE OF THE SWP</b>	<b>62</b>
<b>INSPECTION AND ENFORCEMENT</b>	<b>62</b>
<b>INFORMATION AND REPORTING</b>	<b>66</b>
<b>TRADE UNIONS AND WORKER SUPPORT</b>	<b>69</b>

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<b>CONCLUSIONS AND RECOMMENDATIONS</b>	<b>72</b>
<b>CONCLUSION</b>	<b>72</b>
<b>RECOMMENDATIONS</b>	<b>73</b>

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<b>REFERENCES</b>	<b>76</b>
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## ACRONYM      FULL NAME

<b>Acas</b>	Advisory, Conciliation and Arbitration Service
<b>AMW</b>	Agricultural Minimum Wage
<b>AWI</b>	Agricultural Wages Inspectors
<b>AWO</b>	Agricultural Wages Order
<b>COVID-19</b>	Coronavirus disease 2019
<b>DEFRA</b>	Department for Environment, Food and Rural Affairs
<b>DLME</b>	Director of Labour Market Enforcement
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>FLEX</b>	Focus on Labour Exploitation
<b>FMF</b>	Fife Migrants Forum
<b>FRA</b>	European Union Agency for Fundamental Rights
<b>GLAA</b>	Gangmasters and Labour Abuse Authority
<b>HSE</b>	Health and Safety Executive
<b>IASC</b>	Independent Anti-Slavery Commissioner
<b>ILO</b>	International Labour Organization
<b>MAC</b>	Migration Advisory Committee
<b>NFU</b>	National Farmers' Union
<b>NFUS</b>	National Farmers' Union Scotland
<b>NMW</b>	National Minimum Wage
<b>SAWB</b>	Scottish Agricultural Wages Board
<b>SAWS</b>	Seasonal Agricultural Workers Scheme
<b>SWP</b>	Seasonal Workers' Pilot
<b>SWV</b>	Seasonal Worker Visa
<b>UKVI</b>	United Kingdom Visas and Immigration

# EXECUTIVE SUMMARY

This report presents the findings of research conducted by Focus on Labour Exploitation (FLEX) and Fife Migrants Forum (FMF) between March 2020 and February 2021. This research was initiated in order to seek to understand the risk of human trafficking for forced labour for people coming to Scotland on the Seasonal Workers Pilot (SWP) in the horticultural sector. A two-year SWP was announced by the UK government in 2018 in response to concerns raised by farmers about possible labour shortages in advance of and after the UK had left the European Union (EU). During the development and launch of the SWP the UK government did not engage in meaningful discussion with worker representatives on the scheme, despite serious concerns raised by experts on human trafficking and modern slavery. This report responds directly to these concerns, seeking to document the voices and experiences of the people who have come to Scotland on the SWP. In so doing it seeks to develop strategies that can be taken by the UK and Scottish governments to tackle the risks of human trafficking for forced labour on the SWP and to protect current and future workers.

The introduction of the SWP involved establishing a new Tier 5 sponsored visa, the Seasonal Workers Visa (SWV) and appointing two licensed scheme operators (Pilot Operators) as visa sponsors. The scheme was launched in April 2019 with an annual quota of 2,500 workers. This quota was increased to 10,000 in 2020; the SWP was extended for a further year and expanded to 30,000 workers in 2021. The SWP builds on learning from its predecessor, the Seasonal Agricultural Workers Scheme (SAWS), yet has a reduced number of scheme operators, and unlike SAWS, Pilot Operators are not permitted to source labour for their own needs. **Despite its 71-year period of operation there is no independent evidence of worker experiences on SAWS. This research addresses this lack of data and foregrounds the impact of the SWP on workers.**

Temporary and tied migration programmes such as the SWP have a range of risks associated with their short-term nature and the limited rights afforded to workers participating in them. In addition, horticulture is a high-risk labour sector due to factors including: the nature of its product and labour supply chain, isolated workplaces and a large migrant workforce. In order to assess the risks of human trafficking for forced labour for workers on the SWV, quantitative and qualitative data was collected on the experiences of seasonal horticultural workers in Scotland. This data collection took place during the ongoing COVID-19 pandemic and so this report also documents the impact of the pandemic on workers. A framework for analysis based on the International Labour Organization (ILO)<sup>1</sup> indicators of forced labour in adults was used to interpret the data.

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<sup>1</sup> A specialised agency of the United Nations.

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**DESPITE ITS 71-YEAR PERIOD OF OPERATION THERE IS NO INDEPENDENT EVIDENCE OF WORKER EXPERIENCES ON SAWS\*. THIS RESEARCH ADDRESSES THIS LACK OF DATA AND FOREGROUNDS THE IMPACT OF THE SWP ON WORKERS.**

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\*The Seasonal Agricultural Workers Scheme (SAWS) operated between 1943 and early 2014.



## RESEARCH FINDINGS

The objective of this research was to establish the risk of human trafficking for forced labour on the SWV, rather than to identify actual cases of human trafficking for forced labour. The core guiding research question asked was: "To what extent are SWV workers in Scotland experiencing labour abuses and an increased risk of human trafficking for forced labour as compared to non SWV workers?". Findings spanned the three dimensions of forced labour:

1. unfree recruitment;
2. work and life under duress;
3. and impossibility of leaving an employer.

A case will constitute human trafficking and forced labour where there is one of the five "actions" for trafficking set out in Scottish law present (recruitment; transportation; harbouring or receiving; exchange or transfer of control; and arrangement or facilitation of any of the previous four actions) AND either work or life under duress OR impossibility of leaving the employer. Through the research, risks of the forced labour indicators being met were identified for each of the three dimensions, presenting a serious risk that forced labour could take place on the SWP if action is not taken. For each dimension, the risk of forced labour is articulated and used to inform recommendations to the UK and Scottish governments. A summary of findings follows:

### **1. RISK OF FORCED LABOUR: UNFREE RECRUITMENT**

The research identified one strong indicator of involuntariness at point of recruitment relating to deception about the nature of work. The risks of this indicator being met for workers on the SWP is considered to be high due to the high levels of inaccuracy reported by workers - incoherence between information received in workers' country of origin about work in Scotland and the reality upon arrival. Two further working conditions compound this risk: debts incurred by 62 per cent of SWV workers to travel to the UK and the lack of translation and pressure to sign contracts that workers reported upon arrival at their place of work.

### **2. RISK OF FORCED LABOUR: WORK AND LIFE UNDER DURESS**

SWV workers reported unsafe housing in caravan accommodation, posing a risk of meeting the strong ILO indicator, "degrading living conditions". For 98 per cent of workers this housing is provided by their employer, creating a dependency on the employer which constitutes a medium indicator. For many workers, therefore dismissal or seeking to change employment poses a risk of homelessness. The productivity payment system (piece rate), applied to 62 per cent of SWV workers, presents a risk to workers when coupled with zero hours contracts and the reported withdrawal of promised work as a penalty for not meeting piece rate targets. 66 per cent of SWV workers reported receiving threats of loss of work and 17 percent reported threats of deportation from their employer. In addition, accommodation costs, services, equipment and clothing deductions were found to contribute to workers' economic vulnerability.

### 3. RISK OF FORCED LABOUR: IMPOSSIBILITY OF LEAVING EMPLOYER

A strong risk evident in the research findings relates to the large numbers of workers, 62 per cent of those interviewed, who reported being refused transfers to alternative employment. Refused employment transfers, coupled with the high debts workers reported having to repay as well as risks of homelessness or deportation, resulted in workers having reduced freedom to terminate their employment contract, a strong indicator for this dimension

These risks are compounded by limited public, private and social governance of the SWP. Public governance through labour market enforcement is hampered by the way in which the SWP has been designed. United Kingdom Visas and Immigration (UKVI) is leading inspections and governance of the SWP and yet is unable to meaningfully engage with workers. Along with its general licensing scheme in horticulture, the Gangmasters and Labour Abuse Authority (GLAA) is operating in a supporting role to UKVI in the SWP's governance, yet has just one staff member in Scotland. In addition, low numbers of seasonal horticultural workers are unionised, with virtually no union representation amongst SWV workers. Whilst private auditing is common in the horticultural sector, worker interviews and representation were not found to be a major focus of these audits.

Scotland currently has a high need for migrant workers to fill roles in agriculture, particularly in the labour-intensive horticultural sector, however the risks of the SWP have to date been unknown. This research identifies a high-risk of a range of indicators of human trafficking for forced labour being met on the SWP. It also finds that very few worker voice mechanisms exist for SWV workers along with gaps in labour market enforcement capacity. Across all three dimensions of forced labour, much greater efforts are required to protect workers on the SWP.

## RECOMMENDATIONS

These recommendations for the UK and Scottish Governments relate to their State responsibilities to prevent human trafficking for forced labour and to protect victims. As such they directly respond to the key risks identified during the course of this research and propose measures that could be adopted by government to fulfil their positive obligations.

### FORCED LABOUR INDICATOR: DECEPTION ABOUT THE NATURE OF WORK

The information that many SWV workers received at point of recruitment did not match that received once they reached their employment. For example, the majority of SWV workers (60 per cent) reported information received about how much money they would earn in the UK to be inaccurate compared to the reality. Employers have also raised concerns about unmet expectations. Some SWV workers are provided with terms and conditions at recruitment that do not match their contract terms and conditions upon arrival (a practice also called 'contract substitution'). This poses a risk of future workers being deceived about the nature of the work in the UK. The GLAA does not conduct in country license or compliance inspections of overseas labour providers. This limited oversight of overseas labour providers and their activities in workers' country of origin poses a range of risks of workers facing deceptive recruitment, threats at point of recruitment and recruitment linked to debt.

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The information that many SWV workers received at point of recruitment did not match that received once they reached their employment.”

To the UK Government

- **Ensure that employment contracts, enforceable in UK law, are shared with SWV workers in their country of origin, translated into workers' native languages and signed by employers and workers prior to travel.**
- **Ensure that Pilot Operators provide workers with a choice of employment at point of recruitment and that SWV workers are then allocated the role, farm and terms they have chosen upon arrival.**
- **Regulate SWV employment contracts to ensure they include: the name and address of the employer and the worker; the start and end date of the contract; the type of work to be performed; minimum remuneration to be expected; core working hours and days; leave arrangements and terms and conditions related to dismissal.**
- **Make new resources available to the GLAA, and future Single Enforcement Body, to conduct overseas licence and compliance inspections.**

To the Scottish Government

- **Ensure labour market enforcement authorities establish strong links with workers and worker representatives in order to gather ongoing intelligence about worker treatment at point of recruitment.**

“

The majority of SWV workers reported entering into debt to come to the UK.”

#### **GENERAL WORKING CONDITIONS: DEBT AT RECRUITMENT**

The majority of SWV workers reported entering into debt to come to the UK. Given the relatively high cost of the visa, £244, travel and clothing expenses many workers said this debt reached €1000 (approximately £869). Many workers said they had had to obtain this money from black market sources. This debt poses a risk to workers when coupled with lack of guaranteed working hours for many workers and the inability to change employers where work is limited. The visa cost presents a significant expense for workers that some research participants felt was too high. The debt that many SWV workers incur at point of recruitment places them under particular pressure to work due to the absence of alternative work options for SWV workers:

To the UK Government

- **Remove the visa fee (£244 at time of writing) to reflect the limited timeframe and wages available on the SWV.**

To the Scottish Government

- **Provide a destitution fund for workers who have not received adequate work, or for whom the work has not been as described, who need to be able to return home and repay expenses.**



A significant minority of SWV workers (27 per cent) said they had not received information on their work in writing.”

### GENERAL WORKING CONDITIONS: EXISTENCE OF ABSENCE OF A CONTRACT

A significant minority of SWV workers (27 per cent) said they had not received information on their work in writing. In addition, many SWV workers interviewed stated that they did not understand their employment contracts for reasons including lack of translation into their native language and lack of support to understand contract terms. This issue can be more effectively addressed by ensuring that employment contracts are provided in workers’ country of origin, however, in the absence of this the following recommendations are made:

To the UK Government

- **Guarantee SWV workers a written statement of employment particulars translated into their native language.**

To the Scottish Government

- **Issue guidance to employers on how best to introduce the written statement of employment particulars to workers, including time required for workers to digest information, employer support and information required and formal processes for raising questions and asking to amend the details.**

### FORCED LABOUR INDICATOR: THREATS OF DENUNCIATION TO AUTHORITIES AND OF FURTHER DETERIORATION IN WORKING CONDITIONS

There is a high risk that the strong forced labour indicators of “denunciation to authorities” and “further deterioration in working conditions” could be met for future workers on the SWP. In addition workers’ debts have an impact on the significance of these threats to workers. Worker interviews demonstrate the impact of worker economic vulnerability on their coercion into work they might not otherwise have accepted. In Canada, the risks of labour abuse for workers on tied visas have been addressed by offering workers an open work permit in order that they can find alternative employment. The option of transferring from a tied to an open visa in situations of abuse provides workers and the State with a mechanism through which workers can signal where there is a problem and get immediate remedy, possibly preventing more severe exploitation from taking place.

To the UK Government

- **Establish a visa without sponsorship for vulnerable workers as a safeguard for migrant workers who have suffered labour abuse.**
- **Establish an independent annual evaluation of the treatment of low wage temporary workers in the UK, including in-depth worker evidence, in order to inform labour market enforcement allocation and direction of resources.**

To the Scottish Government

- **Appoint a Commissioner to oversee and coordinate the treatment of and engagement with temporary migrant workers in recognition of the high-risk of labour abuse and exploitation posed to this group.**

- **Conduct ongoing survey data collection with seasonal agricultural workers in order to understand their experiences and treatment at work and use this data to inform the work of the Scottish Agricultural Wages Board (SAWB) and updates to the Fair Work Action Plan.**

“

SWV workers described their accommodation as unsafe.”

#### **FORCED LABOUR INDICATOR: DEGRADING LIVING CONDITIONS AND DEPENDENCY ON EMPLOYER FOR HOUSING**

Almost all SWV workers surveyed were accommodated by their employer, many in caravans on agricultural sites. SWV workers described their accommodation as unsafe, with six of the 18 category one Housing Health and Safety hazards identified including: damp and mould growth; excess cold; and crowding and space. Despite this, many workers said they paid the maximum rate set in the Agricultural Wages Order (AWO) in rental charges. Accommodation is included in the GLAA licensing standards and as such included in compliance inspections. Agricultural land and farm worker accommodation is currently exempt from the Scottish Local Authority licensing system designed for the governance of caravan sites. There is a risk that caravans in a very poor state of repair could meet the Strong ILO indicator of “degrading living conditions”.

To the UK Government

- **Set minimum standards for accommodation to be upheld for seasonal agricultural workers.**
- **Prohibit employers from charging workers for accommodation if for any reason their wages drop below £332.50<sup>2</sup> per week.**

To the Scottish Government

- **Amend the Caravan Sites and Control of Development Act 1960 so that agricultural caravan dwellings are no longer exempt from local authority licensing.**
- **Engage COSLA to develop minimum standards for agricultural caravan dwellings that can be used by local authorities to monitor and inspect sites.**

“

Many SWV workers report receiving zero hours contracts.”

#### **FORCED LABOUR INDICATOR: LIMITED HOURS AND PIECE RATES CREATING EXCESSIVE DEPENDENCY ON EMPLOYERS**

Many SWV workers report receiving zero hours contracts, despite the government stating this would not be the case on the SWP in May 2019. The majority of SWV workers reported being paid a piece rate for their work. The Scottish Government does not regulate the calculation of piece rates, rather sets a minimum floor for wages through the AWO. Many workers stated that they were penalised through the withdrawal of work for not meeting piece rate targets. This greatly increases the vulnerability of workers leaving them at risk of coercion into extreme working conditions.

To the UK Government

- **Ensure SWV workers are guaranteed a minimum income of at least £332.50<sup>3</sup> per week, for 35 hours work written into their contract of employment.**

<sup>2</sup> Calculated according to the Living Wage Foundation, living wage £9.50 hourly rate for 35 hours work, see <https://www.livingwage.org.uk/what-real-living-wage>

<sup>3</sup> Ibid.



- **Adopt an evidence-based formula to calculate piece rates. This could be overseen by the office of the Director of Labour Market Enforcement.**

To the Scottish Government

- **Introduce regulations relating to the calculation of piece rates, including the formula used to reach a fair piece rate and means of communicating this to workers.**

#### **GENERAL WORKING CONDITIONS: RISKS TO HEALTH AND SAFETY FACED BY WORKERS**

Some SWV workers reported general health and safety risks posed by inadequate protections provided by employers and some have reported an inattentiveness to illness and accidents in workplaces, including lack of first aid. Poor occupational health and safety can heighten the risk to workers of exploitation particularly when workers are forced to carry out hazardous tasks with inadequate protection. SWV workers reported being asked to buy their own protective clothing for work, including gloves, waterproofs and wellington boots. The Health and Safety Executive (HSE) and the GLAA both regulate and inspect workplaces for compliance with health and safety legislation.

To the UK Government

- **Provide details of SWP participating farms to the HSE in order that they can conduct an individual inspection campaign targeted at participating farms.**
- **Seek an annual report from the GLAA on health and safety risks identified and tackled as part of license compliance inspections for SWP participating farms.**

To the Scottish Government

- **Clarify the requirements with respect to providing weather protective clothing for seasonal agricultural workers in guidance for the agricultural sector.**
- **Ensure the Health and Safety Law poster prepared by the HSE, first aid arrangements, details of designated first aiders and information about Statutory Sick Pay are translated into SWV worker languages and clearly displayed in workplaces.**

#### **FORCED LABOUR INDICATOR: REDUCED FREEDOM TO TERMINATE LABOUR CONTRACT**

The majority of SWV workers interviewed reported making unsuccessful attempts to transfer to alternative employment. Many workers stated that their request had been unsuccessful because their employer had refused to let them leave. Home Office sponsor guidance requires SWV sponsors to enable workers to move to another employer “where possible”. Workers reported confusion about their ability to transfer, with some workers even saying they had been told employment transfer was not possible at point of recruitment. Without access to alternative employment options, some workers facing high debts have no choice but to continue work. There is a high risk that unscrupulous employers could use workers’ lack of alternative options to impose more extreme working conditions than would otherwise have been possible.

“

The majority of workers interviewed reported making unsuccessful attempts to transfer to alternative employment.”

To the UK Government

- **Establish a clear employer transfer pathway, including transparent criteria for making a transfer request and a process for considering such requests. This should be communicated to workers at point of recruitment.**
- **An independent body, separate to the visa sponsor or the employer should receive representations and make decisions on transfer requests, including a facility for workers to change Pilot Operators where desired.**

#### **PUBLIC GOVERNANCE: LABOUR MARKET ENFORCEMENT**

This research and outreach work, through which the GLAA was engaged, demonstrated that there is low labour market enforcement capacity to provide adequate governance of working conditions to workers on the SWV. This low capacity means workers, who are already isolated on farms with limited community ties in the UK or access to independent advice, have limited reporting channels easily available in case of labour abuses or exploitation.

To the UK Government

- **Increase the resources to the GLAA and future Single Enforcement Body to ensure there is capacity to conduct regular proactive inspections of SWP participating workplaces.**
- **Provide resources in order to increase personnel and numbers of inspections by the GLAA in Scotland.**

To the Scottish Government

- **Review the role and responsibilities of the SAWB Agricultural Wages Inspectors (AWI) to introduce targeted inspections of SWP participating workplaces to ensure ongoing compliance with the AWO.**

#### **PUBLIC AND SOCIAL GOVERNANCE: INFORMATION AND REPORTING**

Home Office Sponsor Guidance requires procedures to be put in place to enable workers to report concerns to their visa sponsor. Workers struggled to make contact with the helpline provided by one Pilot Operator because of its limited availability and no translation. When they instead tried to contact their home recruitment agent, some workers found they could not reach them by phone. In addition, both Pilot Operator helplines seem to have quite specific and bounded functions meaning workers might not gain resolutions to workplace problems through this route. Given the short time SWV workers remain in the UK and the time required to take a case to an employment tribunal, there is a risk that grievances may not be aired and resolved posing a risk to all present and future SWV workers.

To the UK Government

- **Guarantee SWV workers a complaints mechanism through which workplace grievances may be aired and remedied during their time in the UK.**

“

Pilot Operator helplines seem to have quite specific and bounded functions meaning workers might not gain resolutions to workplace problems through this route.”

To the Scottish Government

- **Establish an independent helpline, open 24 hrs, 7 days a week with translation into workers' languages, for SWV workers through which concerns can be raised about potential labour abuse and labour exploitation.**
- **Use this helpline to collate intelligence which can be acted on by labour market enforcement authorities and to channel transfer requests to an independent transfer body.**

“

SWV workers are isolated, with limited community ties in Scotland and often without English language skills.”

#### **SOCIAL GOVERNANCE: TRADE UNIONS AND WORKER SUPPORT**

SWV workers are isolated, with limited community ties in Scotland and often without English language skills. This research found very little evidence of SWV worker unionisation. The leading trade union in the agricultural sector, Unite, confirmed that there are low rates of unionisation amongst seasonal migrant workers. One obstacle to union membership for SWV workers is thought to be cost of membership. In addition few migrant community organisations exist in Scotland that represent workers from the current countries of origin of SWV workers. Risks of human trafficking for forced labour detailed in this research are compounded where there is poor unionisation as workers have limited reporting channels in cases of abuse or exploitation nor representation in the workplace.

To the UK Government

- **Dedicate SWV funds accrued through the farm recruitment fee, to a worker support fund to which workers can apply for to join a trade union or in cases of destitution where funds are required.**

To the Scottish Government

- **Support migrant community engagement with SWV workers, by commissioning information, advice and wellbeing support programmes through relevant migrant community organisations.**
- **Offer financial support to trade unions to organise and provide advice to SWV workers.**

# INTRODUCTION

This report presents the findings of a project conducted by Focus on Labour Exploitation (FLEX) and Fife Migrants Forum (FMF) to assess the risks of worker abuse and exploitation posed by the UK Seasonal Workers Pilot (SWP). This work was supported by the Scottish Government along with independent grant giving organisations and commenced in March 2020. The project was comprised of four core activities:

1. To produce information about labour rights and reporting channels specifically for workers on the Seasonal Workers Visa (SWV);
2. To engage in outreach with SWV workers, in order to distribute this information and to channel concerns to the relevant agencies;
3. To share ongoing findings and information about this outreach with relevant government officials and authorities; and
4. To research and document the key risks and vulnerabilities of human trafficking for forced labour faced by SWV workers in order to identify strategies to help prevent future exploitation.

The collaboration between FLEX and FMF provided expertise on labour exploitation and on the lived experiences of seasonal migrant workers in Scotland. The two FMF Caseworkers recruited for the purpose of this project both had lived experience as seasonal agricultural workers in Scotland and brought this rich experience, along with their academic research qualifications, to the project.

The research phase of this project is largely presented in this report, but it is also informed by the information and outreach phases. The research was conducted between March 2020-February 2021, during which time the SWP was extended and expanded from 10,000 workers annually to 30,000 workers. This research also took place during a period in which local lock-downs had been established as a result of the COVID-19 pandemic. Detailed project-specific COVID-19 procedures were established in order to guide the outreach and research work, ensuring compliance with government guidance when visiting workers. Ultimately the COVID-19 pandemic made contact with workers much harder than it would otherwise have been, but the two FMF Caseworkers who worked on this project used their extensive contacts, online tools and wide promotion of the project to reach as many workers as possible.

# 1

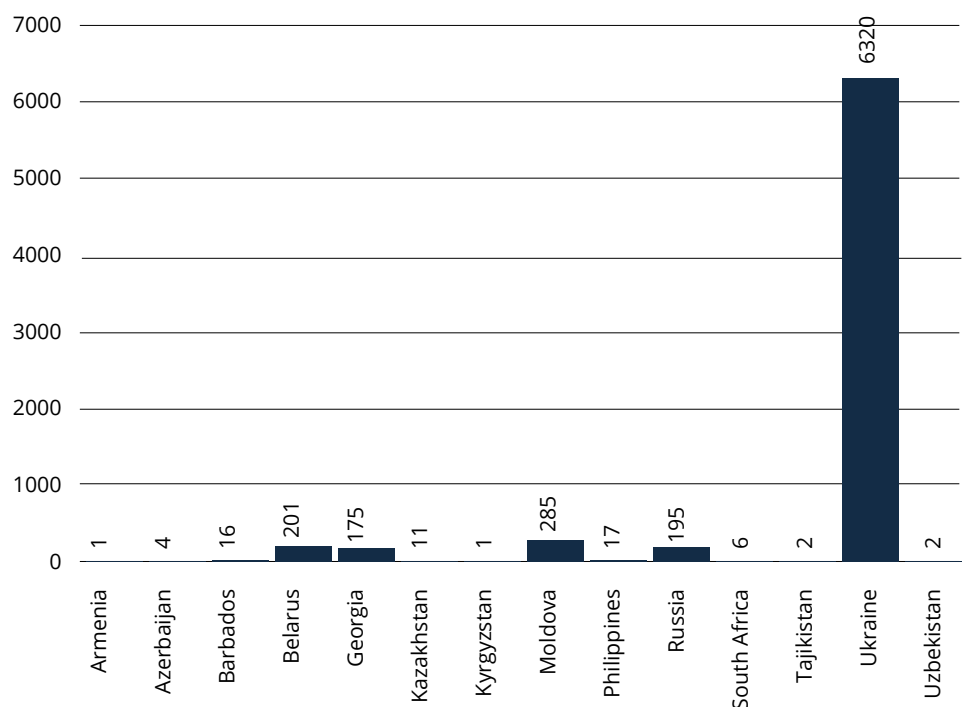
## SECTION ONE: BACKGROUND TO THE SEASONAL WORKERS PILOT

In September 2018, the UK Government announced a two-year SWP to bring 2,500 workers per year from countries outside the European Union (EU) to work on UK farms on six-month visas (DEFRA and Home Office, 2018). The SWP was launched in April 2019. The pilot is targeted at the UK horticultural sector and seeks to address some of the concerns raised by growers operating in that sector about labour shortages during the peak harvest period. After a public tender process the contracts for the role of Pilot Operators were awarded to two established labour providers, Concordia and Pro-Force. The SWP was expanded to 10,000 workers in its second year and in December 2020 the scheme was extended for a further year with an increased worker quota set at 30,000 and expanded from two to four Pilot Operators (Home Office, 2021a). In addition, since the end of free movement for EU citizens<sup>4</sup> on 31 December 2020, the SWP was opened to workers from these countries.

Between April 2019 and December 2020, 9729 were issued a SWV. Worker source countries range from Armenia to South Africa, with Ukrainian workers making up the overwhelming majority of workers. For the research period, 2020, 7236 workers were issued a SWV. Of these workers, Ukrainians comprised 87 per cent, followed by Moldovans at 4 per cent and Belarusians at 3 per cent (Home Office, 2021b). The UK Government does not make data available on worker numbers travelling to each UK constituent country, however a scheme Pilot Operator, Concordia, reported 426 workers (Scottish Affairs Committee, 2019, HC 1637, Q452) had initially been allocated to Scottish farms through the scheme in 2019, representing 17 per cent of all workers issued a SWV in 2019.

**CHART 1: SWV ISSUED BY NATIONALITY Q1-4 2020 (HOME OFFICE, 2021B)**

Tier 5 seasonal workers visa entry clearance visas issued by nationality 2020

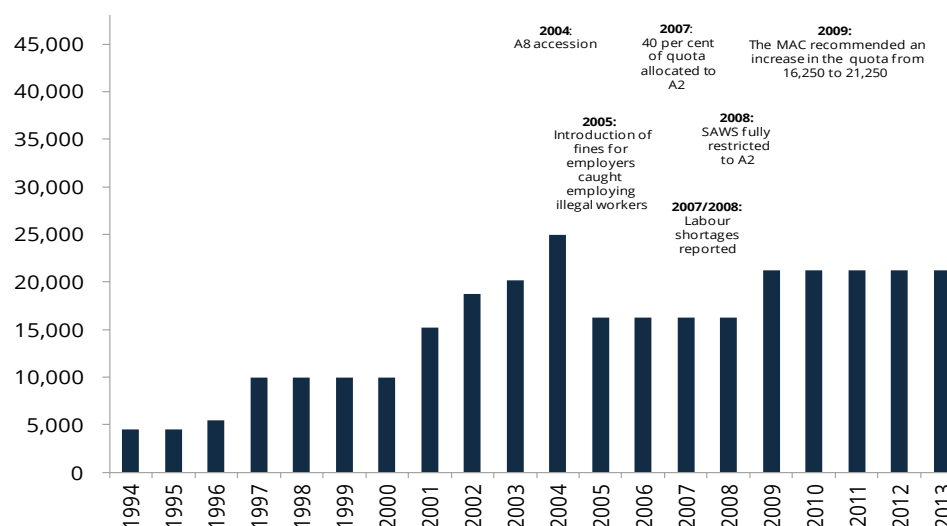


<sup>4</sup> The term 'EU citizens' is used to refer to EU, EEA (Iceland, Liechtenstein and Norway) and Swiss citizens throughout.



Prior to the SWP, the UK Seasonal Agricultural Workers Scheme (SAWS) was in operation between 1943 and early 2014 when it was abolished (Scott, 2015, p.1). Despite its 71-year period of operation there is no independent evidence of worker experiences on SAWS and “the views of workers were, according to the Home Office, never systematically considered” (Ibid., p.26). Initially the SAWS did not have quotas associated with it, but in 1990 an annual SAWS quota of 5500 was established (Consterdine, E. and Samuk, S., 2015, p.4). At its peak in 2004 the SAWS quota reached 25,000 (see Chart 2.) 82 per cent of which was used (MAC, 2013, p.50).

**CHART 2: SAWS ANNUAL QUOTA, 1994-2013 (MAC, 2013, P.49)**



Importantly at this time, between 2004-07, 81 to 96 per cent of workers (Ibid, p.58) on the scheme came from Eastern Europe with Ukrainian workers comprising the majority of these workers at 33 per cent of all Eastern European workers. From 2008 onwards the SAWS was limited to just Bulgarian and Romanian nationals, as these States were subject to transitional restrictions on their workers’ free movement rights (Ibid). Whilst the SAWS had been restricted to students prior to this point, from 2008 onwards all Bulgarian and Romanian nationals were able to apply (NFU, 2012, p.2). In 2012, seasonal agricultural workers in Scotland comprised 14.6 per cent of all SAWS work cards recipients (MAC 2013, p.61).

The SAWS has offered a framework on which to base the SWP with certain important modifications. These include reducing the number of scheme operators, initially from nine under SAWS to two for the SWP, recently increased to four from 2021. Further there has been an effort to remove the direct link with the employer, whilst SAWS operators sourced labour for one sole or multiple farms, including themselves if they were growers, SWP Pilot Operators are not permitted to recruit workers for their own labour needs. This modification was said to help reduce the tie between worker and employer. Whereas workers on the SAWS were only permitted to change employers “for exceptional reasons” (Migration Observatory, 2018), workers on the SWP are permitted to move to other employers “where possible” (Home Office, 2020, p.15).

## SWP TERMS AND CONDITIONS

The SWV is a Tier 5 temporary worker visa for which the four SWP Pilot Operators are issued Home Office licenses permitting them to issue Certificates of Sponsorship to workers. Pilot Operators must be licensed by the Gangmasters and Labour Abuse Authority (GLAA), which licenses labour providers in the food and food processing sectors. Workers must pay for their visa and travel prior to coming to the UK, the visa cost is currently set at £244 yet as of 2021 there is a £55 reduction for workers from a range of specified countries. Workers are only permitted to enter the UK for work in the edible horticulture sector, including field vegetables and soft and top fruit, for the limited duration of six months and are not permitted access to public funds. Workers can spend a maximum of six months in the UK in any twelve-month period.

Pilot Operators must ensure certain conditions are met for the workers they sponsor: a safe work environment; fair treatment by their employer; compliance with National Minimum Wage (NMW) and holiday pay; time off and breaks; provision of equipment to do their job safely; hygienic and safe accommodation; safe vehicles for transport; no threats or violence; no withholding of ID documents; and provision for reporting concerns and changing employer, where possible (Ibid. p.9). In addition no fees should be charged to workers and workers must be provided with a contract in their native language (Home Office, 2021a, Annex A). Pilot Operators are required to establish mechanisms to monitor working conditions and worker treatment during their stay in the UK and to provide such data to the Home Office (Ibid.). The assessment of success of Pilot Operators is closely linked to immigration outcomes, that migrants are granted entry clearance, arrive at their place of employment and return home at the end of their visa.

## THE PROBLEM THE SWP SEEKS TO ADDRESS

The SWP is designed to meet the growing demand for seasonal workers in UK horticulture at a time when UK farmers have suffered labour challenges due to the decline in value of the Pound Sterling, the end of free movement for EU citizens and the extended growing seasons. Workers from countries in which the income potential is much lower than in Scotland have sought work in Scottish agriculture for the relatively high earning opportunities, quality of life and the reputation of Scottish farms (Atterton et al., 2018, p.iv). The National Farmers Union Scotland (NFUS), however has reported declining numbers of seasonal workers in the Scottish horticultural industry in recent years (NFUS, 2018). It has estimated that 10,000 workers are required for seasonal posts in Scottish horticulture of between six - nine months in duration (NFUS, 2020a, p.1). In response to a NFUS survey of horticulture members, "100% indicated that their businesses depended on non-UK seasonal agricultural workers" (Ibid.). Informed by these findings, NFUS has consistently raised concerns about labour challenges and possible shortages with the UK and Scottish Governments.

In its 2018 report making recommendations for the post-Brexit immigration system, published after the UK Seasonal Workers Pilot had been announced, the UK Migration Advisory Committee (MAC) recognised the need for a sector-specific migration scheme in agriculture to address the specific labour needs of the sector.

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In response to a NFUS survey of horticulture members, 100% indicated that their businesses depended on non-UK seasonal agricultural workers.”

However, in so doing the MAC highlighted both the importance of improving the use of technology and for higher wages and productivity in the sector (MAC, 2018, p.120):

We think that the sector should pay something in return for this privileged access to labour. We propose that employers are required to pay a higher minimum wage in order to encourage increases in productivity.

During 2020, the “Pick for Britain” campaign was launched by the Department for the Environment, Food and Rural Affairs (DEFRA) in order to address concerns about labour shortages raised by the NFUS and others. The Pick for Britain website highlighted the roles available on UK farms to UK citizens and permitted licensed recruiters and growers to advertise their services (NFU, 2020).

Farmers reported limited success in recruiting domestically despite the Pick for Britain campaign push (NFUS, 2020a, p.5), and highlighted the specific circumstances presented by the COVID-19 pandemic and closure of certain UK economic sectors in 2020. Employers interviewed for this research underlined the impact of the COVID-19 pandemic on local recruitment:

retention rate was ok until they opened up hospitality. And as soon as they opened up hospitality it just disappeared.

#### **Interview with employer, 9 November 2020**

When challenged on whether the Pick for Britain scheme could replace migrant labour needs during a Parliamentary Select Committee Inquiry, Parliamentary Under-Secretary for the Home Office, Kevin Foster MP responded (17 November 2020, HC 231, Q130):

It would also be complacent not to reflect on whether migration should be the alternative to offering fair terms, conditions and packages.

However, despite the UK Home Office seeking reduced migration, the Parliamentary Under-Secretary for DEFRA, Victoria Prentis MP, recognised that 20,000 SWV workers were needed in 2021, as a “conservative figure” (Ibid., Q185). As a result of this position and advocacy from farmers and the National Farmers Union (NFU), who said over 40,000 SWV workers would be required (7 July 2020, HC292, Q30), the SWP was extended in December 2020 for a further year with the quota tripled to 30,000 workers.

## **SWP RISKS OF HUMAN TRAFFICKING FOR FORCED LABOUR**

The SWP allocates workers to farms which are by their nature, isolated working environments, some with accommodation and food provided by employers. In contrast to free movement, the SWP places significant restrictions on workers’ access to and mobility within the labour market. Analyses of previous and existing temporary migration programmes such as the SAWS and the SWP shows how they can increase risks of human trafficking for forced labour (FLEX, 2019, pp.23-36).

Common factors in the design of these migration schemes that increase risk of exploitation or abuse have been outlined in detail by FLEX in its 2019 report, “The Risks of Exploitation in temporary migration programmes”.

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Retention rate was ok until they opened up hospitality. And as soon as they opened up hospitality it just disappeared.”



Ensuring proper compliance is very important as employers would have considerable control over their workers due to their visa status.” Mac, 2018.”

These risk factors are summarised here, for more detail please refer to the FLEX report:

- Debt bondage due to upfront migration costs and illegal recruitment fees;
- Deception in recruitment;
- Tied visas and barriers to changing job or sector;
- Discrimination;
- Temporariness and lack of pathways to permanent residence;
- No recourse to public funds;
- Lack of integration programmes/policies;
- Multiple dependencies;
- Barriers to accessing justice; and
- Non-guaranteed hours/zero hours contracts.

Alongside the integration of protections in the design of the scheme, the MAC underlined the importance of effective scheme governance in order to address risks inherent in the SWP. In its 2018 report it called for strong monitoring and compliance measures to be implemented in the interests of safeguarding (MAC, 2018, p.121):

Ensuring proper compliance is very important as employers would have considerable control over their workers due to their visa status and there would need to be robust mechanisms in place to ensure that this does not lead to abuse.

Whilst there are many risks associated with temporary migration programmes, the agricultural sector has its own specific risks, as will be set out below. This research seeks to understand worker experiences of the SWP in order to identify the specific risks of human trafficking for forced labour on this temporary migration programme in the agricultural sector.

## GOVERNANCE OF THE SWP

The SWP falls within the remit of two principle regulatory authorities, UK Visas and Immigration (UKVI) Compliance and Enforcement Teams and the GLAA. However the responsibility for inspecting locations under the Seasonal Workers Pilot sits with UKVI (Foster, 2021). UKVI Compliance and Enforcement Officers assess the compliance of visa sponsors, the two Pilot Operators: Concordia and Pro-Force, with the terms of the Tier 5 Seasonal Workers Visa. In order to do so they conduct farm visits which include worker interviews. The GLAA has supported UKVI in this role, joining officer visits to farms and supervising worker engagement. The GLAA's role in Scotland is to operate a licensing scheme for labour providers in the food and food processing sectors and to monitor compliance with the terms of such licenses. Whilst in England and Wales the GLAA has additional policing powers to investigate labour market offences outside the licensed sectors, these are not applicable in Scotland. As a result the GLAA has previously licensed the two SWP Pilot Operators and has licensed the labour providers with whom they work in the countries of origin of workers on the scheme.

GLAA licensed labour providers must comply with the terms of the license or face license revocation. The eight GLAA licensing standards cover areas of critical importance in the prevention of human trafficking for forced labour. Key licensing standards prohibit activities including: Physical and

mental mistreatment; Restricting a worker's movement, debt bondage and retaining ID documents; withholding wages; and providing poor quality accommodation (GLAA, 2020a). Compliance with the licensing standards is assessed through inspections of license holders, including visiting clients of licensed labour providers and interviewing workers at their place of work. The GLAA has 137 staff, yet just one staff member based in Scotland (Atkins 2021). Whilst the GLAA normally conducts physical inspections of farms, much of the GLAA's compliance inspection work has been conducted online during 2020 (GLAA, 2020b).

Additional regulatory bodies that have a role in the oversight of workers in Scottish agriculture include the Scottish Agricultural Wages Board (SAWB), a tripartite body comprised of worker representatives nominated by the trade union Unite the Union, employer representatives nominated by the NFUS 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. The related Agricultural Wages Inspectors conduct a schedule of Control Test Inspections and operate complaints led inspections at businesses in order to monitor and enforce compliance with the AWO. Eight Rural Payments and Inspections Division offices across Scotland perform these visits, reporting data to the central Agriculture Wages Enforcement Team (DLME, 2019, p.15).

Other regulatory authorities of relevance include the Health and Safety Executive (HSE) which promotes legal compliance with health and safety in the agricultural sector. The HSE has identified agriculture as a "priority sector" in response to what it considers to be a "poor record of managing health and safety risks" (HSE, 2020a). The HSE's agriculture sector plan includes targeted inspection activities to seek farm compliance, including suggested campaigns focussed on "seasonal activities that carry higher risk to workers" (HSE, 2017, p.2). As of 31 December 2020, of HSE's 2345 full time equivalent staff, 211 were based in Scotland (Davies, 2021). Finally, with reference to agricultural accommodation, Scottish local authorities operate a Residential Mobile Home Site licensing system including inspecting sites for legal compliance. Whilst agricultural land and farm worker accommodation is exempt from this licensing system this exemption can be removed if a Local Authority applies to the Minister to have land in their authority area included (Caravan Sites and Control of Development Act, 1960, Schedule 1, paragraph 13).



# 2

## SECTION TWO: BACKGROUND TO THE HORTICULTURAL SECTOR

### SCOTTISH HORTICULTURAL SECTOR

The Scottish Government June Agricultural Census for 2020 shows an increase in the soft fruit growing areas in Scotland by seven percent between June 2019-20 (2020a, p.8). Data from the NFUS indicates that (NFUS, 2020a, p.2):

Soft fruit and field vegetables occupy 0.6 per cent of utilisable agricultural area in Scotland yet generate ten per cent of Scottish agricultural output.

Strawberries occupy the largest crop area and in 2020 saw an increase of five per cent, whilst the area for growing blueberries grew by thirteen per cent (The Scottish Government, 2020b). The area for raspberries however, which requires high numbers of seasonal labourers, reduced by five per cent (Ibid). Whilst the Scottish Government includes data on regular and seasonal employees as part of its agricultural census, migrant labour estimates were not part of the June Agricultural Census 2020 as a result of COVID-19 disruptions. In addition, the Scottish Government is in the process of reviewing the way in which it collects migrant labour statistics (The Scottish Government, 2020c, p.6). This follows a Scottish Government commissioned report into seasonal migrant workers in Scottish agriculture which found that the figure of seasonal migrant workers is difficult to estimate (Atterton et al, 2018, p.10).<sup>5</sup> The report, drawing on its own surveys, the June Agricultural Census data and other data sources, “conservatively estimated that there were 9,255 seasonal migrant workers engaged in Scottish agriculture during 2017” (Atterton et al, 2018, p.10).

The horticultural sector accounts for a large percentage of all migrant labour in Scottish agriculture, placed at 85 per cent of all migrant agricultural labour in 2018 (Atterton et al, 2018, p.14). As a result, the NFUS has highlighted the significant labour costs associated with the horticultural sector, equating to “between 40-70% of total business turnover” (NFUS, 2020b, p.10). The above-mentioned Scottish Government commissioned report into seasonal migrant workers in Scottish agriculture (Atterton et al., 2018, p.24) found that, amongst farms surveyed in 2016 - prior to the introduction of the SWP - the majority of seasonal migrant workers originated from Romania and Bulgaria, with significant yet declining numbers of Polish and Czech workers. The average length of migrant employment for those farms surveyed was four months per year, with three quarters of migrant workers remaining on a single farm for a season (Ibid., p.V). Further, returnee seasonal migrant workers were found to “represent over half the Scottish seasonal migrant workforce” (Ibid.). The Scottish horticultural sector has a high dependency on seasonal migrant workers, in recent years such workers have come from the EU which for many seasonal workers is no longer possible, since the end of free movement of EU citizens on 31 December 2020.

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Returnee seasonal migrant workers were found to “represent over half the Scottish seasonal migrant workforce.”

<sup>5</sup> The following reasons were given for this (Atterton et al, 2018, p.10): (i) variation in the proportion of labour directly employed on farms compared to that indirectly employed through labour providers; (ii) incomplete estimates of seasonal migrant labour provision in administrative databases; (iii) farm businesses leasing their land to specialist growers who undertake all of the farming activity; (iv) the transitory nature of some migrant labour – working on multiple farms

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The UK agricultural supply chain has been linked to increased risks of labour abuse and exploitation for workers.”

## NATURE OF THE HORTICULTURAL SUPPLY CHAIN

The UK agricultural supply chain has been linked to increased risks of labour abuse and exploitation for workers (Allain et al., 2013). The power held by a few businesses at the top of the supply chain leads to increasing downward pressure exerted on to growers at the bottom (Craig et al., 2012). Employers interviewed for this research confirmed that 98-99 per cent of their produce is sold by UK retailers. The pressure from retailers up the supply chain is considered to have led to declining margins for growers, meaning some have gone out of business and others have been forced to increase their supply by (Rogaly, 2008, p.5):

Intensifying production and becoming involved in the packing and primary processing not only of their own products, but also of imports.

In examining cost pressures on the food industry, Scott (2013, p.460) points to labour as a key area through which employers can control their profit margins:

Labour has become one of the few, arguably only, means by which firms can exercise a degree of control over their ever-tightening profit margins.

This shows the vulnerability of workers and working terms and conditions to pressure applied at the top of horticultural supply chains.

As a result of both the nature of horticultural crops and supply chain demands, there is a wide variation in demand for workers across the year. The MAC highlights that the seasonal and varied high to low intensity nature of horticultural work means worker demand in high season can grow to “four and a half times the demand at low season” (MAC, 2013, p.129). These periods of intensity have been greatly affected by the “just-in-time- ordering from supermarkets” (Ibid., p.130) responding to fluctuations in consumer demand. Such work patterns require workers to live on site in order to respond to the varying demands imposed by external factors including: weather; crop ripening rates; and retailer requirements. In addition, the MAC concluded that some employers in agriculture “may prefer workers who are tied to the job” (Ibid., p.128) in order to ensure labourers stay on a farm throughout the harvest period. The profile of workers has evolved to meet the very specific needs of the horticultural sector.

Whilst farms previously employed young and casual local workers at peak production periods, these roles became less viable after the introduction of the UK national minimum wage. Recent SRUC research into Scottish agriculture found that the introduction of the minimum wage in 1999 and subsequent move to piece rate systems (Atterton et al, 2012, p.22):

Resulted in a gradual reduction of the casual (e.g. teenaged) workforce on fruit farms as the piece rate had facilitated a less regimented/casual working day where workers controlled their own output.

The local teenage or casual workers were replaced with migrant workers on the SAWS or from the European Economic Area (EEA). One employer interviewed for this research stated his workforce was now comprised of one third returnee workers, one third SWV workers and one third new EEA workers.<sup>6</sup>

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<sup>6</sup> Employer interview, 9 November 2020.

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Agriculture is identified by the UK Director of Labour Market Enforcement as the highest risk labour sector in the UK next to car washes.”

In a survey of its members the NFUS found for the 2020 season, 69% were from the EEA, 7% were from the SWP and 24% were local staff (NFUS, 2020, p.4). The high levels of production required and predominance of migrant workers in the horticultural sector are two contributing factors to a preference for piece rate payments for workers.

Whilst the Agricultural Minimum Wage (AMW) is regulated by the SAWB, piece rates are less regulated with the only requirement being that workers' pay does not fall beneath the AMW. Piece rates offer the possibility to workers of pay above AMW. However, as Scott (2017, p.10) highlights “in reality they are used to increase productivity for those at or around the minimum wage threshold”. One study into UK agricultural piece rates found that they had declined in line with reductions in produce unit prices by retailers (Rogaly, 2008, p.14). The piece rate system and worker experiences of piece rates will be set out in greater detail in the research findings section. The agricultural product supply chain is bounded by retailer demands set from the top, these constraints are felt by SWV workers in payments by productivity and the limitations imposed by their temporary and tied migration status. These twin factors mean the SWV workers within the horticultural sector face requirements for high-productivity on low pay with greatly constrained alternative options.

## NATURE OF EXPLOITATION IN UK AGRICULTURE

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Agriculture is identified as a priority sector by the HSE due to it having the highest rate of fatal injury of all industrial sectors.”

Agriculture is a high-risk sector for human trafficking for forced labour due to factors such as: the nature of the product and labour supply chains described above; the isolated circumstances of workers; and the large migrant workforce. Agriculture is identified by the UK Director of Labour Market Enforcement (DLME) as the highest risk labour sector in the UK next to car washes (DLME, 2019, p.15). The DLME intelligence hub identified the operation of organised crime groups in agriculture that are “exploiting workers with threats, debt bondage and withholding travel documents” (Ibid. p.45). This view is supported by the Independent Anti-Slavery Commissioner (IASC), whose annual report 2019/20 also highlighted agriculture as high risk, noting that the sector relies on migrant workers and low skilled roles, characteristics associated with a high-risk of exploitation (IASC, 2020, p.27). According to the UK government 18 per cent of all forced labour victims were found in agriculture in 2014 (Home Office, 2017). In its research into severe labour exploitation in eight EU countries, including the UK, conducted in 2017, the EU Agency for Fundamental Rights (FRA) found migrant workers in agriculture to be “affected more severely by labour exploitation than workers in other sectors” (FRA, 2019, p.42). Agriculture is identified as a priority sector by the HSE due to it having the highest rate of fatal injury of all industrial sectors, 21 deaths in 2019/20, (HSE, 2020b, p.2), although the number is declining. The risks inherent in the agricultural sector are compounded when coupled with the risks outlined above, found in temporary migration programmes.

# 3

## SECTION THREE: CONCEPTUAL AND ANALYSIS FRAMEWORK AND METHODOLOGY

### HUMAN TRAFFICKING

Human trafficking is defined in national law in the Human Trafficking and Exploitation (Scotland) Act 2015. Under Section 1(1) a person commits an offence of human trafficking if they commit one of five listed actions and do so “with a view to another person being exploited”. These actions are:

- (a) the recruitment of another person,*
- (b) the transportation or transfer of another person,*
- (c) the harbouring or receiving of another person,*
- (d) the exchange or transfer of control over another person, or*
- (e) the arrangement or facilitation of any of the actions mentioned in paragraphs (a) to (d)*

Under Section 1(4) a person takes a relevant action “with a view to another person being exploited” if they intend to exploit the person or if they know or ought to know that the person will be exploited. Exploitation is defined in Section 3 to include slavery, servitude and forced or compulsory labour as well as sexual exploitation and the removal of organs.

### FORCED LABOUR AND INDICATORS OF FORCED LABOUR

Forced labour is an offence under the Human Trafficking and Exploitation (Scotland) Act 2015 (Article 4), which states that forced labour is to be “construed in accordance with Article 4 of the Human Rights Convention”. In turn, the European Court of Human Rights (Council of Europe, 2021, p.9) has used the International Labour Organization (ILO) Convention No. 29 concerning forced or compulsory labour to inform its interpretation of forced labour:

all work or service which is exacted from any person under **the menace of any penalty** and for which the said person has not **offered himself voluntarily** (ILO, 1930, Article 2.1) [emphasis added]

Indicators of forced labour, used in the analysis of these research findings, have been taken from the ILO guide, *Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children* (2012), which divides the dimensions of forced labour into three, also indicated in figure 2.:

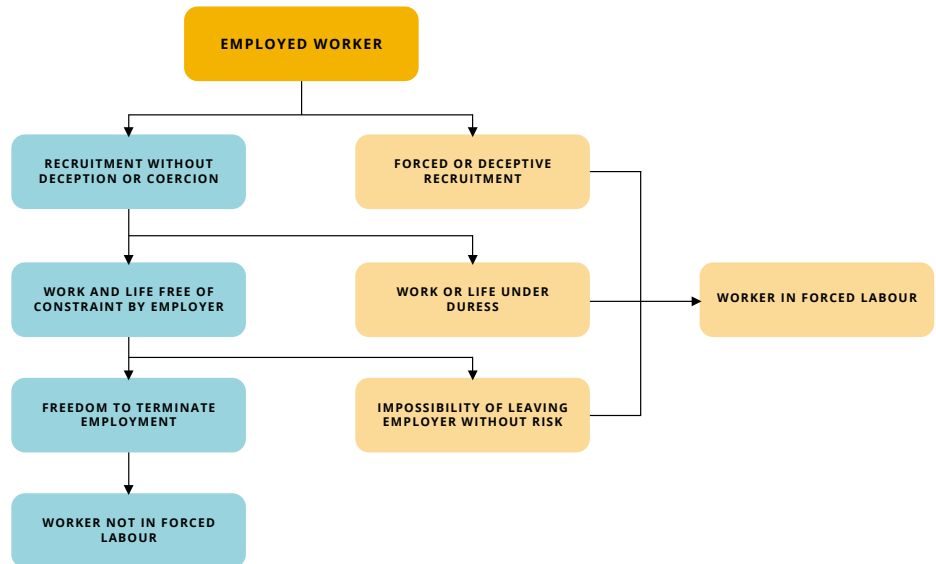
1. Unfree recruitment;
2. Work and life under duress; and
3. Impossibility of leaving an employer.

The ILO has developed operational indicators of forced labour (ILO, 2012, p.21) which are used to assess risk at each of these three dimensions and which are split across the two core elements of the forced labour definition highlighted above:

- a) involuntariness; and
- b) penalty or menace of a penalty.

The ILO classifies the indicators of forced labour as ‘strong’ or ‘medium’, and each dimension has indicators of a) involuntariness; and b) penalty. In identifying a positive case of forced labour in adults, for each dimension at least one indicator in each category a) involuntariness and b) penalty must be present, with at least one of these indicators classified as ‘strong’.

**FIGURE 2: MEASUREMENT FRAMEWORK FOR FORCED LABOUR IN ADULTS (ILO, 2012, P.28).**



“Work and life under duress” is characterised by the combination of at least one indicator of involuntariness and one indicator of penalty (or menace of penalty)

A case will constitute both human trafficking and forced labour where there is one of the listed “actions” for trafficking <sup>7</sup> AND there is either work or life under duress OR impossibility of leaving the employer (ILO, 2015, p.21).

## RISK OF HUMAN TRAFFICKING FOR FORCED LABOUR

The objective of this research was to establish **the risk** of human trafficking for forced labour on the SWV, rather than to identify actual cases of human trafficking for forced labour. In so doing this research helps to establish whether the design and operation of the SWP poses a serious, and increased, risk to migrant workers coming to Scotland now and in the future. The purpose of this study is twofold, firstly to identify these risks of human trafficking for forced labour and secondly to identify actions that can be taken by the UK and Scottish Governments to reduce these risks.

The ILO forced labour indicators have formed the basis of a clear set of indicators for the assessment of risks to SWV in Scotland. This is detailed in Annex 1, which sets out the indicators of human trafficking for forced labour used in this research. These indicators were used to inform the survey questions and where survey question answers have been used to inform assessments of the risk of human trafficking for forced labour these are also indicated in Annex 1.

<sup>7</sup> In Scottish law one of the “actions” for human trafficking is “the recruitment of another person”, therefore these “actions” encompass deceptive recruitment, the first of the three dimensions of forced labour.



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To what extent are SWV workers in Scotland experiencing labour abuses and an increased risk of human trafficking for forced labour as compared to non SWV workers?”

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Qualitative data was collected from workers on 12 unique farms. Participants spanned the top four nationalities of workers present on the SWV and five different nationalities for non SWV workers”

## RESEARCH METHODOLOGY

Data was collected through desk-based research, in-depth semi-structured interviews, group interviews and a comprehensive survey. The core guiding research question asked was: “To what extent are SWV workers in Scotland experiencing labour abuses and an increased risk of human trafficking for forced labour as compared to non SWV workers?”. To this end, primary data was collected from Scotland based horticultural workers on the SWP (SWV workers) and those workers that were not on the SWP (non SWV workers). Qualitative interviews were carried out by two FMF caseworker-researchers who both have lived experience of work in Scottish horticulture. The caseworker-researchers together speak Russian, Ukrainian, Lithuanian and English and interviews were carried out in these languages. Where interviews were not carried out in a workers’ native language, they were carried out in their second language, Russian, or in English.

Opportunistic sampling was used to select research participants, drawing on the detailed knowledge of the horticultural sector of the two researchers. In addition secondary snowball sampling was used in some cases. This sampling approach was adopted due to the hard-to-reach nature of workers, who were largely living in farm-based accommodation in rural locations with limited mobility due to lack of transport and COVID-19 restrictions. In order to overcome possible sampling bias, the researchers sought workers from a range of farm settings, spanning a range of different nationalities. Qualitative data was collected from workers on 12 unique farms. Participants spanned the top four nationalities of workers present on the SWV (Moldovan, Belarusian, Ukrainian and Russian) and five different nationalities for non SWV workers (Latvian, Lithuanian, Slovakian, Polish and Russian<sup>8</sup>). The survey was available in seven languages (Ukrainian, Russian, Polish, Bulgarian, Romanian, Lithuanian and English) and reached twelve different nationalities.

Qualitative data was collected through 16 group interviews and 15 individual interviews totalling 62 workers. Of this number, 63 per cent (39 workers) were in Scotland on the SWV whilst 37 per cent were not, offering a control sample for comparison with SWV workers. Eight interviews and one group interview with key stakeholders with expertise on the Scottish horticultural sector and/or the SWP (employers, sector bodies, trade unions, government, labour providers and auditors) were conducted by the lead researcher on this project. All qualitative research followed semi-structured interview guides.

Findings from the interviews have been triangulated through a desk-based review of existing literature and quantitative data from a comprehensive survey completed by 84 workers. Of these 84 workers, 73 per cent were SWV workers whilst 27 per cent were non SWV workers again offering a control comparison sample. The survey was informed by the ILO survey guidelines to estimate the forced labour of adults and children (ILO, 2012) and developed with input from the FLEX team.

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<sup>8</sup> Russian non SWV workers were based in the EU and therefore living and working in the UK under free movement

In total this report is based on 146 responses from workers.

Research participants	Number (interview/survey) (156 total)
SWV workers	97 (in-depth interview, 39 / survey, 58)
Non SWV workers	49 (in-depth interview, 23 / survey, 26)
Employers	2 (in-depth interview)
Sector bodies	2 (in-depth interview)
Labour providers	2 (in-depth interview)
Government officials	2 (in-depth interview)
Trade unions	1 (in-depth interview)
Auditor	1 (in-depth interview)

## ETHICAL CONSIDERATIONS

Each interview or group interview with workers was conducted in line with the FLEX-FMF ethical research policy established for the purpose of the research and following the FMF COVID-19 research policy which was regularly updated based on up-to-date Scottish Government COVID-19 guidance. Researchers established informed consent from workers by providing detail on the research and purpose of the interview to workers, assurances of confidentiality and explaining to interview participants that they had a right not to answer certain questions or to withdraw from the interview at any stage. All of the informed consent detail was provided to workers in their native language. Given that this research was conducted alongside outreach work, all outreach needs and referrals were addressed prior to workers being invited to participate in the research. Workers were reassured that their participation was not a condition to receive further support and assistance, Interviewees were compensated for their time with a small payment.

## LIMITATIONS OF THE METHODOLOGY

Whilst the survey and interviews equate to 146 data inputs, we anticipate that a number of those interviewed as part of the qualitative data collection also chose to respond to the online survey. Given the anonymous nature of the online survey it is not possible to identify the overlap in responses. There were 84 responses to the survey, with 58 responses from SWV workers and 26 from non SWV workers, these numbers are recognised as low due to the difficulties reaching workers and their limited access to technology to receive and respond to online communications. In order to address the particularly low number of non SWV worker survey respondents, secondary data collection drew extensively on the findings of research commissioned by the Scottish Government, published in 2018. This research surveyed 277 non SWV workers on themes including: work experience, activities, recruitment pathways, accommodation and thoughts on working in Scotland (Atterton et al. p.8). In areas of overlap between the survey carried out for this research and this 2018 survey, data was cross-compared. In addition, given the very high number of qualitative interviews conducted – a recent study of interview participants in organisations and workplaces (Saunders and Townsend, 2016, p.845) found a norm of 15-60 qualitative research participants - a rich and in-depth data picture was established.

Further, this research was limited by the challenges presented by the COVID-19 pandemic, including: tightened restrictions on workers leaving farms and external visitors to farms meaning all interviews had

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This research is the first of its kind seeking to understand and evidence the experiences of seasonal agricultural workers on tied and temporary visas in the UK.”

to be conducted at unsociable times in relatively remote locations; the fluctuating restrictions on meeting in groups limited the planned group interviews; and physical interviews had to be conducted outside, which became more challenging during autumn and winter 2020. A detailed COVID-19 policy was developed and updated in response to changes in Government guidance. One further methodological limitation identified is of possible worker selection bias, where workers have been identified or have responded to the survey because of a desire to discuss particular problems they faced, meaning the research will have been more likely to find workers with problems than not. Efforts were made to overcome this bias by proactively approaching workers through a key informant engaged in offering workers cultural activities and by contacting a range of workers directly through online farm recruitment and discussion forums.

This research does not aim to represent all SWV workers, however its aim is to understand the experiences of workers on the new SWP in Scotland. Seasonal agricultural workers, particularly those on tied and temporary visas are a notoriously hard to reach research population. This research, therefore, has a high-value as the first of its kind seeking to understand and evidence the experiences of seasonal agricultural workers, further wide-scale research in this area would be very welcome.

### **SCOTTISH FOCUS OF THE RESEARCH**

This research is focused on seasonal agricultural workers in the Scottish horticultural sector in order to inform the work of the Scottish Government in preventing human trafficking for forced labour. The research team is grateful to the Scottish Government for asking important questions about the risks of the SWP to workers and the horticultural sector more broadly. In seeking to listen to the voices of workers on the SWP and engaging with project recommendations throughout, the Scottish Government has taken a first important step towards preventing and tackling human trafficking for forced labour in horticulture in Scotland. Further research to look at the experiences of seasonal agricultural workers across the rest of the UK and engagement with the UK government in the delivery and evaluation of the SWP would be very welcome.

# 4

## SECTION FOUR: RESEARCH FINDINGS

The research findings span the three dimensions of forced labour:

1. unfree recruitment;
2. work and life under duress; and
3. impossibility of leaving an employer.

Through the research, risks of the forced labour indicators being met were identified for each of the three dimensions, presenting a serious risk that forced labour could take place on the SWP if action is not taken. For each dimension, the risk of forced labour is articulated and used to inform recommendations to the UK and Scottish governments.

### PROFILE OF THE WORKERS

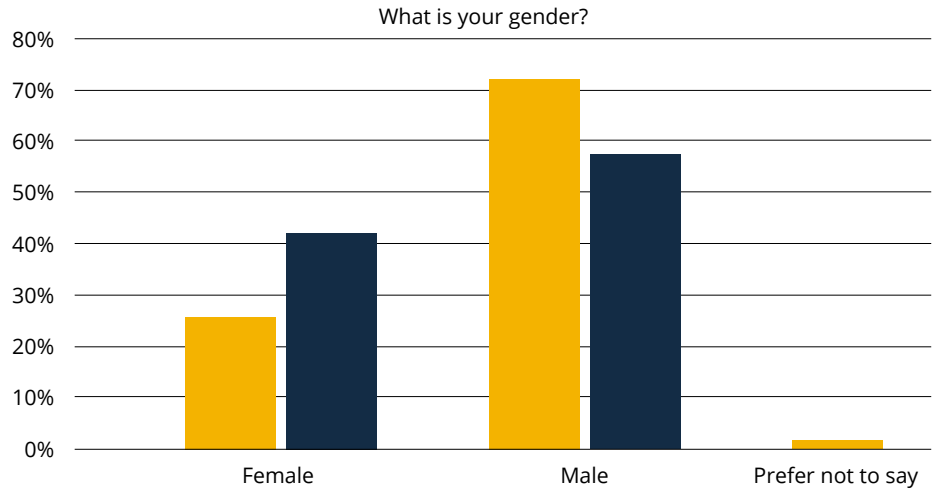
The profile of the workers surveyed is illustrated in Charts 3-5. The average age of SWV worker respondents was 28 with the youngest SWV worker respondent aged 19, whereas the average age of non SWV worker respondents is 37 with the youngest non-SWV worker respondent aged 22. Of the SWV worker respondents, 26 per cent were female whilst 42 per cent of the non-SWV worker respondents were female. The majority of SWV workers who stated their nationality were Ukrainian, comprising 38 per cent of SWV worker respondents, 24 per cent were Belarusian and 21 per cent were Russian. Of the non SWV worker respondents, Latvians made up the largest group at 38 per cent of respondents, the second largest group were Lithuanians comprising 15 per cent of non SWV worker respondents.

There was a clear divide between levels of experience of SWV workers and non SWV workers with much fewer SWV workers having had experience in agricultural work. Of the SWV worker survey respondents 76 per cent had less than one year experience in agricultural work, whereas this was true for just 23 per cent of non SWV worker respondents. This closely correlates with figures from a 2018 worker survey carried out in Scotland, which found 20 per cent of respondents, all non SWV workers, had less than one year of experience in agriculture (Ibid., p.38). In total 43 per cent of SWV worker respondents said that they had no or a basic understanding of English, 31 per cent of non SWV worker respondents reported the same level of English. Over half of non SWV worker respondents said they were fluent or almost fluent in English, whilst just 23 per cent of SWV workers respondents reported the same level of English.

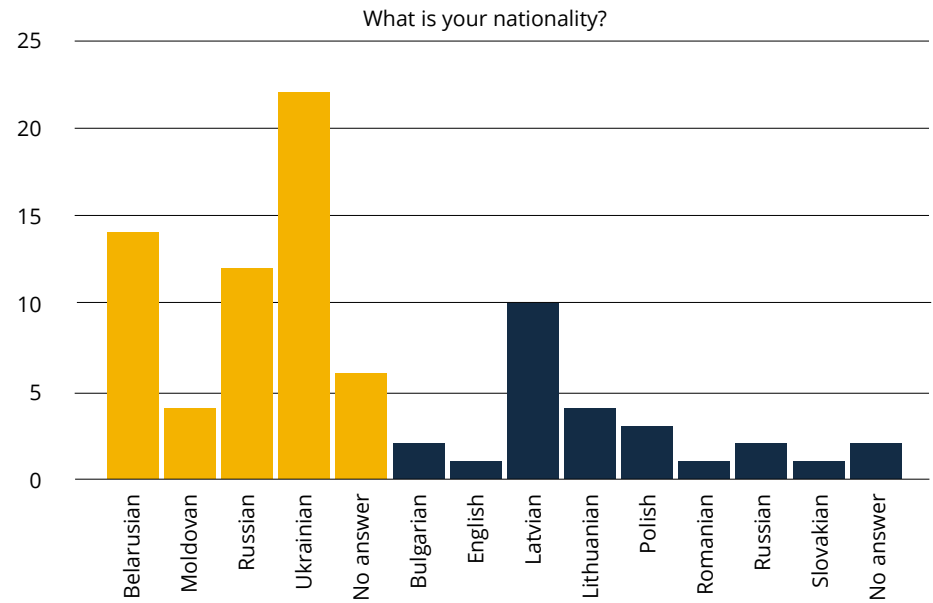
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Of the SWV worker survey respondents 76 per cent had less than one year experience in agricultural work, whereas this was true for just 23 per cent of non SWV worker respondents.”

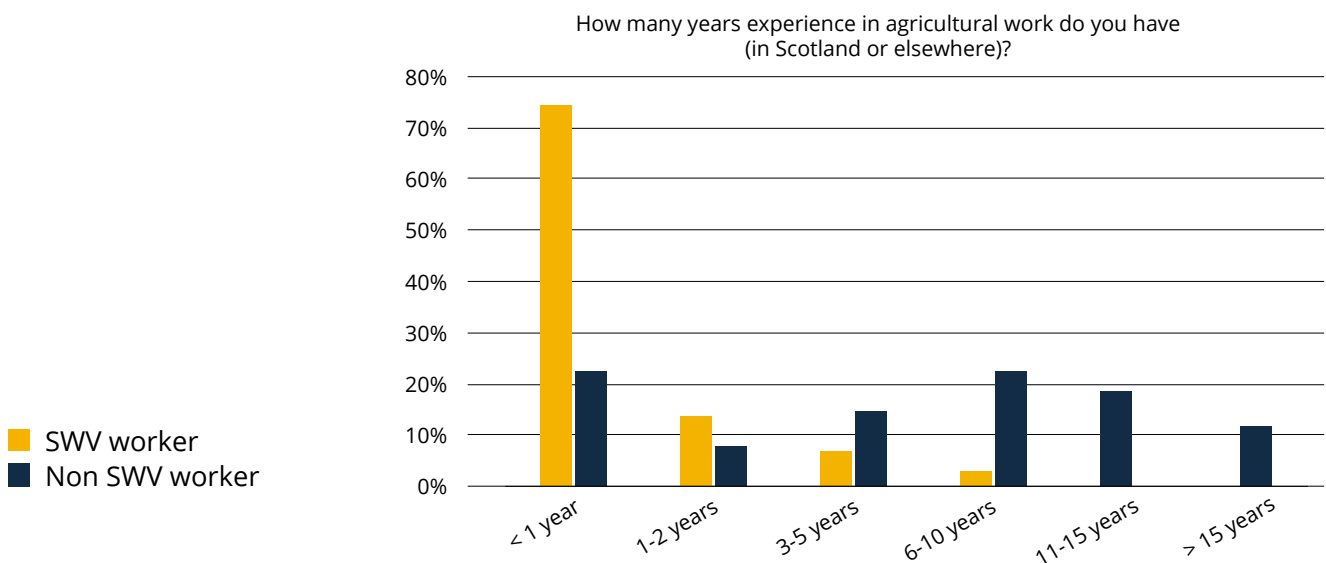
**CHART 3: PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS BY GENDER (SWV WORKERS N=58, NON SWV WORKERS N=26)**



**CHART 4: NUMBERS OF SWV AND NON SWV WORKER SURVEY RESPONDENTS BY NATIONALITY**



**CHART 5: YEARS EXPERIENCE IN AGRICULTURAL WORK AS A PERCENTAGE OF TOTAL SWV AND NON SWV WORKER SURVEY RESPONDENTS**



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Workers said they had expected to receive a set wage and certain number of hours or minimum weekly income and yet in reality the majority of SWV workers interviewed were paid a fluctuating piece rate with regular periods of worklessness in penalty for not meeting their work quota.”

“

One worker said that she had asked to see unedited worker reviews before signing up to the SWP and was told these were not made available to prospective SWV workers.”

## RISKS OF UNFREE RECRUITMENT

### FORCED LABOUR INDICATOR: DECEPTION ABOUT THE NATURE OF THE WORK

The majority of SWV workers interviewed referenced commitments on hours, pay and conditions that had been made at point of recruitment about which they felt had not been upheld during their time in Scotland. Workers said they had expected to receive a set wage and certain number of hours or minimum weekly income and yet in reality the majority of SWV workers interviewed were paid a fluctuating piece rate with regular periods of worklessness in penalty for not meeting their work quota. Despite the UK government stating that “scheme operators are not permitted to offer zero hours contracts to workers” (Nokes, 2019), many SWV workers reported receiving zero hours contracts or terms. Detail on the piece rate will be set out in more detail below, but formed a central part of workers’ unmet expectations about the working conditions they encountered in Scotland.

Workers with one Pilot Operator had received a “contract agreement” in their home country which was distinct from the contract they received upon arrival at their place of employment in Scotland. This practice is termed “contract substitution” and has been regulated in some countries through measures including: sanctions and license revocation; standard contracts; and employer-recruiter co-liability for malpractice (Open Working Group on labour Migration & Recruitment, 2017). This “contract agreement” states that “whilst there are no guaranteed working hours, most placements are based on a minimum of a 39-hour week on average” adding that “If in any given week you have worked fewer than 16 hours, we recommend to our growers to not charge accommodation for that week.”<sup>9</sup> Many workers interviewed stated that they had received no guaranteed hours, as will be elaborated below, and some stated that, regardless of work falling below 16 hours they had still been charged for accommodation.

The majority of SWV workers report having less than one year’s experience working in agriculture, therefore have limited work experience on which to base their decision to come to the UK. Equally there is little information online featuring details of worker experiences or what to expect on the SWP. Therefore, SWV workers depend heavily on the information they are provided by their labour recruiter about areas including: employment terms and conditions, possible job roles, accommodation and expected wages. One worker said that she had asked to see unedited worker reviews before signing up to the SWP and was told these were not made available to prospective SWV workers.

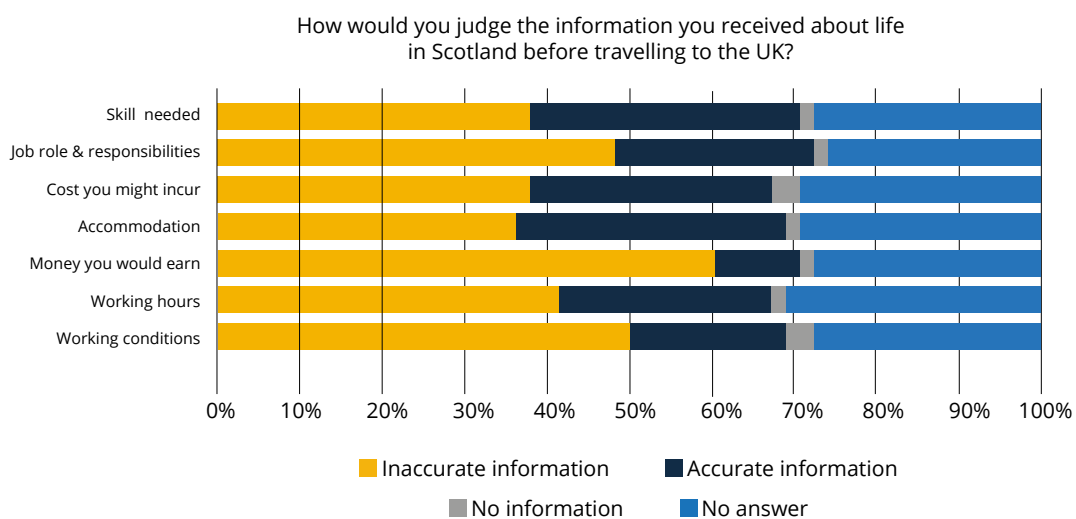
When asked to rank their understanding of work in Scotland prior to their arrival in the UK on a scale of 1-5 with 1 representing none and 5 representing excellent, just under half (47 per cent) of SWV workers respondents ranked their understanding 4 or 5. This finding, coupled with interview data, suggests SWV workers felt a high level of confidence that they had the information they needed to make the decision to travel to the UK. However, when asked to compare the information given prior to travelling to the UK with the reality upon arrival, workers on the SWV reported serious differences. Responses to this question are set out in Chart 6 and demonstrate major gaps between SWV worker expectations in relation to potential earnings, working conditions, hours and job role and

<sup>9</sup> Contract documentation shared by workers.



responsibilities. The majority of SWV worker survey respondents (60 per cent) reported the information they received about how much money they would earn in the UK to be inaccurate compared to the reality, compared to just 15 per cent of non SWV workers. Equally 50 per cent of SWV workers judged the information they received about potential working conditions to be inaccurate and 41 per cent judged the information received on working hours to be inaccurate.

**CHART 6: RESPONSES TO THE QUESTION: 'HOW WOULD YOU JUDGE THE INFORMATION YOU RECEIVED ABOUT LIFE IN SCOTLAND BEFORE TRAVELLING TO THE UK?' BY PERCENTAGE OF SWV WORKER RESPONDENTS (N=58)**



Worker expectations were the most frequently referenced issue discussed in the worker interviews with many SWV workers raising serious concerns about the difference between information given and the reality. Hourly rates versus piece rates were regularly raised as an area in which confusion arose:

We were really shocked because when we were in Belarus, some agent who sent us here, [names agent] did not say to us there was going to be a piece rate. They told us that it was going to be hourly minimum wage £8.72 per hour, not piece rate but we are paid piece rate...

**Feliks,<sup>10</sup> SWV worker from Belarus, 6 September 2020**

Some workers linked their concerns about pay to the way in which the role and skill level required was described to them at point of recruitment:

The only one thing mentioned is “physically fit to work”. I’m sure I am physically fit to work, also it was saying “no experience required” all appropriate trainings will be given. Therefore I was sure I will be able to pick berries, and I accepted the offer. However as practice shows this was not the case.

**Olga, SWV worker from Russia, 22 October 2020**

Others highlighted serious concerns about their expectations of work and bonuses in order to take money home to their family:

<sup>10</sup> Not their real name. All workers interviewed for this research have been provided a pseudonym for the purpose of ensuring their anonymity is protected.

My visa is limited and so just to come here to sit, to earn money for [names farmer] and come back without money [...] I don't understand. .

**Konstantin, SWV worker from Ukraine, 6 August 2020**

Some workers referenced the specific pay rates they had been promised, AMW, bonuses or a minimum weekly pay rate of £300:

In 3 weeks I earned £300 only. Other guys earned even less than this. We were told we will earn £300 a week.<sup>11</sup>

**Nikolai, SWV worker from Belarus, 28 July 2020**

Importantly one SWV worker talked about feeling prepared for work in the UK and her expectations being met and was also the only SWV returnee worker interviewed:

We got information regarding our farm, accommodation, what we will be doing, how much we have to pay for electricity, gas, etc. Yes we got all this information before we came.

**Marina, SWV worker from Ukraine, 21 December 2020**

Employers interviewed for this research also felt that the greater the match between expectation and reality, the higher the chance that workers would remain in post and be content:

When you start having agents and [names Pilot Operator] you have two different middle-men and if information isn't flowing correctly, they're not representing the employer.

**Interview with employer, 9 November 2020**

We like recruiting direct because our message doesn't get diluted between our business and the potential worker whereas with an agency the message can get fudged.

**Interview with Iain Brown, 4 December 2020**

The unmet expectations described by workers in relation to working conditions, working hours and earning potential raise strong risks that many workers were deceived about the nature of the work they would be carrying out in the UK. This is particularly concerning when coupled with the level of debt that workers are taking on to come to Scotland as will be described in the next section.

“

The unmet expectations described by workers in relation to working conditions, working hours and earning potential raise strong risks that many workers were deceived about the nature of the work they would be carrying out in the UK.”

<sup>11</sup> Their home recruitment agent includes the question “how much can I earn?” on their website, responding “The average net salary (after tax and living expenses) in 2019 was £300 per week.”

“

**IN 3 WEEKS I  
EARNED £300  
ONLY. OTHER  
GUYS EARNED  
EVEN LESS  
THAN THIS.  
WE WERE TOLD  
WE WILL EARN  
£300 A WEEK.**

”

Nikolai,  
SWV worker from Belarus

Recommendations:

To the UK Government

- **Ensure that employment contracts, enforceable in UK law, are shared with SWV workers in their country of origin, translated into workers' native languages and signed by employers and workers prior to travel.**
- **Ensure that Pilot Operators provide workers with a choice of employment at point of recruitment and that SWV workers are then allocated the role, farm and terms they have chosen upon arrival.**
- **Regulate SWV employment contracts to ensure they include: the name and address of the employer and the worker; the start and end date of the contract; the type of work to be performed; minimum remuneration to be expected; core working hours and days; leave arrangements and terms and conditions related to dismissal.**
- **Make new resources available to the GLAA, and future Single Enforcement Body, to conduct overseas licence and compliance inspections.**

To the Scottish Government

- **Ensure labour market enforcement authorities establish strong links with workers and worker representatives in order to gather ongoing intelligence about worker treatment at point of recruitment.**

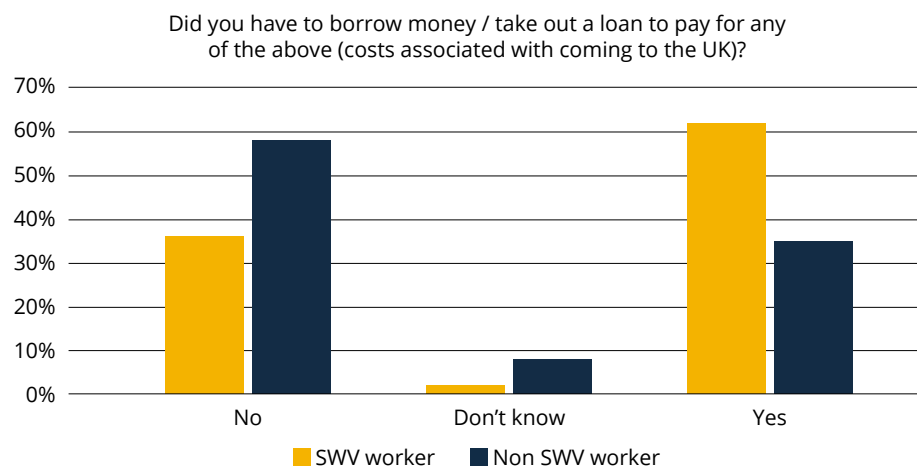
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Whilst no SWV worker mentioned a link between debt contracted at point of recruitment and their recruiter, the majority of SWV worker survey respondents (62 per cent) reported entering into debt in order to come to the UK.”

#### **GENERAL WORKING CONDITIONS: DEBT AT RECRUITMENT**

Whilst no SWV worker mentioned a link between debt contracted at point of recruitment and their recruiter, the majority of SWV worker survey respondents (62 per cent) reported entering into debt in order to come to the UK. In the interviews workers cited travel, clothing, initial living expenses and language courses as costs for which they are taking out loans in their home countries. Far fewer non SWV survey respondents (35 per cent) reported entering into debt to come to the UK. The disparity between these groups can be attributed to the high up-front costs associated with the SWV, for which there is a £244 visa cost, combined with the relatively young age and consequent lack of personal savings of many of the workers on the SWP.

**CHART 7: RESPONSES TO THE SURVEY QUESTION: “DID YOU HAVE TO BORROW MONEY / TAKE OUT A LOAN TO PAY FOR ANY OF THE ABOVE (REFERENCING EXPENSES ASSOCIATED WITH COMING TO THE UK)?” BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS. (SWV WORKER N=58, NON SWV WORKER N=26)**



During worker interviews it became apparent that the loans taken by SWV workers to come to the UK often place a high mental strain on individuals. Workers were visibly distressed and upset when talking about both the loan and their lack of certainty that they would be able to repay their debts. Many workers described the impact of their indebtedness on the pressure they felt to work:

I think we are all trapped. We have no choice, we paid money in order to come here, and now we must get this money back. Our families cannot pay our tickets back, simply because they have no money. We all have debts; therefore, we all feel trapped.

**Matvej, SWV worker from Belarus, 22 October 2020**

“

Several workers mentioned the size of the debt giving sums up to €1000 and many workers said that they had accessed this money on the black market.”

Several workers mentioned the size of the debt, giving sums up to €1000 and many workers said that they had accessed this money on the black market. Some workers noted that this money was not available to workers of their age and background from banks or official sources in their home country therefore it was necessary for them to seek funds elsewhere:

I borrow the money from the criminals, because it's impossible to get a loan from the bank in Belarus.

**Stepan, SWV worker from Belarus, 22 October 2020**

Some workers spoke about the pressure exerted by their loan coupled with their limited income (because they had been given limited work by their employer) and relatively high deductions for accommodation:

We just work to pay for the caravan, we are worried that we can acquire loss and debts while we are here [...] you pay for the caravan, for insurance, for all.

**Karine, SWV worker from Moldova, 12 September 2020**

The debt that many SWV workers incur at the point of recruitment places them under particular pressure to work due to the absence of alternative work options for people on the SWV. Many workers have incurred large debts with potentially dangerous consequences for their non-payment, yet they do not have certainty about their working hours and therefore their ability to repay such debts. This places workers in a vulnerable position, at risk of accepting work they might otherwise not have accepted.

## RECOMMENDATIONS

To the UK Government

- **Remove the visa fee (£244 at time of writing) to reflect the limited timeframe and wages available on the SWV.**

To the Scottish Government

- **Provide a destitution fund for workers who have not received adequate work, or for whom the work has not been as described, who need to be able to return home and repay expenses.**

“

A regular complaint made by SWV workers in the interviews related to their lack of understanding of their contract terms.”

### GENERAL WORKING CONDITIONS: EXISTENCE OR ABSENCE OF A CONTRACT

Whilst the majority of SWV workers (65 per cent) responding to the survey confirmed they had received information on their work in writing from their employer, 27 per cent of all SWV worker survey respondents said they had not received this information and 8 per cent were not sure. A regular complaint made by SWV workers in the interviews related to their lack of understanding of their contract terms. Workers said that their contract was in English only rather than their native language, and that they, therefore did not understand it:

Most of us didn't speak English and that was a problem for us to understand what we were signing. Some people were trying to translate, but I can say that we had 100% no clue what we were signing.

**Taras, SWV worker from Ukraine, 21 October 2020**

A number of workers reported feeling pressured and hurried into signing their contracts which was a particular problem if the contract they were asked to sign was in English rather than their native language:

When we signed the contract in the office, they gave us to sign the contracts written in English. They said, “sign quickly, there is no time”. We did not have time to read or translate, so we just quickly signed [...] later they sent an electronic version of the contract in Russian.

**Karine, SWV worker from Moldova, 12 September 2020**

Workers reported needing support in their native language to understand their employment terms and conditions:

The contract is full of hidden meanings. Also worth to mention, the person who instructed us and asked to sign the contract, spoke English only, no Russian. That lady couldn't explain the terms and conditions in detail.

**Cheslav, SWV worker from Belarus, 12 September 2020**

Where workers received their contract in a supportive environment and had time to read and understand the terms before signing, their confusion was reduced:



The woman from the office talked us through all terms and conditions before we started our work. We had an opportunity to ask questions if we wanted. In the end of the induction we signed our contracts.

Marina, SWV worker from Ukraine, 21 December 2020

“

SWV workers reported feeling confused and vulnerable as a result of receiving limited information about their prospective employment in their country of origin.”

SWV workers reported feeling confused and vulnerable as a result of receiving limited information about their prospective employment in their country of origin. This vulnerability was increased when coupled with poorly communicated contracts to workers by their employer in Scotland.

Recommendations:

To the UK Government

- **Guarantee SWV workers a written statement of employment particulars translated into their native language.**

To the Scottish Government

- **Issue guidance to employers on how best to introduce the written statement of employment particulars to workers, including time required for workers to digest information, employer support and information required and formal processes for raising questions and asking to amend the details.**

## RISK OF WORK AND LIFE UNDER DURESS

Strong indicators of ‘work and life under duress’ include (ILO, 2012, p.24):

- “Degrading living conditions”;
- “Limited freedom of movement and communication”;
- “Denunciation to authorities”;
- “Further deterioration in working conditions”; and
- “Isolation”.

Medium indicators include:

- “Dismissal”; and
- “Multiple dependency on employer” including for housing.

### FORCED LABOUR INDICATOR: THREATS OF DENUNCIATION TO AUTHORITIES AND OF DETERIORATION IN WORKING CONDITIONS

The strong forced labour indicators of “denunciation to authorities” and “further deterioration in working conditions” are threats identified in the worker survey and during worker interviews. As such the risk of these indicators being met for SWV workers is considered to be high.

Chart 8 displays the range of threats that workers reported during their work in Scotland, for SWV worker and non SWV worker survey respondents.

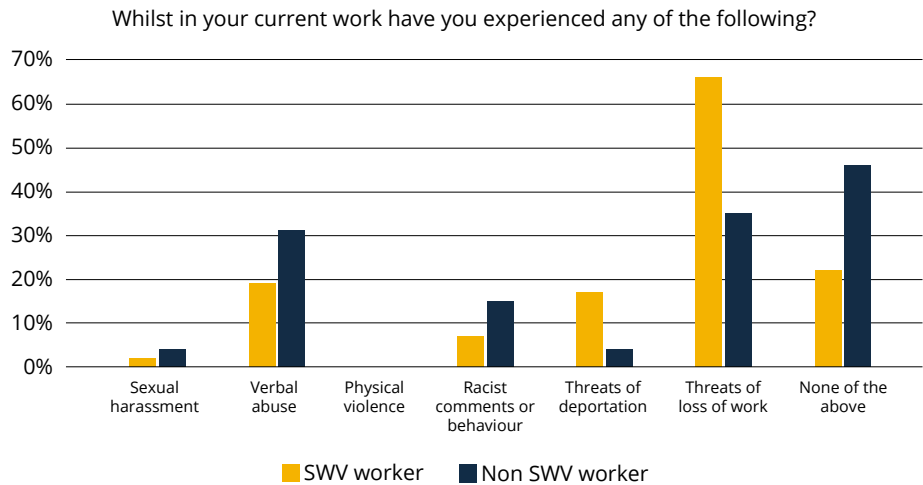
The majority of SWV worker survey respondents (66 per cent) reported threats of loss of work in their current work and a significant number (17 per cent) reported threats of deportation. In light of the tied nature of the SWV to a single pilot operator and its short-term nature, for a maximum of six months in any twelve-month period, these threats are considerably

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The threat that loss of work or denunciation to authorities poses to workers is increased by the significant debts many workers report having taken out to come to the UK.”

more serious for a SWV worker than for a worker with any other status. These threats act as a threat of penalty to SWV workers and therefore risk contributing to their coercion to carry out tasks that were not part of what was agreed at recruitment. The threat that loss of work or denunciation to authorities poses to workers is increased by the significant debts many workers report having taken out to come to the UK.

**CHART 8: RESPONSES TO QUESTIONS ABOUT EXPERIENCES AT WORK, BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS. (SWV WORKER N=58, NON SWV WORKER N=26)**



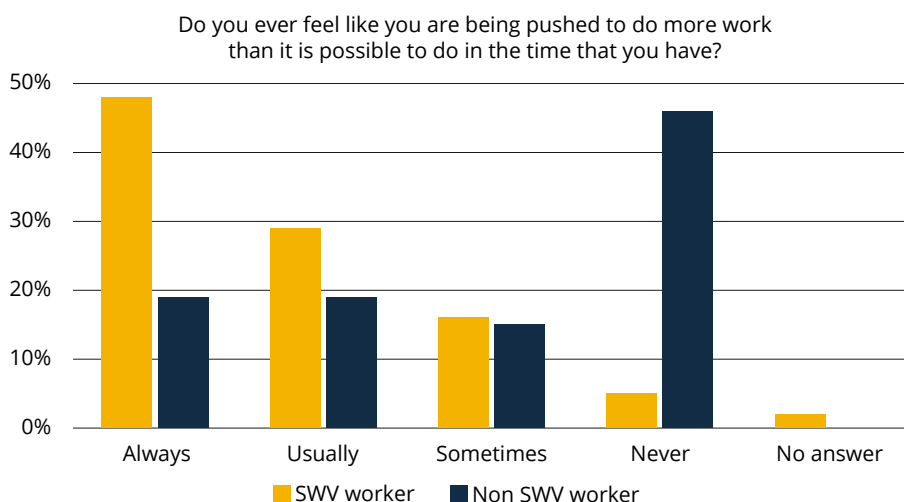
SWV workers cited instances of receiving threats of loss of work or threats of being moved to less desirable work on farms. These threats are reported by some SWV workers in response to requests for toilet breaks, other SWV workers said they received threats when they questioned work targets or workloads:

If I raise a voice and say that I need some break or I have a back pain, we will be sent back to do picking jobs. Supervisors are constantly telling us to hurry up, work quicker because we will be sent back to the worse place.

**Boris, SWV worker from Ukraine, 21 October 2020**

The large majority of SWV survey respondents (77 per cent) reported feeling like they were always or usually being pushed to do more work than is possible in the time that they had. Chart 9 demonstrates the significant pressure that SWV workers report feeling to work. This is particularly high when compared with responses from non SWV workers, 46 per cent of whom said they never felt under pressure in this way.

**CHART 9: RESPONSES TO A QUESTION RELATING TO WHETHER OR NOT WORKERS FEEL PUSHED TO DO MORE WORK THAN POSSIBLE IN THE TIME AVAILABLE BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS. (SWV WORKER N=58, NON SWV WORKER N=26)**



“

A “break” means that they will cut off 20-30 min time from your total worked hours.”

There is a strong psychological impact on workers of feeling pressured to work in this way, as evidenced in SWV worker statements at interview:

You constantly feel this psychological pressure and it’s mental. That’s how I feel, I feel down here in Scotland. Sometimes we do timework, and supervisors can make a comment like: “Why did you work so slowly? Hurry up, don’t relax, you need to work”, All this makes a bad influence on me and psychologically it’s very, very hard. Also, they can send people on a “break” it’s different than “day offs”. A “break” means that they will cut off 20-30 min time from your total worked hours.

**Taras, SWV worker from Ukraine, 21 October 2020**

This pressure is intensified for some workers by the dehumanising treatment they reported receiving at work:

They don’t consider us here as human beings, we are like slaves here. I am feeling like a slave.

**Sashenka, SWV worker from Belarus, 28 July 2020**

“

I have a family and small children. I have to sort this problem out somehow. People who do not have commitments are quitting and leaving but I can’t.”

Further, some SWV workers talked about their fear of returning to their country of origin without having paid off their debts:

We cannot go back to Ukraine because in order to come here we had to borrow money for a visa, work clothing, etc. It is in the region of €1000. You can understand our situation, we need to cover our debts, we need to earn money. I have a family and small children. I have to sort this problem out somehow. People who do not have commitments are quitting and leaving but I can’t.

**Abram, SWV worker from Belarus, 12 September 2020**

Some SWV workers, when interviewed, said that they thought threats of dismissal were issued in response to them questioning their work terms and conditions:

I asked questions about my national insurance and the targets, then I started getting letters from the office with the warnings to leave the farm.

**Olga, SWV worker from Russia, 22 October 2020**

“

**YOU CONSTANTLY  
FEEL THIS  
PSYCHOLOGICAL  
PRESSURE AND  
IT'S MENTAL.  
THAT'S HOW I  
FEEL, I FEEL  
DOWN HERE IN  
SCOTLAND.**

”

Taras,  
SWV worker from Ukraine

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“

There is a high risk that the strong forced labour indicators of denunciation to authorities and further deterioration in working conditions could be met for future workers on the SWP.”

There is a high risk that the strong forced labour indicators of denunciation to authorities and further deterioration in working conditions could be met for future workers on the SWP. In addition workers' debts have an impact on the significance of these threats to workers. Worker interviews demonstrate the impact of worker economic vulnerability on their coercion into work they might not otherwise have accepted. In Canada, the risks of labour abuse for workers on tied visas have been addressed by offering workers an open work permit in order that they can find alternative employment (Government of Canada, 2020). The option of transferring from a tied to an open visa in situations of abuse provides workers and the State with a mechanism through which workers can signal where there is a problem and get immediate remedy, possibly preventing more severe exploitation from taking place.

Recommendations:

To the UK Government

- **Establish a visa without sponsorship for vulnerable workers as a safeguard for migrant workers who have suffered labour abuse.**
- **Establish an independent annual evaluation of the treatment of low wage temporary workers in the UK, including in-depth worker evidence, in order to inform labour market enforcement allocation and direction of resources.**

To the Scottish Government

- **Appoint a Commissioner to oversee and coordinate the treatment of and engagement with temporary migrant workers in recognition of the high-risk of labour abuse and exploitation posed to this group.**
- **Conduct ongoing survey data collection with seasonal agricultural workers in order to understand their experiences and treatment at work and use this data to inform the work of the SAWB and updates to the Fair Work Action Plan.**

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Caravan conditions reported by workers met six of the 18 category one Housing Health and Safety hazards (DCLG, 2006).”

#### **FORCED LABOUR INDICATOR: DEGRADING LIVING CONDITIONS AND DEPENDENCY ON EMPLOYER FOR HOUSING**

Almost all SWV worker survey respondents (98 per cent) reported being dependent on their employer for their accommodation. Further, 88 per cent of SWV workers reported having the payment for this accommodation automatically deducted from their pay. The lack of choice in accommodation, largely in static caravans and the perceived high deductions, particularly with respect to price-quality ratio, were regular issues raised in worker interviews. SWV workers reported unsafe conditions in caravan accommodation provided by their employers.

Caravan conditions reported by workers met six of the 18 category one Housing Health and Safety hazards (DCLG, 2006). Category 1 hazards are referenced by the GLAA in Licensing Standard 4.1 with reference to assessing the quality of accommodation. The hazards described and photographically evidenced by workers were: A1. Damp and mould growth; A2. Excess cold; B11 crowding and space; B12. Entry by intruders; B14 Noise; and C17 Personal hygiene, sanitation and drainage. Over half of SWV worker survey respondents (55 per cent) said that they did not consider their accommodation to be clean and comfortable.

“

There are 3 rooms for 6 people. I live in a room, where I am not able [to] even sleep, because there is very little space. And this room is for 2 people. But there is even no space for our things.”

Many workers reported extremely crowded conditions, sharing six people to a three bedroomed caravan, often with strangers, meaning they had a lack of privacy:

There are 3 rooms for 6 people. I live in a room, where I am not able to even sleep, because there is very little space. And this room is for 2 people. But there is even no space for our things. One person sleeps in the hall, the rest of them sleep, some together, even though they didn't know each other before coming here to the farm.

**Nikolai, SWV worker from Belarus, 28 July 2020**

Many workers highlighted the excess cold, damp and mould in the caravans:

Our caravan is really cold and wet. I have to put a hat on when I sleep. Our caravan is full of mould, the walls are mouldy, our mattress is mouldy. We sleep on mould.

**Nastia, SWV worker from Moldova, 26 September 2020**

Workers also raised concerns about the lack of sanitation in their caravans:

There is no hygiene [...] we go to the common toilet to brush the teeth, people just stood there and brushed their teeth, I took a bottle of water outside and brushed my teeth outside because I couldn't brush my teeth in the toilet, just somehow I don't know disgusting.

**Leonid, SWV worker from Ukraine, 28 July 2020**

Some SWV workers reported having no washing facilities other than a paid service where a woman took their clothes and returned them wet. Workers were prohibited from drying clothes in the caravan so their farmer offered them a polytunnel in which to dry clothes. This was leading to continuously damp clothes:

The clothes returned wet. We have to dry them in the tunnel, but it is impossible to dry clothes because of the weather conditions in September and October.

**Stepan, SWV worker from Belarus, 22 October 2020**

“

The surveillance of worker's caravans and lack of ability to lock the caravan for some workers contributed to their feeling a lack of safety and security in their accommodation.”

Many workers raised concerns about possible entry of their caravan by intruders, some saying there was no lock and others that their employer entered without prior request:

The farmer has total access. Every week we have an inspection (2 people) coming in to our caravans and checking if everything is fine while we are working, without asking us.

**Matvej, SWV worker from Belarus, 22 October 2020**

The surveillance of worker's caravans and lack of ability to lock the caravan for some workers contributed to their feeling a lack of safety and security in their accommodation. This was reflected by SWV worker survey respondents, 60 per cent of whom responded no (34 per cent) or not sure (26 per cent) to the question “do you feel safe in your accommodation?”. This is very different from non SWV worker survey respondents, 54 per cent of whom answered yes to this question.



“

**OUR CARAVAN IS REALLY COLD AND WET. I HAVE TO PUT A HAT ON WHEN I SLEEP. OUR CARAVAN IS FULL OF MOULD, THE WALLS ARE MOULDY, OUR MATTRESS IS MOULDY. WE SLEEP ON MOULD.**

”

Nastia,  
SWV worker from Moldova

“

Given that workers have no alternative but to live in employer provided accommodation coupled with the limited pay many workers reported receiving, this relationship creates a high level of dependency in SWV workers on their employer.”

Many workers reflected that problems identified with their caravans were not addressed by their employer:

I spoke about mould on the walls that they do nothing about. I said, my window in my room does not close properly.

**Akim, SWV worker from Ukraine, 6 August 2020**

Whilst it was not possible to establish the terms of SWV workers' caravan tenancy agreements, nor whether such agreements exist, many workers reported that they had not received any terms. Some workers showed evidence of a range of accommodation penalties stipulated in their contract. A number of SWV workers interviewed talked about receiving financial penalties in relation to their accommodation:

For unknown reasons to us they are taking penalty money from the deposit. They perform a weekly inspection every Thursday, checking inside caravans for any damage, cleanliness etc. We moved into an old caravan, very dirty and obviously with existing damage.

**Cheslav, SWV worker from Belarus, 12 September 2020**

Following one inspection, one SWV worker reported that they were charged double the penalty rate set out in their contract, for having a dirty caravan. When the worker complained they were told that their penalty was “doubled because of the mess you made”.

In addition to expressing concern about penalties received, SWV workers were particularly concerned about the price-quality ratio of their caravans. Most workers were charged the AWO maximum rate of £8.20 per day plus heating expenses. As many workers pointed out where they were sharing six people to a caravan in three rooms, this meant their caravan was costing £1492.40 per month, a high rate for what they felt were poor conditions. For those workers that were very concerned about their income and who regularly had hours cut due to perceived poor performance the accommodation outgoings were a particular concern. Whilst one Pilot Operator recommends that farms should not charge for accommodation if a workers' hours drop below 16, this worker said this was not happening in their case:

It is different at [names farm], it doesn't matter how much you earn, they will charge you for accommodation, so in the end of the story you will owe [names farm] money.

**Taras, SWV worker from Ukraine, 21 October 2020**

Given that workers have no alternative but to live in employer provided accommodation coupled with the limited pay many workers reported receiving, this relationship creates a high level of dependency in SWV workers on their employer. Unsafe living conditions can cause workers physical and mental harms and many workers interviewed reported such effects. There is extremely limited enforcement of standards or consistency across agricultural caravan accommodation.



A close-up photograph of a window frame. The window is white, and the seal is broken, with a snake's head and body visible inside the frame. The snake is dark and has a lighter pattern on its body. The background is a green lawn.

“

**I SPOKE ABOUT  
MOULD ON THE  
WALLS THAT  
THEY DO NOTHING  
ABOUT. I SAID, MY  
WINDOW IN MY  
ROOM DOES NOT  
CLOSE PROPERLY.**

”

Akim,  
SWV worker from Ukraine

Recommendations:

To the UK Government

- **Set minimum standards for accommodation to be upheld for seasonal agricultural workers.**
- **Prohibit employers from charging workers for accommodation if for any reason their wages drop below £332.50<sup>12</sup> per week.**

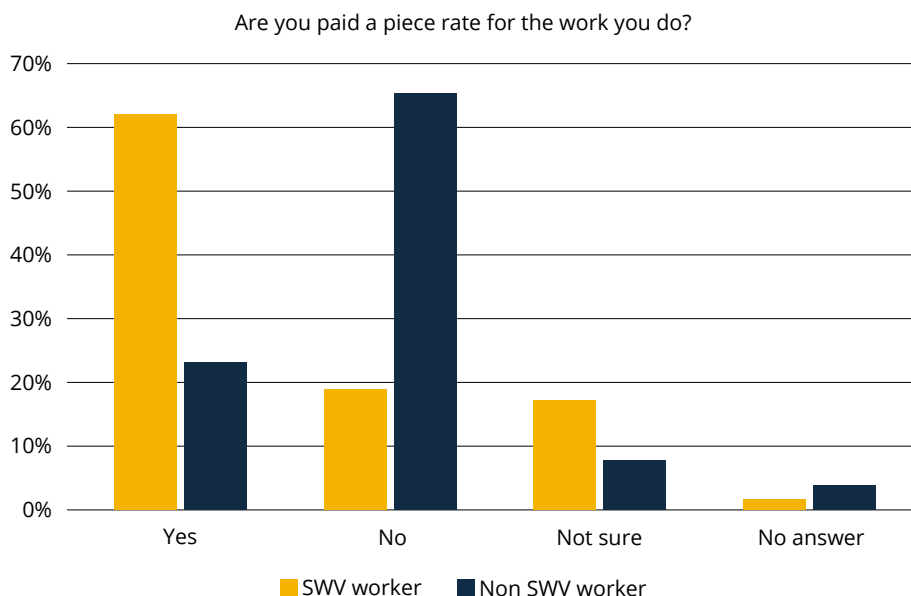
To the Scottish Government

- **Amend the Caravan Sites and Control of Development Act 1960 so that agricultural caravan dwellings are no longer exempt from local authority licensing.**
- **Engage COSLA to develop minimum standards for agricultural caravan dwellings that can be used by local authorities to monitor and inspect sites.**

**FORCED LABOUR INDICATOR: LIMITED HOURS AND PIECE RATES  
CREATING EXCESSIVE DEPENDENCY ON EMPLOYERS**

These findings are included in this section as the way in which piece rates are used, combined with zero-hour contracts and the limitations of the SWV increase the dependency on the employer, and the likelihood that workers may take work they may not otherwise have accepted. The majority of SWV worker survey respondents (62 per cent) reported receiving a piece rate for their work, whilst 17 per cent were not sure.

**CHART 10: RESPONSES ON WHETHER OR NOT WORKERS ARE PAID A PIECE RATE BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS (SWV WORKER N=58, NON SWV WORKER N=26)**



Piece work is where workers are paid per task or ‘piece’ that they pick, harvest etc. The AWO, however, sets a single minimum hourly rate, the AMW, regardless of whether a worker is doing piece work or working on a full-time contract. One contract shared by SWV workers from the same farm was entitled “zero hours employment”, stating:

<sup>12</sup> Calculated according to the Living Wage Foundation, living wage £9.50 hourly rate for 35 hours work, see <https://www.livingwage.org.uk/what-real-living-wage>

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“

The use of zero hours contracts along with piece rates creates a particular vulnerability amongst workers, who were both not guaranteed any work and paid only if they were able to meet, what they considered to be, challenging piece ‘norms’.”

You are not guaranteed a minimum number of hours of work each week and in a particular week you may receive no work at all. However on days of working, which could be any day from Monday to Sunday, the guideline indicative hours are 0700 until 1600.<sup>13</sup>

The use of zero hours contracts along with piece rates creates a particular vulnerability amongst workers, who were both not guaranteed any work and paid only if they were able to meet, what they considered to be, challenging piece ‘norms’.<sup>14</sup>

In England, where there is no Agricultural Wages Board, piece rates are calculated by using the average rate of work per hour divided by 1.2, in order to allow for workers who are less experienced than others. The hourly NMW is then divided by this amount. This rate and the means used to calculate it, including whether the rate calculation has been tested or is an estimate, should be shared with workers in writing before they start work for the first time. However, due to the AMW set by the SAWB in the AWO in Scotland, these piece rate rules are not applied here. This has meant that whilst the AMW is tightly regulated piece rates are not (Atterton et al, 2018, p.63):

Piece rates are much more lenient because there is no specification of rates for crop, task, season, etc

The means of assessing each of these variables is complex and felt to be opaque by many workers interviewed. Indeed an extensive study into agricultural workers in Scotland published in 2018, concluded that “implementing these rates offers significant scope to undercut the minimum wage” (Ibid).

Workers reported severe confusion and uncertainty about piece rates which clearly had a huge impact on their working experience and mental health:

Every day is like a lottery, like a roulette. We don’t know how much we will earn in a day, we want to work and we work honestly.

**Filip, SWV worker from Ukraine, 13 September 2020**

When asked about their experiences with pay in Scotland a considerably higher proportion of SWV worker survey respondents reported issues than non SWV workers as set out in Chart 11. With respect to piece rates, 22 per cent of SWV workers responded that they had not been paid for pieces they had picked and 41 per cent said they were paid a lower rate than promised. When considering whether piece rates are enabling workers to reach AMW, 47 per cent of SWV workers said they had been paid less than the minimum wage.

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“

Every day is like a lottery, like a roulette. We don’t know how much we will earn in a day, we want to work and we work honestly.”

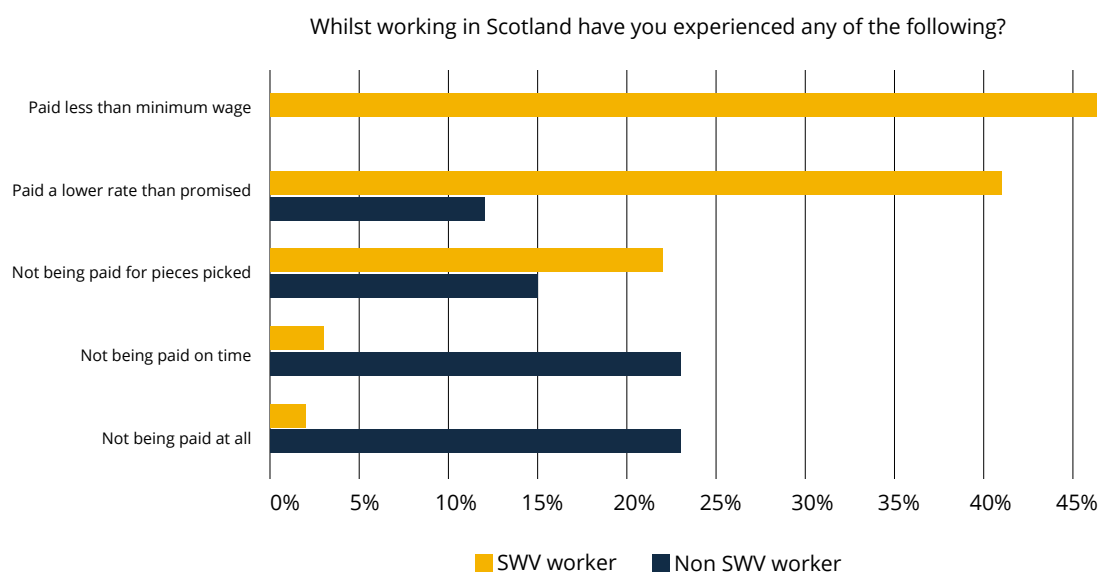
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<sup>13</sup> Documentation provided by workers.

<sup>14</sup> Workers described the ‘norm’ as the number of pieces they would have to pick per hour to be permitted to continue working that day:

At the moment, we are working £/hour and £/target. We are getting paid by hour, but in fact they are looking at your target. For example, one full container pays you £10. We need to fill enough content of the container, per hour, so that you are paid £8.72, meaning I need to fill 2/3 of the Container. At the moment one container pays £4.5, so I have to fill about 2 full containers per hour to get £8.72, this is how ‘norm’ counts.

**CHART 11: RESPONSES TO QUESTION REGARDING EXPERIENCES WITH WAGES AT WORK BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS (SWV WORKER N=58, NON SWV WORKER N=26)**



“

Many workers talk about the ‘norms’ and targets set by their employer being too hard to achieve. Workers strongly contested the way in which these norms were calculated about which they expressed a deep sense of unfairness.”

The interview data provides detail about why workers feel they are not being paid AMW. Many workers talk about the ‘norms’ and targets set by their employer being too hard to achieve. Workers strongly contested the way in which these norms were calculated about which they expressed a deep sense of unfairness.

In the morning we all got a norm, what we must make an hour, and we started to work on one field, but after lunch time we have been moved to the other field to pick blueberries, anyway it was obvious that field was done yesterday, and there is not much berries left for picking. However, the norms weren’t changed, and we had to make exactly the same amount of berries per hour in order to achieve the norm. Therefore, after one-hour workers were able to pick less berries compared to the previous field. So the supervisor sent all those who didn’t manage to make a norm to the caravan park and people got given a day off only because there were not enough berries to pick.

**Artem, SWV worker from Belarus, 22 October 2020**

In illustration of this point a number of workers recorded how many workers had been sent back to their caravans for not managing to pick the norm on a range of days:

Yesterday I know exactly, out of 60 people only 28 were left to work until the end. 32 people were sent to their caravans, more than half.

**Katia, SWV worker from Ukraine, 12 September 2020**

The practice of reducing SWV workers’ work time if they were said not to be meeting the norm was widely reported by workers. Workers said that they were required to sign a form to indicate their agreement to having their work time reduced and reported feeling pressured to do so:

All these workers must sign a piece of paper where it says they are voluntarily going back to their caravans; If workers wouldn’t sign, they will have a penalty and will stay in the caravan for 2-3 days without work.

**Matvej, SWV worker from Russia, 22 October 2020**



Some workers reported asking for information about how the piece rate was calculated but being refused:

She [the manager] says that the target is the same for the whole farm. When I asked her to show us how this is in the entire farm, she could not show us anything.

**Karol, SWV worker from Ukraine, 13 September 2020**

In addition workers reported employers making regular changes to piece rates which they said added to their confusion and sense of injustice:

The norm is constantly getting higher also they tell you the price per container on the day. You are coming to start your shift and they say: today a container pays you £3, a few days later £2.50, two days ago it was £2.20.

**Cheslav, SWV worker from Belarus, 12 September 2020**

“

The regular reduction in working hours that workers said they incurred, reportedly because they had not performed adequately against the piece rates set, meant workers said they were struggling to survive on their pay.”

The regular reduction in working hours that workers said they incurred, reportedly because they had not performed adequately against the piece rates set, meant workers said they were struggling to survive on their pay:

If you do not manage your job, they will send you straight to the caravan after 3 hours of work. So, this is not the pay, you cannot earn. You earn only for the food and to pay for the caravan.

**Sashenka, SWV worker from Belarus, 28 July 2020**

Some workers suggested that this struggle had led them to pay fees to other workers with more experience than themselves for pieces they had picked:

We have some people in our farm who work here every season, they sell us boxes if we cannot make a norm, therefore we have to buy boxes from them in order to be safe and not to be sent to the caravan.

**Stepan, SWV worker from Belarus, 22 October 2020**

When asked about the piece rate system one employer said that it was necessary due to the different work levels of the workers:

The bulk of the workforce, they're quite what's the word I was going to say militant, but its not militant either they're trying to protect what they do and the hard work they put in. If they see someone constantly getting topped up and made up it frustrates them because they're earning really good money but working seriously hard for it they get quite frustrated at that.

**Interview with employer, 9 November 2020**

However another employer interviewed felt that there were too many risks associated with piece rates and paid AMW plus a bonus to high-performing workers instead:

The problem with piece rate is that it can go down below the living wage and they're entitled to the living wage. We use a bonus scheme so they're guaranteed the living wage if they're working and if they're prepared to work harder they get extra.

**Interview with Iain Brown, 4 December 2020**

“

**WE HAVE SOME  
PEOPLE IN OUR FARM  
WHO WORK HERE  
EVERY SEASON, THEY  
SELL US BOXES IF  
WE CANNOT MAKE A  
NORM, THEREFORE  
WE HAVE TO BUY  
BOXES FROM THEM  
IN ORDER TO BE SAFE  
AND NOT TO BE SENT  
TO THE CARAVAN.**

”

Stepan,  
SWV worker from Belarus

The use of zero-hours contracts coupled with piece rates for SWV workers greatly increases their dependency upon the employer. Furthermore, workers are finding the threat of loss of work is used as a regular penalty to increase their work output which they consider to be excessive. Given the extremely limited alternative employment options available to SWV workers this form of payment and treatment at work poses a very high risk to workers.

Recommendations:

To the UK Government

- **Ensure SWV workers are guaranteed a minimum income of at least £332.50<sup>15</sup> per week, for 35 hours work written into their contract of employment.**
- **Adopt an evidence-based formula to calculate piece rates. This could be overseen by the office of the Director of Labour Market Enforcement.**

To the Scottish Government

- **Introduce regulations relating to the calculation of piece rates, including the formula used to reach a fair piece rate and means of communicating this to workers.**

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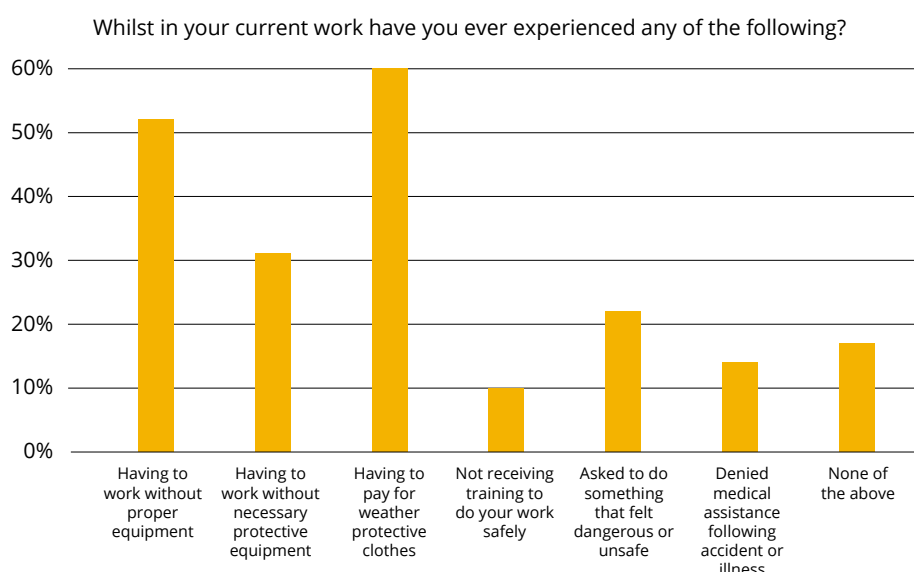
The majority of SWV workers reported having to pay for weather protective clothing (60 per cent) and half of SWV workers surveyed reported not being provided proper equipment to do their job (52 per cent).”

#### **GENERAL WORKING CONDITIONS: RISKS TO HEALTH AND SAFETY FACED BY WORKERS**

Whilst occupational health and safety does not in itself constitute an indicator of forced labour, understanding this component of working conditions provides important detail to aid the analysis of risks of human trafficking for forced labour. The majority of SWV workers reported having to pay for weather protective clothing (60 per cent) and half of SWV workers surveyed reported not being provided proper equipment to do their job (52 per cent). A significant number of workers (22 per cent) said they were asked to do something that felt dangerous or unsafe and a smaller number said they had been denied medical assistance following an accident or illness (14 per cent). These survey responses are set out in Chart 12.

<sup>15</sup> Calculated according to the Living Wage Foundation, living wage £9.50 hourly rate for 35 hours work, see <https://www.livingwage.org.uk/what-real-living-wage>

**CHART 12: RESPONSES TO QUESTIONS RELATED TO EXPERIENCES OF HEALTH AND SAFETY IN THE WORKPLACE, BY PERCENTAGE OF SWV WORKER SURVEY RESPONDENTS (N=58)**



These health and safety risks were detailed in the interviews, in which SWV workers reported significant problems with needing to pay for weather and work protective clothing. Some workers reported particularly extreme experiences of lack of equipment or clothing for the work:

When we first started working, they sent us for weeding but didn't give us gloves neither any equipment, tools, we worked on weeding for 3 days, carrots and strawberries, we dug the ground by naked hands as nobody gave us neither gloves nor digging tools. Not even simple tools by which we could dig the ground, so we had to tear this hard, dry ground by our bare hands. The hands got many calluses, and we went to the office to buy gloves for £2.50.

**Nikolai, SWV worker from Belarus, 28 July 2020**

Other workers reported that they had to pay for weather protective clothes and felt that the charges for such clothing were inflated by the farm:

We went through some brochures it says we should be provided with work clothes. We don't, we were told we have to buy safety shoes, raincoat, gloves, everything. Everything is sold on the farm for example shoes cost £12, raincoat £30 or £20, rainproof trousers £20, prices are high, you can buy this stuff much cheaper in a shop.

**Cheslav, SWV worker from Belarus, 12 September 2020**

With respect to medical assistance in case of illness or workplace accidents, 28 per cent of SWV workers responded 'never' when asked if they could take time off work when they were sick. Whilst 45 per cent said this was 'always' true, 3 per cent responded 'usually' and 16 per cent said it was 'sometimes' true. In the interviews, some SWV workers noted that they felt like they were penalised for becoming ill or incurring workplace accidents by having their work reduced. One SWV worker who said she had injured her hand performing an intensive and repetitive cutting action at work reported facing reduced hours as a result:

I went and asked if it is possible to change job [to] something easier, what I could work with my left hand, maybe pick something, sort or

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“

There is no first aid, they just give you blue plasters, that's all. And water, there is no water in the fields, we take our water bottles to the field to drink but when they finish, that's it, no water.”

pack but they again assigned me to work in fields where I would need something to cut, something to clean, with a clamped hand, I refused and began crying. I felt as if they had made a joke of me, because I have been complaining for 2 weeks. I cried in my workplace and they kicked me out because I did not meet the target.

**Nastia, SWV worker from Moldova, 26 September 2020**

Another worker reported injuring their leg during training and therefore requesting work that did not require fast leg movement. However she said that instead they were given a written warning and then a dismissal letter from the farm.

Other SWV workers reported receiving minimal first aid and limited facilities being available to deal with health and safety incidents at work:

There is no first aid, they just give you blue plasters, that's all. And water, there is no water in the fields, we take our water bottles to the field to drink but when they finish, that's it, no water.

**Michail, SWV worker from Ukraine, 13 September 2020**

One worker reported having asked to change farms in order to be able to work picking fruit at table top height because they were suffering from a bad back. However they said their transfer request was refused on the grounds that their occupational ill health was a normal part of the work:

Our manager said to us that in this work everything is sore for everyone.

**Katia, SWV worker from Ukraine, 12 September 2020**

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“

Poor health and safety can heighten the risk to workers of exploitation particularly when workers are forced to carry out hazardous tasks with inadequate protection.”

A number of SWV workers have reported general health and safety risks posed by inadequate protections provided by employers and some have reported an inattentiveness to illness and accidents in workplaces. Poor health and safety can heighten the risk to workers of exploitation particularly when workers are forced to carry out hazardous tasks with inadequate protection.

Recommendations:

To the UK Government

- **Provide details of SWP participating farms to the HSE in order that they can conduct an individual inspection campaign targeted at participating farms.**
- **Seek an annual report from the GLAA on health and safety risks identified and tackled as part of license compliance inspections for SWP participating farms.**

To the Scottish Government

- **Clarify the requirements with respect to providing weather protective clothing for seasonal agricultural workers in guidance for the agricultural sector.**
- **Ensure the Health and Safety Law poster prepared by the HSE, first aid arrangements, details of designated first aiders and information about Statutory Sick Pay are translated into SWV worker languages and clearly displayed in workplaces.**

“

The scheme guidance requires Pilot Operators to ensure that workers are enabled to “move to another employer where possible” (Home Office, 2020, p.9).”

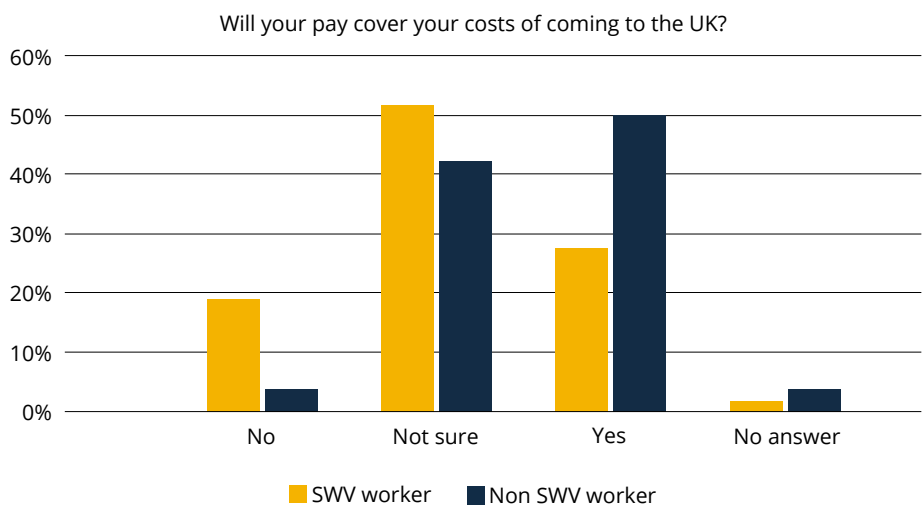
## RISK OF IMPOSSIBILITY OF LEAVING EMPLOYER

### FORCED LABOUR INDICATOR: REDUCED FREEDOM TO TERMINATE LABOUR CONTRACT

The SWV is a sponsored temporary worker visa. At time of writing, licenses are held by two scheme operators, Concordia and Pro Force with an additional two operators due to be licensed shortly. The scheme guidance requires Pilot Operators to ensure that workers are enabled to “move to another employer where possible” (Home Office, 2020, p.9). As highlighted above, this aspect is a major risk inherent in the SWP design, since, should workers that have incurred heavy debts to travel to the UK be unable to change employers in order to repay such debts, then their freedom to simply resign and return to their home country is greatly reduced. Furthermore, workers who have not earned adequate amounts to repay debts or fund travel home and who are prevented from changing employer will be forced to stay on in a job they might not wish to undertake in order to accrue funds to return home or repay their debts.

A relevant survey question in this regard relates to whether workers’ pay will cover their costs of coming to the UK, see Chart 13. 71 per cent of SWV worker survey respondents responded no or not sure to this question, compared to 46 per cent of non SWV worker respondents. The main reason SWV workers gave for wishing to change employer was so that they might receive work, as many SWV workers complained that their current farm was offering very little work. Additional reasons given related to treatment on the farm, or desiring a role that was not available on a workers’ current farm. Workers reported having been told a range of means of requesting a transfer, some said that they were told to contact their home recruitment agent, others to write an email or letter to their Pilot Operator and some to ask their farm to make this request.

**CHART 13: RESPONSES TO WHETHER WORKERS’ PAY WILL COVER THEIR COSTS OF COMING TO THE UK BY PERCENTAGE OF SWV AND NON SWV WORKER SURVEY RESPONDENTS (SWV WORKER N=58, NON SWV WORKER N=26)**



Many SWV workers interviewed said that they and large numbers of their colleagues had requested to transfer to alternative employment and had either had these transfer requests refused or had been ignored. Some workers felt that this had happened because their Pilot Operator had not listened to them but had listened to their employer instead:



We tried to solve this issue via [names Pilot Operator] but the farmer said to [names Pilot Operator] that the issues were solved, but in reality nothing was solved and nothing changes, nor gets better. Therefore, the best solution would be to be transferred to another farm.

**Abram, SWV worker from Belarus, 12 September 2020**

Some workers who had been told to request a transfer via their home recruitment agent felt that their concerns were dismissed:

I called again to [names Pilot Operator] hotline and they told me to communicate with my home recruitment agent and he will tell me. We contacted him, he said “what do you want? Do you think that in a different place things will be different?” So the home recruitment agent did not offer any solutions or choices to us.

**Nikita, SWV worker from Moldova, 26 September 2020**

Those workers who had requested a transfer via their farm had found that they were refused on the grounds of the farm needs, rather than their individual circumstances:

We even went to look for other farms. We found one, who wanted to accept us. There was a place, they needed workers. We wanted to go there, so we went straight there [to the employer] and we said that all wanted a transfer, she [the employer representative] said “I can’t let you go, understand us, we need workers, everything will be fine”.

**Karine, SWV worker from Moldova, 12 September 2020**

Others who requested a transfer through their Pilot Operator said they were told that there had been too many transfer requests from their particular farm and therefore they were refused:

People asked for a transfer but [names Pilot Operator] ignored this, cancelled their request. We were told by [names Pilot Operator]: if we transfer you, everybody will want to be transferred. Therefore, we cannot transfer you.

**Tanya, SWV worker from Ukraine, 13 September 2020**

Many workers felt there was little chance of being transferred as they said they believed that when they requested a transfer from their Pilot Operator their farm would make the decision about whether it was possible or not:

As I understand, we submit the request for transfer, [names Pilot Operator] from its side submits the request to the farm, and the farm then submits a refusal that the farm needs people, the workers are needed on the farm, and nobody can do anything about it.

**Mishka, SWV worker from Ukraine, 13 September 2020**

Others said that they had been told prior to coming to the UK that a transfer would not be possible:

In Belarus we were told we cannot change the work.

**Nikolai, SWV worker from Belarus, 28 July 2020**

“

I can’t let you go, understand us, we need workers, everything will be fine.”

“

**WE CONTACTED  
HIM, HE SAID:  
WHAT DO YOU  
WANT? DO YOU  
THINK THAT IN A  
DIFFERENT PLACE  
THINGS WILL BE  
DIFFERENT?**

”

Nikita,  
SWV worker from Moldova

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“

Whilst SWV sponsors are required by the Home Office in the terms of their license to enable workers to change their employer, where possible, a large number of SWV workers interviewed (24 SWV workers, 62 per cent of SWV workers interviewed) said that for them a transfer had not been possible.”

Whilst SWV sponsors are required by the Home Office in the terms of their license to enable workers to change their employer, where possible, a large number of SWV workers interviewed (24 SWV workers, 62 per cent of SWV workers interviewed) said that for them a transfer had not been possible. This is of concern as it means, for some workers, it is impossible for them to change their employer and in many cases it is also impossible for workers to return home due to their debts, therefore their choice is limited and their vulnerability is heightened. The ILO highlights that it would constitute forced labour if an employer deliberately exploits the fact that an individual has no alternative employment opportunities “to impose more extreme working conditions than would otherwise be possible” (ILO, 2012, p.16).

Recommendations:

To the UK Government

- **Establish a clear employer transfer pathway, including transparent criteria for making a transfer request and a process for considering such requests. This should be communicated to workers at point of recruitment.**
- **An independent body, separate to the visa sponsor or the employer should receive representations and make decisions on transfer requests, including a facility for workers to change Pilot Operators where desired.**

# 5

## SECTION FIVE: GOVERNANCE OF THE SWP

### INSPECTION AND ENFORCEMENT

Workers were asked in the survey about engagement with external bodies in inspecting workplace conditions, 9 per cent of SWV worker survey respondents said that they had been asked to talk to someone outside their work about their work conditions. Responses to this question are set out in Chart 16. Whilst the UK Government states that (Foster, 2021):

The responsibility for inspecting locations under the Seasonal Agricultural Workers Scheme and the seasonal workers' pilot sits with UK Visas and Immigration.

They also add that the GLAA supports UKVI in this role and that Home Office officials have worked with the GLAA to ensure the protection of SWV workers from "modern slavery and other labour abuses" (Eustice, 2018). When asked about UKVI compliance officers or GLAA visits to workplaces, employers stated that they had limited contact. This was a view reflected by the NFUS:

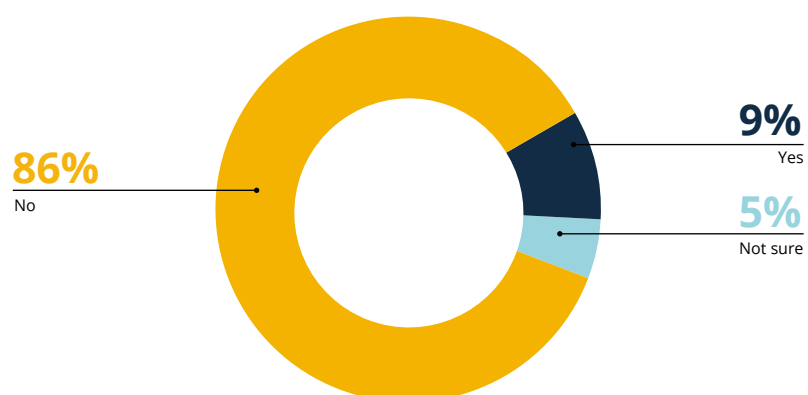
I don't think there has been much inspection going on, that came up with some of our producers. They hadn't had any inspections specifically to do with the SWP.

**Interview with Peter Loggie, Policy Manager – Crops, NFUS, 3 September 2020**

The GLAA thought that there had been "probably less than 3"<sup>16</sup> UKVI compliance visits to farms in Scotland, saying that the officer in question had accompanied them on 2 visits in Scotland. Reductions in workplace visits were made as a result of COVID-19 restrictions, but the GLAA also indicated that it has limited capacity to engage in SWP oversight, both due to UKVI taking the lead and, in Scotland, lack of resources.

**CHART 16: RESPONSES FROM SWV WORKERS ASKED WHETHER ANYONE FROM OUTSIDE THEIR WORK HAD ASKED THEM ABOUT WORKING CONDITIONS. (N=58)**

Has anyone from outside your work asked you to talk to them about your work conditions?



The GLAA raised concerns that they felt UKVI visits, when they were undertaken were too formal for workers:

“Reductions in workplace visits were made as a result of COVID-19 restrictions, but the GLAA also indicated that it has limited capacity to engage in SWP oversight, both due to UKVI taking the lead and, in Scotland, lack of resources.”

“

With respect to their own capacity to inspect the scheme, the GLAA noted that they do not conduct inspections of licensed labour providers for the SWP based outside of the UK.”

UKVI conduct worker interviews, farm owner interviews. They complete online migrant interviews, really formalised for them – far too formalised for them.

**Interview with GLAA, 21 August 2020**

With respect to their own capacity to inspect the scheme, the GLAA noted that they do not conduct physical inspections of licensed labour providers for the SWP based outside of the UK:

It was never said we would do a visit to those countries, wasn't feasible money wise, staff wise and everything.

**Interview with GLAA, 21 August 2020**

This was raised as a concern by an anonymous stakeholder who said of the GLAA overseas licensing system:

The partner comes to the UK has their interview then goes back and if something goes wrong they won't go back to revoke those.

**Interview with anonymous stakeholder, 20 May 2020**

Whilst the GLAA has 137 staff, just one staff member is based in Scotland (Atkins, 2021). In addition whilst the GLAA normally conducts physical inspections of farms, much of the GLAA's compliance inspection work has been conducted online during 2020 (GLAA, 2020b).

This research was conducted alongside outreach work and SWV workers were directed towards the GLAA in the case of serious problems at work. In total 36 workers engaged in this research contacted the GLAA, including 15 workers who were supported by FMF to have their details shared with the GLAA. Despite the large numbers of workers that made contact with the GLAA, slow response rates were observed by workers:

The Gangmasters [GLAA] said they will speak to them. If they need any more information, the Gangmasters [GLAA] will contact us, but a week has passed and still we did not hear back from them...just before our arrival here, some like 80 people or so [have] gone, we don't know, if they were kicked out or transferred.

**Abram, SWV worker from Belarus, 12 September 2020**

Indeed in the cases raised by FMF with the GLAA, they were found to have extremely low capacity to respond.

#### **CASE STUDY. SERIOUS CONCERNS ABOUT WORKER TREATMENT RAISED WITH THE GLAA**

The following relates to serious concerns about worker treatment raised with the GLAA as an example of capacity issues having an impact on response rates:

28 September 2020 FMF shared the details of 15 workers with the GLAA.

30 September 2020 the GLAA informed FMF that due to lack of capacity no farm visit had taken place but that the employer had been contacted.;

23 October 2020, after multiple attempts to follow up with the GLAA on the part of FMF the GLAA agreed to visit the farm and speak to workers;

28 October 2020 the GLAA visited the farm to speak to workers, asking FMF staff to translate on their behalf due to lack of GLAA translation facilities. During this visit an employer representative intervened on two occasions to complain about GLAA presence;

30 October 2020 the GLAA met one worker concerned with their employer, with FMF in attendance;

24 November 2020 the GLAA officer spoke to FMF regarding their investigation, reporting limited outcomes.

During this case, a number of issues arose with GLAA capacity to engage with SWV workers in a way that met their needs and ensured their safety. These issues included: limited progress made in resolution of the workers' problems; safeguarding concerns about the GLAA approach of rapidly speaking to the employer one month prior to speaking to workers; lack of professional translation capacity within the GLAA; and lack of clear processes, for explaining the role of the GLAA to workers, asking questions of workers, assuring workers of what steps would be taken, or of feeding back to workers following interventions by the GLAA.

With respect to external visits outside those undertaken by statutory bodies, employers and the NFUS pointed to the prevalence of audit inspections:

If you're supplying retailers there's a different audit every other week. It becomes second nature.

**Interview with employer, 9 November 2020**

Audits by Pilot Operators are also operated involving visits to farms to check the implementation of farm policies, including inspecting work sites, accommodation and working conditions. However many of these inspections have been conducted remotely as a result of the COVID-19 pandemic. Some workers also mentioned having encountered external auditors in response to making a group transfer request to their Pilot Operator:

They came about 2-3 weeks ago to the [names farm]. They 'checked' the farm, but the farm showed only the best polytunnels, the best workplace and that's it, [Pilot Operator] left. We were told "we have the proof that we need."

**Katia, SWV worker from Ukraine, 12 September 2020**

Other workers underlined this impression that the farm's best side was presented when audit inspections were taking place:

Worker: We know they are here only when we are told to wear the masks at work

Researcher: Did any inspectors approach you with any questions?

Worker: No, not at all.

**Boris, SWV worker from Ukraine, 21 October 2020**

Some said that they were asked to stay away from the farm when there was an investigation:



We were told they are from the food safety agency. They were there on the 17th of September. They said that we will not work for those 2 days. Nobody worked on the Thursday, when it was the investigation and on Friday only half of us went to work.

**Nikita, SWV worker from Moldova, 26 September 2020**

These SWV worker perspectives on audits were supported by Scot Walker from Unite the Union who said of the Supplier Ethical Data Exchange (Sedex) audit process:

You know the old Billy Connolly joke, that the Queen must think the world smells like paint as everywhere she goes someone's painting the wall, that's my experience of Sedex. You have several weeks knowledge and then there is an intense push.

**Interview with Scot Walker, Unite the Union, 1 September 2020**

When employers were asked what proportion of their workers are involved in audits, they said the numbers were limited. A farmer employing 150 seasonal workers said:

With the berry cooperative we're in they ask us to do an ethical audit every 2 years but that's an initiative in the cooperative and I think about 5 workers are interviewed during that audit.

**Interview with Iain Brown, 4 December 2020**

“

Inadequate labour market enforcement to inspect and enforce labour rights for workers on the SWP further compounds the risks outlined in the above section.”

Whilst statutory bodies and private auditors have conducted inspections on SWP participating farms in Scotland, serious concerns about the way in which inspections are conducted were raised during the research. UKVI has been given a leading role with respect to inspections, yet is not the appropriate body to engage with workers. The GLAA has been named as the lead body responsible for preventing modern slavery and labour abuse and yet has extremely limited capacity to conduct inspection and enforcement in relation to SWP participating farms in Scotland. Inadequate labour market enforcement to inspect and enforce labour rights for workers on the SWP further compounds the risks outlined in the above section.

Recommendations:

To the UK Government

- **Increase the resources to the GLAA and future Single Enforcement Body to ensure there is capacity to conduct regular proactive inspections of SWP participating workplaces.**
- **Provide resources in order to increase personnel and numbers of inspections by the GLAA in Scotland.**

To the Scottish Government

- **Review the role and responsibilities of the SAWB Agricultural Wages Inspectors to introduce targeted inspections of SWP participating workplaces to ensure ongoing compliance with the AWO.**

“

When worker needs and problems are not listened to, it not only poses a risk to workers but also to their employers. In response to the survey question asking whether workers were likely to return to work for the same farm, 69 per cent of SWV respondents said no....”

## INFORMATION AND REPORTING

The experiences of temporary and tied visa holders in any labour sector are notoriously hard to come by. In order to ensure the experiences of SWV workers are evidenced and acted upon, robust and easily accessible reporting systems are required. Pilot Operators interviewed for this research gave different reporting systems in the case of workers facing problems. One Pilot Operator provided details of its own ‘helpline’ which it said runs 24 hours for workers to use in case of need, including transfer requests. However, during the course of this research and outreach it was found that this helpline is only available for use in ‘emergencies’ which were described as ‘grower emergencies’ not those experienced by workers. The Pilot Operator indicated that workers should, firstly contact their employer in case of issues and if this is not possible or does not produce results, SWV workers should contact this Pilot Operator through their home agents. Another Pilot Operator has appointed an independent contractor to operate a helpline for them which runs 24 hours a day and translation is available. However, this line does not deal with transfer requests, for which workers are given a mobile number for a consultant working for the Pilot Operator.<sup>17</sup>

The employers interviewed said they encourage workers to come to them in the first instance if there is a problem:

I would hope, we have supervisors in the field and managers in the camp they can ask and the person in charge of induction based in office and if they can't get answers by any of those people I'd expect them to go to [names Pilot Operator].

**Interview with Iain Brown, 4 December 2020**

However one employer admitted that workers tend to take problems to their agent in their home country, which they said was “a frustration”<sup>18</sup>.

Yet, as highlighted in the above section many SWV workers say that they struggled to progress requests through their Pilot Operators, and workers that had raised problems with their farm also regularly reported not being listened to:

We ask to be transferred to another caravan but nobody listens to us. We speak but nobody hears. We go to the office 10 times a day and ask.

**Konstantin, SWV workers from Ukraine, 6 August 2020**

Others said that their employer would listen eventually but that they needed to report problems repeatedly in order to get any response:

The office helps but they are very slow and it does not help from the first time. I think they simply can forget to pass the message on or lose the notes of our requests. Therefore, at the end we have to go there one, two, three, four times and ask to solve our issues.

**Nikolai, SWV worker from Belarus, 28 July 2020**

When worker needs and problems are not listened to, it not only poses a risk to workers but also to their employers. In response to the survey question asking whether workers were likely to return to work for the

<sup>17</sup> Interview with Pilot Operator, 2 February 2021

<sup>18</sup> Interview with employer, 9 November 2020

“

**WE ASK TO BE  
TRANSFERRED TO  
ANOTHER CARAVAN  
BUT NOBODY LISTENS  
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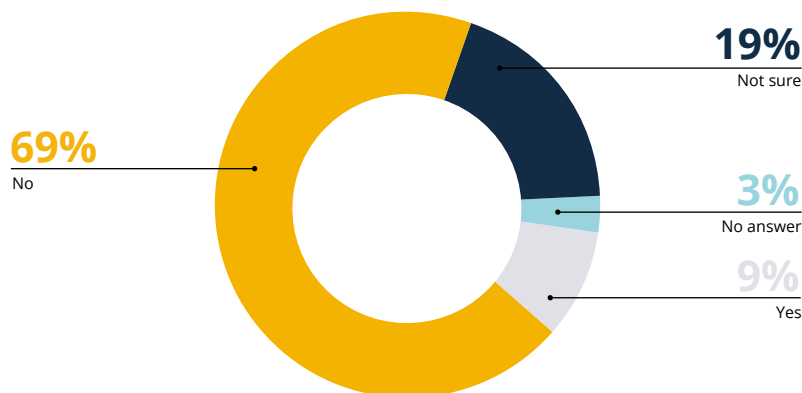
”

Konstantin,  
SWV workers from Ukraine

same farm, 69 per cent of SWV respondents said no with a further 19 per cent saying they were not sure.

**CHART 14: RESPONSES FROM SWV WORKERS ASKED WHETHER THEY PLAN TO RETURN TO WORK FOR THE SAME FARM AGAIN. (N=58)**

Do you plan to come back to work for the same farm again?

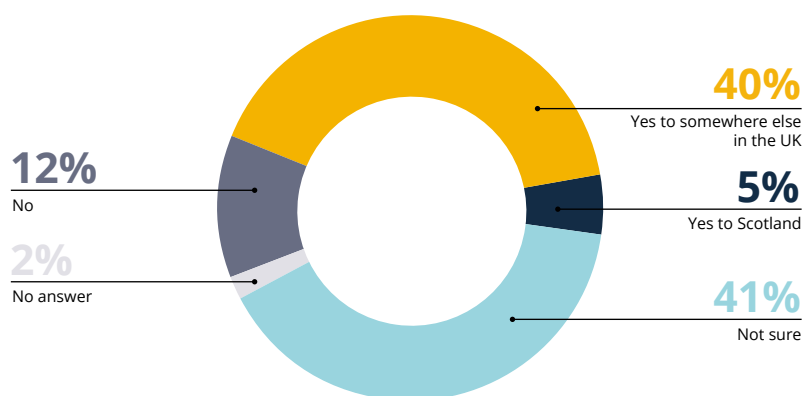


When asked to give reasons for not returning to the same farm, workers cited issues including: unfair pay and conditions; unhappiness with the piece rate calculations; enforced days and hours off work; expensive and poor quality accommodation; mistreatment by management; and expectations not meeting reality.

This is also a problem for Scottish agriculture and horticultural employers more broadly, as when asked if they would return to work in Scotland just 5 per cent of SWV workers said yes. Whilst 40 per cent said they would return to somewhere else in the UK and 53 per cent answered either no or not sure to whether they would come back to work in UK agriculture.

**CHART 15: RESPONSES FROM SWV WORKERS ASKED WHETHER THEY PLAN TO RETURN TO WORK IN UK AGRICULTURE AGAIN. (N=58)**

Do you plan to come back to work in UK agriculture again?



Whilst reporting channels exist for workers, these are not always found to be helpful when SWV workers face problems in the workplace and lack of translation serves as an obstacle to some workers. Furthermore, the different means of reporting issues for different Pilot Operators could cause extra confusion for workers. Many of the workers interviewed for this research raised serious concerns with their working environment and the majority of SWV worker survey respondents said they would not return to the same farm citing work terms and conditions as the main reasons.

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...when asked if they would return to work in Scotland just 5 per cent of SWV workers said yes.”

Recommendations:

To the UK Government

- **Guarantee SWV workers a complaints mechanism through which workplace grievances may be aired and remedied during their time in the UK.**

To the Scottish Government

- **Establish an independent helpline, open 24 hrs, 7 days a week with translation into workers' languages, for SWV workers through which concerns can be raised about potential labour abuse and labour exploitation.**
- **Use this helpline to collate intelligence which can be acted on by labour market enforcement authorities and to channel transfer requests to an independent transfer body.**

## TRADE UNIONS AND WORKER SUPPORT

As highlighted by experts in the field of human trafficking for forced labour, including the Ethical Trading Initiative, “trade unions and other support groups have a key role to play in exposing forced labour” (ETI, 2015, p.11). Trade unions around the world offer a range of support services to temporary migrant workers. In Spain, drop-in support centres have been established by trade unions for seasonal migrant workers (CCOO) in Sweden a trade union collective agreement applies to temporary work agencies employing seasonal berry pickers (FLEX, 2019, p.42), in Estonia and Finland trade unions coordinate to ensure Estonian workers travelling to Finland have information and support (ETI, 2015, p.10).

It is highly unlikely that any SWV workers are unionised nor have received union representation. Peter Loggie of the NFUS felt strongly in reference to trade unions that “none of these people are their workers”.<sup>19</sup> Equally employers interviewed said that trade unions had not been involved with seasonal workers on their farms. This view was shared by the GLAA which said “99 per cent of them don’t have a trade union”<sup>20</sup>. Anonymous stakeholders added “they exist but don’t represent them very well” and that they “tried to contact trade unions but they didn’t get back”. Scot Walker of Unite the Union explained some of the obstacles faced by Unite with respect to seasonal horticultural workers:

It’s difficult for [names trade union] and trade unions generally within those settings. Its easier in the meat sector where workers are based in big industrial plants. We have better access to them, [...] I know that my colleagues in Scotland find that because its rural its difficult.

**Interview with Scot Walker, Unite the Union, 1 September 2020**

Furthermore he added that the seasonal nature of the workforce has an impact on unionisation. For SWP workers, these obstacles to unionisation

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It is highly unlikely that any SWV workers are unionised nor have received union representation.”

<sup>19</sup> Interview with Peter Loggie, Policy Manager, NFUS, 3 September 2020

<sup>20</sup> Interview with GLAA, 21 August 2020

“

...the absence of worker voice and representation mechanisms in place for SWV workers compounds the risks outlined in the above section.”

for seasonal agricultural workers are coupled with their low income and short visa.

During the course of the research, FMF found they were being asked increasingly for support and assistance from workers who had not received help elsewhere. Some SWV workers had heard of Citizens Advice but not made contact and some workers contacted the GLAA and the Advisory, Conciliation and Arbitration Service (Acas) for advice. Some SWV workers, when asked what steps they had taken if they faced difficulties in the workplace, responded that they did not know where to turn:

I didn't know there is such a help available. And we were really worried that they can kick us out of the work if we say something... I don't know how it works here, in Great Britain. Because, for instance, in Belarus, if you complain, you can be kicked out. I thought here it is the same, if I complain, I can be kicked out of the work.

**Nikolai, SWV worker from Belarus, 28 July 2020**

One employer interviewed said that they had an informal worker representation system in place whereby a returnee SWV worker with good English represents the other SWV workers. Amongst interview participants it was observed that many had formed informal groupings with individuals nominated to raise a particular group grievance with the employer. The limited union density in horticulture and particularly amongst seasonal migrant workers means that alternative strategies for representation have been sought and used by workers. However, the absence of worker voice and representation mechanisms in place for SWV workers compounds the risks outlined in the above section.

Recommendations:

To the UK Government

- **Dedicate SWV funds accrued through the farm recruitment fee, to a worker support fund to which workers can apply for to join a trade union or in cases of destitution where funds are required.**

To the Scottish Government

- **Support migrant community engagement with SWV workers, by commissioning information, advice and wellbeing support programmes through relevant migrant community organisations.**
- **Offer financial support to trade unions to organise and provide advice to SWV workers.**

#### **BOX 1. COVID-19 PANDEMIC**

During most of 2020 the COVID-19 pandemic meant that workers faced a range of alterations to their normal working and living conditions. As mentioned above 2020 also saw a reduction in physical labour market enforcement inspections: the Agricultural Wages Inspectors switched from physical to online engagement, pausing their schedule of Control Test Inspections; GLAA inspectors primarily conducted their inspections online or at distance; and UKVI physical inspections have also reportedly reduced. Pilot Operators also reported a reduction in their physical inspection visits. Scottish government guidance encouraged farms to reduce “non-essential visits from external parties” (SASA, 2020,



p.12) and outlined a range of measures for farms to take including: social distancing, hygiene and worker quarantine steps. Workers were largely grouped into 'cohorts' for living and working in order to reduce interactions between workers. Some grower cooperatives introduced their own procedures to reduce worker engagement with members of the general public, telling workers that (Angus Growers):

Farms are also following social distancing advice by organising food deliveries for workers wherever possible, so they don't have to leave the farm and go into town and supermarkets.

These important virus spread reduction measures naturally also made workers far more isolated than would otherwise have been the case. The limited ability to leave the farm, few entrants to farms and greatly reduced physical labour market enforcement and audit inspections have meant some SWV workers have had extremely limited opportunities to engage with external parties that they might have otherwise asked for assistance in case of need.

## **BOX 2. POSITIVE WORKPLACE EXPERIENCE ON THE SWV**

### **Easter Grangemuir Farm**

During the course of this research one farm was identified in Scotland which had employed 10 SWV workers in 2019, 3 of whom had returned in 2020. One of the returnee workers was interviewed along with the grower, Iain Brown, in order to understand what had led workers to choose to return.

- A range of positive measures were identified that are highlighted here for consideration by other growers:
- Accommodation upgrades in preparation for receiving new workers;
- Recruit for manual jobs only to ensure expectations meet the reality;
- Translate all induction, training and caravan terms material for workers;
- Provide staff support to workers to understand their employment terms and conditions and induction on the role prior to requesting workers to sign contracts;
- Pay workers AMW per hour but provide a bonus if their performance is above what is set for the day;
- Provided waterproof clothing and boots to workers to do their jobs;
- Guarantee workers at least 5 days work per week and generally offer 6;
- Ensure workers from the same nationality as new entrants can provide guidance and support to new workers in specific job roles;
- Informally appoint a returnee SWV worker with good English to represent other workers of the same linguistic group in discussions between the employer and workers.

# CONCLUSIONS AND RECOMMENDATIONS

## CONCLUSION

This report has presented the findings of a project conducted by FLEX and FMF designed to assess the risks of worker abuse and exploitation posed by the SWP. This research collected 146 responses from SWV and non SWV workers in order to evidence their experiences of seasonal agricultural work in Scotland. By foregrounding the voices of tied and temporary migrant workers in seasonal agricultural work this research is the first of its kind. During the course of the research the SWP was extended and expanded from 10,000 workers annually to 30,000 workers, making the research findings even more important. It is hoped that this research is used by the UK and Scottish governments to inform both the future scheme design, protections for SWV workers and any further temporary migration programmes introduced in the UK.

The research findings showed a range of risks of forced labour in line with the ILO forced labour indicators. At point of recruitment, SWV worker debt, deception about the nature of the role and lack of understanding of the contract terms were identified. During work and life in Scotland SWV workers were found to be highly vulnerable to coercion into work, to face degrading living conditions and to be intensely confused and pressured by the piece rate system of payment. At point of attempting to leave their employer SWV workers were found to be deeply restricted by their SWV status. Further, together with the high debts at point of recruitment, SWV workers' limited income was also a factor in their inability to leave the employer. These risks were found to be compounded by the absence of worker representation through trade unions and low capacity of labour market enforcement to inspect and enforce standards in the sector.

Scotland currently has a high need for migrant workers to fill roles in agriculture, particularly the horticultural sector, and the NFUS strongly advocated for the SWP and its expansion. However, the risks of a SWP in horticulture have to date been unknown and despite 71 years of operation, no research to date has considered the views and experiences of workers on the SWP's predecessor scheme SAWS. This research, therefore has foregrounded the voices of SWV workers. It is clear from this research that very few worker voice mechanisms exist for seasonal horticultural workers and almost none for SWV workers, it is hoped that this report can mark the start of a conversation.

## RECOMMENDATIONS

To the UK Government

1. Ensure that employment contracts, enforceable in UK law, are shared with SWV workers in their country of origin, translated into workers' native languages and signed by employers and workers prior to travel.
2. Ensure that Pilot Operators provide workers with a choice of employment at point of recruitment and that SWV workers are then allocated the role, farm and terms they have chosen upon arrival.
3. Regulate SWV employment contracts to ensure they include: the name and address of the employer and the worker; the start and end date of the contract; the type of work to be performed; minimum remuneration to be expected; core working hours and days; leave arrangements and terms and conditions related to dismissal.
4. Make new resources available to the GLAA, and future Single Enforcement Body, to conduct overseas licence and compliance inspections.
5. Remove the visa fee (–£244 at time of writing) to reflect the limited timeframe and wages available on the SWV.
6. Guarantee SWV workers a written statement of employment particulars translated into their native language.
7. Establish a visa without sponsorship for vulnerable workers as a safeguard for migrant workers who have suffered labour abuse.
8. Establish an independent annual evaluation of the treatment of low wage temporary workers in the UK, including in-depth worker evidence, in order to inform labour market enforcement allocation and direction of resources.
9. Set minimum standards for accommodation to be upheld for seasonal agricultural workers.
10. Prohibit employers from charging workers for accommodation if for any reason their wages drop below –£332.50 per week.
11. Ensure SWV workers are guaranteed a minimum income of at least –£332.50 per week, for 35 hours work written into their contract of employment.
12. Adopt an evidence-based formula to calculate piece rates. This could be overseen by the office of the Director of Labour Market Enforcement.
13. Provide details of SWP participating farms to the HSE in order that they can conduct an individual inspection campaign targeted at participating farms.
14. Seek an annual report from the GLAA on health and safety risks identified and tackled as part of license compliance inspections for SWP participating farms.
15. Establish a clear employer transfer pathway, including transparent criteria for making a transfer request and a process for considering such requests. This should be communicated to workers at point of recruitment.
16. An independent body, separate to the visa sponsor or the employer should receive representations and make decisions on transfer requests, including a facility for workers to change Pilot Operators where desired.

17. Increase the resources to the GLAA and future Single Enforcement Body to ensure there is capacity to conduct regular proactive inspections of SWP participating workplaces.
18. Provide resources in order to increase personnel and numbers of inspections by the GLAA in Scotland.
19. Guarantee SWV workers a complaints mechanism through which workplace grievances may be aired and remedied during their time in the UK.
20. Dedicate SWV funds accrued through the farm recruitment fee, to a worker support fund to which workers can apply for to join a trade union or in cases of destitution where funds are required.

#### To the Scottish Government

1. Ensure labour market enforcement authorities establish strong links with workers and worker representatives in order to gather ongoing intelligence about worker treatment at point of recruitment.
2. Provide a destitution fund for workers who have not received adequate work, or for whom the work has not been as described, who need to be able to return home and repay expenses.
3. Issue guidance to employers on how best to introduce the written statement of employment particulars to workers, including time required for workers to digest information, employer support and information required and formal processes for raising questions and asking to amend the details.
4. Appoint a Commissioner to oversee and coordinate the treatment of and engagement with temporary migrant workers in recognition of the high-risk of labour abuse and exploitation posed to this group.
5. Conduct ongoing survey data collection with seasonal agricultural workers in order to understand their experiences and treatment at work and use this data to inform the work of the SAWB and updates to the Fair Work Action Plan.
6. Amend the Caravan Sites and Control of Development Act 1960 so that agricultural caravan dwellings are no longer exempt from local authority licensing.
7. Engage COSLA to develop minimum standards for agricultural caravan dwellings that can be used by local authorities to monitor and inspect sites.
8. Introduce regulations relating to the calculation of piece rates, including the formula used to reach a fair piece rate and means of communicating this to workers.
9. Clarify the requirements with respect to providing weather protective clothing for seasonal agricultural workers in guidance for the agricultural sector.
10. Ensure the Health and Safety Law poster prepared by the HSE, first aid arrangements, details of designated first aiders and information about Statutory Sick Pay are translated into SWV worker languages and clearly displayed in workplaces.
11. Review the role and responsibilities of the SAWB Agricultural Wages Inspectors to introduce targeted inspections of SWP participating workplaces to ensure ongoing compliance with the AWO.

12. Establish an independent helpline, open 24 hrs, 7 days a week with translation into workers' languages, for SWV workers through which concerns can be raised about potential labour abuse and labour exploitation.
13. Use this helpline to collate intelligence which can be acted on by labour market enforcement authorities and to channel transfer requests to an independent transfer body.
14. Support migrant community engagement with SWV workers, by commissioning information, advice and wellbeing support programmes through relevant migrant community organisations.
15. Offer financial support to trade unions to organise and provide advice to SWV workers.

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