

ALP

Association of Labour Providers

JULY 2019

ACHIEVING A SUCCESSFUL SEASONAL WORKERS' SCHEME

An ALP Paper to support the Seasonal Workers' Pilot



SUMMARY

The Association of Labour Providers (ALP) supported and lobbied for the introduction of a sector based Seasonal Workers' Permit Based Quota Scheme (Seasonal Workers' Scheme) for horticulture.

The ALP's support for a Seasonal Workers' Scheme comes with the proviso that any new scheme should correct the failings of the previous Seasonal Agricultural Workers' Scheme (SAWS) which was abolished in 2013. The previous SAWS Scheme suffered from inadequate scrutiny by official bodies (particularly prior to the Gangmasters Licensing Authority) and from an absence of effective access to remedy for workers.

To further this, ALP developed and published a policy paper in July 2017, [Building a Model Seasonal Workers' Scheme](#). A number of the recommendations from this paper were incorporated into the design of the pilot scheme currently being operated.

To be successful, a Seasonal Workers' Scheme needs to fulfil a number of objectives:

- Meet farmers and growers need for a productive and reliable seasonal workforce
- Be attractive and rewarding to workers, ensuring expectations are managed, workers receive what they are entitled to and are protected from exploitation
- Meet political needs – such as the effect on net migration flows, impact on local communities and that seasonal workers return to their home country at the end of the season
- To be operationally and commercially sustainable for scheme operators.

The September 2018 Migration Advisory Committee's (MAC) report on how the UK's immigration system should be aligned with a modern industrial strategy highlighted seasonal agriculture, where 99% of the workers come from EU countries. The MAC report stressed that the labour market for seasonal agricultural labour is separate from the market for resident workers "in a way that is unlike any other labour market", with the report saying it is "difficult to imagine a scenario in which this workforce can come from the resident labour market".

On 6th September 2018, the Government announced a [seasonal workers scheme pilot](#) to bring 2,500 workers from outside the EU to undertake seasonal work for up to 6 months in edible horticulture. This pilot, it was stated, whilst building on the lessons from the previous SAWS, would operate differently, reflecting new requirements of the immigration system and the need to protect vulnerable workers. The pilot opened on 6 March 2019.

The Pilot is managed by the Home Office under the [Tier 5 \(Temporary Worker\) Seasonal Worker category](#) of the immigration system. Defra is the endorsing government department. Following an open tender process, the Defra Access to Labour Team and the Home Office selected two operators, Concordia and Pro Force (Pilot Operators) and will now monitor the pilot which runs until December 2020.

THE NINE OBJECTIVES OF THE PILOT ARE TO:

1. Test the Pilot's ability to mitigate seasonal labour shortages in UK horticulture
2. Provide seasonal labour across the UK, so that all parts of the UK benefit from the Pilot
3. Determine if the Pilot might provide a longer term model for responding to seasonal labour shortages in this sector
4. Assess the capability of the industry to manage the Pilot effectively
5. Assess the impact of the Pilot on local communities
6. Ensure that the Pilot provides for robust immigration control
7. Ensure that the Pilot adequately protects migrant workers from modern slavery and other labour abuses
8. Ensure that the monitoring and reporting regime adequately informs the Home Office and Defra of the operation of the Pilot
9. Assess the financial impact of the pilot.



ELIGIBILITY TO BE A SCHEME OPERATOR

Labour providers (Scheme Operators) are best placed to source and supply Seasonal Workers' Scheme workers (Seasonal Workers) to farmers and growers (Scheme Users) operating within a licensing arrangement run by the Gangmasters and Labour Abuse Authority (GLAA).

The are persuasive reasons why the Scheme Operators are labour providers rather than end user employers. These include:

- Tying a worker's visa to a single employer risks the Seasonal Workers' Scheme being regarded by many as no more than an "official bonded labour scheme" with workers bound by visa restrictions (much as those currently on a Domestic Workers in a Private Household visa). This runs counter to current government modern slavery policy and the January 2016 UK ratification of P029 – Protocol of 2014 to the Forced Labour Convention, 1930.
- Labour providers are licensed and regulated by the Gangmasters and Labour Abuse Authority whereas end user employers are not covered by the licensing requirements. Utilising GLAA licence holders as scheme operators ensures an already established, effective and well respected regulatory environment.
- Labour providers carry significantly higher levels of candidate sourcing resource in comparison to an end employer. Labour providers use more sources of labour to fulfil client requirements than relying on the scheme alone.
- Labour providers ensure the best opportunities for Seasonal Workers. Under the old SAWS scheme, individuals were, in the main, bought into the UK to complete a season on one farm or site. If there was no or little work, then SAWS workers, being on zero hours contracts, did not work or earn money.
- Labour providers are best positioned to transfer Scheme Workers between Scheme Users as the season progresses and thus:
 - Source alternative seasonal work for any Seasonal Workers for whom there is no longer any or insufficient work with a particular Scheme User and seek to ensure that workers obtain a reasonable amount of work within a season by managing supply and demand between a number of Scheme Users.
 - Provide Seasonal Workers with the opportunity to leave a particular Scheme User and seek employment elsewhere if that worker is not suited to the work and/or environment of the employer they are placed with.
 - Provide Scheme Users with the best mechanism to engage Seasonal Workers for the period and hours that they require.
 - Make the maximum use of Seasonal Worker's time in the UK. By using the same workers to fulfil a number of seasonal roles at different Scheme Users across the calendar year, labour providers reduce recruitment requirements and the number of individuals being bought into the UK to meet the requirements across all crops and products.
- Some large growing businesses have expressed interest in becoming Scheme Operators to meet their own seasonal worker requirements. This may be achieved by such businesses setting up a labour provider model (as some have done) and meeting the application criteria.

MEETING THE CONDITIONS TO BE APPOINTED AS A SCHEME OPERATOR

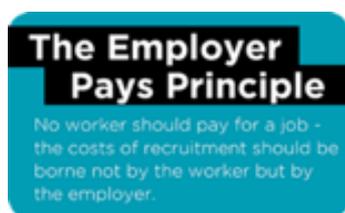
To be considered as a potential operator of the Pilot, applicants were required to complete and respond to a thirty page [Request for Information](#). This was generally a well crafted document and forms a sound base for a permanent Seasonal Workers Scheme application and selection process. Refinements will be informed by the Pilot.

Application to be a Scheme Provider should be open to all GLAA licensed labour providers that can demonstrate that they meet the application criteria to ensure effective competition, innovation and investment in candidate attraction.

Lessons from the Pilot highlight the following essential conditions that must be able to be delivered by a Scheme Operator:

- **Well invested and financially stable business** – There are significant set up and ongoing costs involved which Scheme Operators will need to fund. Operators need to be able to demonstrate that they have the financial resources to operate the scheme.
- **Sourcing structure** – Scheme Operators need to be able to demonstrate that the way they source workers in sending countries:
 - Minimises exploitation risks to workers from unauthorised agents and brokers;
 - Effectively prevents and manages corruption risks;
 - Provides sufficient, suitable workers at a financially sustainable cost.
- **Manage Visa Administration** – Scheme Operators need to dedicate sufficient resource to manage the visa process to prevent bureaucratic administrative delays.
- **Manage Workers' Expectations** - Through transparency of pre-application, pre-departure, arrival and ongoing communication and training to ensure that Seasonal Workers are provided with clear, comprehensible and verifiable information to understand the Scheme and how it works, their contract of employment, employment rights etc. It is essential to manage expectations that they cannot work long hours every day, seven days per week but are limited by the Ethical Trading Initiative Base Code to regular hours of 48 per week and a maximum of 60 hours per week.
- **Operate an effective Scheme User Client Audit Process** – under the Scheme rules, the Scheme Operator needs to complete a robust audit assessment of all clients where they are placing workers. This needs to include all aspects of worker welfare including accommodation.
- **Quality labour planning process** – Scheme Operators need to be able to provide work for the whole period of the visa, move workers to where the work is and share workers across growers – taking proper account of workers' personal requirements and preferences. Therefore, Scheme Operators and clients must be able and committed to developing a quality labour plan with timescales completed well ahead of the season and be updated on a regular basis.

- **Fairly allocate a limited supply of workers** – Question E2 of the [RFI](#) required potential Pilot operators to: “Describe the process you will use for placing Pilot workers with employers, if demand from growers proves to be greater than supply.” These processes are not public, but Defra confirmed that, “The two selected operators were able to provide reasonable proposals for the allocation of workers.”
- **Meet client requirements** – for the right number of good quality, productive, reliable workers at the right time at a sustainable cost;
- **Meet standards** – through the ongoing requirements of the [GLAA Licensing Standards](#), the [Home Office Sponsor Licence](#) requirements, Agricultural Wages Orders requirements in Northern Ireland, Scotland and Wales, the ETI Base Code, and if required, [Responsible Recruitment](#) standards and [Clearview](#) certification.
- **Effectively prevent risks of modern slavery** – The Defra Seasonal Workers Pilot [Request for Information](#) required applicants to “Confirm that you will work with the Gangmasters and Labour Abuse Authority and Stronger Together to review your existing safeguarding process and, if necessary, develop new processes.”
- **Effectively operate the ‘Employer Pays Principle’**



- **Collect and provide reliable data** – The Seasonal Workers Pilot Request for Information, laid out the information that “Pilot Operators will be required to provide to Defra and the Home Office, to allow the effective monitoring and evaluation of the pilot”. This is detailed at [Section 10 Defra Monitoring and Reporting](#).
- **Implement systems to prevent workers absconding** – Paragraph 38.7 of the [Tier 2 and 5 Sponsorship Guidance](#) states that: “You are responsible for ensuring that you sponsor only those migrants who you are satisfied are genuinely coming to the UK to undertake seasonal employment in the horticultural sector, and who intend to leave the UK once their entry clearance has expired. Specifically, we will revoke your licence if, within any 12-month period, any of the following occur:
 - fewer than 90 percent of your sponsored migrants are granted entry clearance
 - 5 percent or more of your sponsored migrants who obtain entry clearance fail to arrive at their place of employment
 - fewer than 95 percent of your sponsored migrants who obtain entry clearance return overseas at the end of their permitted stay.”

ELIGIBILITY AND CONDITIONS TO BE A SCHEME USER

Scheme Users wishing to engage workers supplied through a Seasonal Workers' Scheme must operate within the [Edible Horticulture](#) sector and Meet social compliance requirements.

Paragraph 38.10 of the [Tier 2 and 5 Sponsorship Guidance](#) requires Scheme Operators to: "undertake robust and comprehensive monitoring of all the migrants you sponsor in their work place, including ensuring that:

- their work environment is safe and complies with relevant Health and Safety requirements
- they are treated fairly by their employer
- they are paid properly – this includes satisfying National Minimum Wage regulations and Holiday Pay
- they are allowed time off, and proper breaks
- they are provided with appropriate equipment to do their job safely
- they are housed in hygienic and safe accommodation
- they are not transported in unsafe vehicles
- they are not threatened with, or subjected to, violence
- their passport is not withheld from them
- procedures are in place to enable migrants to report any concerns to you, and to enable them to move to another employer where possible."



MEETING GROWERS' NEED FOR A PRODUCTIVE AND RELIABLE SEASONAL WORKFORCE

"The addition of non-EU nationals to our work force has already made an enormous difference to our business.

We have seen a massive improvement in productivity, through a combination of workers being highly motivated and picking fruit to the correct standard, so that it does not need to be re-worked through our pack house.

We have had 100% attendance, 100% arrival rate on farm (i.e. zero no-shows) and 0% early leavers.

Concordia have successfully recruited enthusiastic, highly motivated individuals who are excited at the prospect of working in UK agriculture. They understand that they have six months to work hard a earn as much money as possible and improve their language skills before they return home.

The farm is once again a happy place to work, with enthusiastic people, motivated to do a good job, and maximise all aspects of their short stay with us."

Charles Kidson, Lower Reule Farm

"I am delighted to report that the pilot scheme is working incredibly well for us. All of the SAWS workers have arrived on time, they are intelligent, fit, healthy, with a positive attitude and a keen desire to start work immediately.

They have a 100% attendance record to date and their productivity levels have been extremely good. It has been a great help to the start of our fruit season, and they are setting a great example for the rest of our workforce. Their contribution is undoubtedly going to make a real difference to us this season".

Sheena Stewart, Stewarts of Tayside

"Our experience of the pilot scheme has been great; our workers have arrived on time and in full. The administration of the scheme has been incredibly complex, however our labour provider has dealt with this effectively and made it simple for us.

The workers themselves are of an excellent calibre; they are performing well, are enthusiastic and want to work. Productivity levels are above what we would typically expect from new starters. The addition of the staff to our farm has been welcome and our account management team at Pro-Force have provided an excellent service to us and our workers alike."

Will Goosen, G's Fresh

SEASONAL WORKERS SCHEME – PROVIDING OPPORTUNITIES FOR WORKERS

"The process of dealing with the agent and Concordia was smooth, and easy. After just a few weeks, I received my 6 months contract with a British farm. A few weeks later, my visa followed, which I had paid for. No extra charge or fees has been paid, even for the arranging of transport, which was a pleasant surprise. The work on the placement is not easy, but I was prepared for this, and I hope to come to the UK again in 2020."

Alex, 31, Ukraine

"On my current work placement, I am gaining practical skills and knowledge in growing and picking strawberries, raspberries and blueberries. The professional approach of my agent, Concordia, the farm management, team leaders and my team make the job very manageable and interesting for me."

Oleksandr, 24, Ukraine

"The whole process of finding out about job to travelling to the UK been simple for me. Pro-Force staff are always available for me to speak to if I have any questions, and my job is hard work but I am enjoying it. The weather in England is very changeable, but the countryside is pretty and there is a busy town only a short bus ride away."

Yuliia, 29, Ukraine

"I was very pleased with how simple the VISA process was for me. I did not have to pay additional fees or anything else, Pro-Force made everything easy for me. Everything is as they told me it would be. I have good job, I have made friends. I will come again with Pro-Force next year."

Anastasiia, 31, Ukraine



REVIEWING THE SEASONAL WORKERS' SCHEME PARAMETERS

Scope - During the pilot, workers may be sourced for seasonal work, defined as "Employment which fluctuates or is restricted according to the season or time of the year", within the [Edible Horticulture](#) sector, to undertake [listed activities](#). Activities not deemed appropriate are those that require labour all year round and are therefore not seasonal or work predominantly in offices or other administrative spaces.

- The Scheme should be extended to non-edible horticulture
- Scheme Operators, Users and others should respond to Defra on the existing definitions.

Period – The Seasonal Workers' Scheme permit period is currently limited to 6 months. Seasonal workers are able to return each year. Maximising year on year return of experienced, reliable and high performing workers is core to the productivity of the horticultural sector.

- Proper examination should be given to whether the visa period should be extended above 6 months per year to enable seasonal workers to cover extended seasons and to reduce the number of workers required and to reduce costs of Scheme operation.

Licence Numbers – Seasonal labour [supply and demand analysis](#) is now being collected by Defra. Additional data is collected by the NFU and the ALP.

- Defra should review the data collected with a small Seasonal Workforce Stakeholder Group to ensure that it meets objectives and is as valid and reliable as is achievable.
- Defra should recommend to the Home Office the numbers of Seasonal Workers licences to be issued for the following season. The Home Office should publish the number of licences available for the following year by the end of July.

Sourcing Countries – To be eligible for a Tier 5 (Temporary Worker) Seasonal Worker visa, applicants must be from outside the European Economic Area (EEA). Defra confirm that, "There are no specific countries for the recruitment of seasonal workers for the pilot. It is for the operators of the pilot to identify suitable source countries for workers."

- It is not commercially or operationally practical for Scheme Operators to establish worker sourcing operations in more than two or three countries. If numbers were increased operating this would be less of an issue as economies of scale would allow for a higher number of operating centres.
- The Equalities and Human Rights Commission should provide official guidance on how Scheme Operators can operate in this way without facing legal challenges of direct or indirect discrimination.
- The requirement for Scheme Operators to identify suitable source countries for recruitment of workers has opened them to a minefield of potential and actual discrimination litigation. The Immigration White Paper refers to "low risk countries". The Home Office should define the countries from which workers may be recruited. This should include detail on the legislative requirements for recruiting staff and setting up business activities abroad. There has been significant complexity negotiating Ukrainian and Moldovan legislation.

- Alternative UK sources of labour for Tier 5 (Temporary Worker) Seasonal Worker visas should be. For example:
 - Allowing refugees and asylum seekers, who are in the UK but currently not allowed to work, to undertake such roles.
 - As a pathway to regularise those individuals that have entered or remained in the UK illegally and for whom there is no reasonable prospect of agreed deportation.

Visa Processing – Is managed by [TLSContact](#) – “TLScontact is the Commercial Partner of UK Visas and Immigration, part of the UK government. We provide services to customers applying for UK visas.” The fee for a Tier 5 (Temporary Worker) Seasonal Worker visa is currently £244. What this fails to mention are the additional charges applied by TLSContact for expediting services which are, in practice, obligatory when offset by the lost earnings when compared to the ‘free’ service.

Ukraine – On 17 May, the earliest date for a free appointment was 4 weeks. It takes 3 weeks from that date to get the visa

- Cost of appointments sooner 80 -100EUR
- To have passport sent to them after the visa is given (or not) : 8EUR Kiev, 20EUR other regions
- Help in uploading documents for the appointment – 28EUR
- Flex (i.e. walk in) appointments 80EUR
- Prime time appointment 113EUR
- Form filling assistance 45EUR
- Group service (i.e. all members of a group can apply at the same time – important for groups of students) – 56EUR
- Online payment assistance – 5EUR

Moldova

- Day 1 appointment 67EUR (only appointment for giving of docs)
- Day 2 (new opening day) appointment for a visa 90EUR
- Speeded up visa – 254EUR for non-settlement appointment
- Speeded up visa – 680EUR for a settlement appointment

This needs to be addressed by the Home Office. A “Service Level Agreement” needs to be established with transparent and efficient arrangements that do not penalise workers or Scheme Operators.

The physical process of applying for the visa is complex and administratively heavy. The worker is required to complete an extensive online application, which is not available in their own language, and ensure all data relating to visa validity dates is correct, as there is little recourse to amend any mistakes that may be made.

Visas can only be applied for 3 months in advance, there are benefits to enable returnees to obtain a visa further in advance, to give these workers the confidence that they will be able to return.

There are a number of opportunities to improve the efficiency and accessibility of the current visa processing arrangements and these should be explored with the Home Office and Pilot Operators;

Ethical Business Practices – There are practicalities around GLAA licensing and ensuring that GLAA licence standards are adhered to with regards to overseas agencies. There are long established challenges with how standards are checked, what is practical, cost effective and achievable with GLAA licensed overseas agents.

General business practice in some countries does not typically reflect the required ethical standards for the Scheme. Risks of financially related corruption, charging of hidden recruitment fees and other financial risks to workers high.

Formalisation of guaranteed hours – Provide that the Scheme Operator and/or the Scheme User offer a model "Living Hours" contract to protect workers key objective to earn money over the season. Workers should be guaranteed (with provisos) a minimum number of hours per week, averaged over the season and sufficient on a weekly basis to cover food, accommodation and some discretionary expenditure.

Local employment opportunities – Each Scheme User seeking to use the Seasonal Workers' Scheme should be assigned a Department of Work and Pensions (DWP) account manager to be working together proactively to:

- Ensure vacancies sought to be filled through the Seasonal Workers' Scheme are advertised at local Jobcentres to offer the potential for work opportunities within the local community, to sectors of the market such as students in higher education, into urban centres and regional areas where unemployment remains and where internal temporary migration may be possible.
- Develop open recruitment policies to provide employment opportunities to harder to reach sectors of the working community through HM Government's [See Potential](#) initiative.

Taxation etc

- Employment tax and national insurance arrangements should be reconsidered for seasonal workers so that they are not prompted into leaving once primary thresholds have been reached as exists currently. Deductions could potentially be from week one with no facility to claim rebate for part year worked. By making tax and national insurance contributions such workers may fairly access NHS and other relevant social services.
- Auto-enrolment presents a disadvantage to these workers, as it is unlikely that they will access their pension pot. The requirement to pay the Apprenticeship Levy, whilst legally compulsory, is an anachronism.

PROVISION OF GOOD WORK AND PREVENTION OF EXPLOITATION

Under the Tier 5 Temporary Worker - Seasonal Worker Visa, workers can carry out specified farm work in the UK for up to 6 months. Workers cannot: take a permanent job, work in a second job or a job that isn't described in the certificate of sponsorship, bring family members, or get public funds. Public funds include housing support and benefits given to people on a low income but do not include benefits that are based on National Insurance contributions.

1. Matters that have been addressed in the design of the pilot to ensure the provision of good work and to prevent worker exploitation include:

- Freedom of movement – by appointing labour providers as Scheme Operators, visa restrictions do not precipitate a situation that is to all intents and purposes bonded or compulsory labour. As per the Pilot website. "Under the Pilot, the operator may not source labour for themselves, only as a third party provider, whereas in the pre-2013 SAWS growers were licensed to recruit their own labour."
- Preventing forced labour - Scheme Operators are required to demonstrate a proactive approach to work with the Gangmasters and Labour Abuse Authority and Stronger Together (www.stronger2gether.org) to ensure effective safeguarding processes.
- All organisations and individuals supplying labour throughout the whole labour supply chain, both overseas and in the UK, are required to be licensed by the Gangmasters and Labour Abuse Authority.
- That Scheme Providers and Scheme Users meet social compliance standards with regards to workers and that accommodation provided by Scheme Users meets minimum standards (for caravan type accommodation as per Fresh Produce Consortium guidance).

2. Matters that have been partially addressed in the Pilot but require further attention:

- Ensuring the 'Employer Pays Principle', that recruitment costs are a business cost and not required to be met or passed onto workers.
 - To prevent unsustainable / uncompetitive models being operated, potential pilot operators had to provide Defra with reasonable commitments on the amounts they will charge, and the terms and conditions they will offer growers and employers as part of their RFI response.
 - The Pilot Operators have implemented due diligence measures to seek to prevent applicants being charged 'hidden fees' through levels of the labour sourcing process.
 - Paragraph 38.12 of the Tier 2 and 5 Sponsorship Guidance states that "[the sponsor] must not place any additional charges on participating migrants, beyond the costs of administering the scheme." The "costs of administering the scheme" are not defined but under existing Pilot Scheme operation, of the visa (£244) and transport to the UK is paid by the worker.
 - On 4th May, ALP wrote to the Home Office Modern Slavery Unit and the GLAA to seek to expedite a resolution to this issue. A response is awaited to the following email.

Email from: Association of Labour Providers

Email to: Home Office Modern Slavery Unit and Gangmasters and Labour Abuse Authority
May 4th, 2019

BACKGROUND

1. The UK has agreed common Principles for Tackling Modern Slavery in Supply Chains with the U.S., Canada, Australia and New Zealand and particularly : "Governments should advance responsible recruitment practices... including by implementing policies that incentivize and support responsible practices, and by supporting initiatives such as the "Employer Pays Principle". Governments can also contribute to the growing knowledge base of promising practices for protecting workers from fraud and exploitation in the recruitment process. Announcement in email below.
2. The UK is one of 164 countries that has approved the 'Global Compact for Safe, Orderly and Regular Migration' in December 2018 which sets out a framework for international co-operation on managing migration, including facilitating fair recruitment, decent work and eliminating discrimination.
3. The ILO Governing Body has approved the publication and dissemination of the Definition of Recruitment Fees and Related Costs, to be read in conjunction with the General Principles & Operational Guidelines for Fair Recruitment.
4. The US Federal Acquisition Regulation: Combating Trafficking in Persons – Definition of Recruitment Fees was updated in January 2019 and is aligned with the ILO position.
5. The International Labour Organization and the Gangmasters Licensing Authority have signed a letter of intent to strengthen their collaboration on tackling abusive recruitment practices that trick workers into modern slavery and forced labour.
6. GLAA Licensing Standard 7.1 Critical: Fees and providing additional services
 - A licence holder must not charge a fee to a worker for any work finding services.
 - A licence holder must not make providing work finding services conditional on the worker:
 - using other services or hiring or purchasing goods provided by the licence holder or any person connected to them, or
 - giving or not withdrawing consent to disclosing information about that worker other than what is required for the work finding services.
7. GLA Brief Issue 38 - Job Finding Fees and Providing Additional Services describes how the Licensing Standards apply to services provided to workers for which additional fees are charged.
8. The Defra Access to Labour Team, with regards to the Seasonal Workers Pilot, in response to the ALP question, "Where is it defined precisely, in accordance with ILO definitions, what recruitment costs the SWS operators and agents can charge to workers and what must be considered business costs?" responded on 23 April 2019, "Paragraph 38.12 of the Tier 2 and 5 Sponsorship Guidance states that "[the sponsor] must not place any additional charges on participating migrants, beyond the costs of administering the scheme."

QUESTIONS

1. Home Office Modern Slavery Unit – having confirmed support for the “Employer Pays Principle” initiative, please can you advise if the UK government has or will adopt the same interpretation as contained in the ILO Definition of Recruitment Fees and Related Costs?
2. GLAA – please can you advise how the GLAA will interpret Paragraph 38.12 of the Tier 2 and 5 Sponsorship Guidance with regards to Licensing Standard 7.1. As you will appreciate, with this being a Critical standard, a clear and precise definition is required by licence holders. In the GLAA’s interpretation, what costs does “administrating the scheme” allow a licence holder to charge workers? Will the GLAA’s interpretation of this be in line with the ILO Definition of Recruitment Fees and Related Costs or will the GLAA take a different position?
3. GLAA – An outstanding action from last year’s industry consultation is for the GLAA to update Brief 38 - Job Finding Fees and Providing Additional Services. Please can you advise when you expect to be able to do this?

3. The following are examples of operational issues with regards to the provision of good work and the prevention of exploitation that are not addressed in the design of the pilot scheme. The list is not exhaustive.

These should be incorporated into the design of a future scheme or be addressed through development of a ‘Code of Good Practice and Procedures Standards’ which Scheme Operators and Users sign up to.

- Arrangements where workers terminated for gross misconduct offences where an Acas code of practice compliant procedure has been followed may have their seasonal workers permit revoked.
- As workers will have no recourse to other work or public funds – The average number of hours to be provided over a month / season or may zero hours contracts be provided with no guarantee of any minimum amount of work? Provision of regular work with contractual models that offer more than a ‘zero-hours contracts’ such as minimum levels over a season.
- Arrangements for periods where there are gaps in work assignments and the worker is earning no money? Defra state that, “The Pilot Operator will be responsible for ensuring that the Pilot workers they source are provided with a regular income, and not left destitute if, for any reason, full-time work is not available over any particular period.” What does this mean in practice?
- Rights a worker has to refuse the offer of work at a particular client or location?
- Arrangements should a worker be i) summarily dismissed for gross misconduct ii) dismissed for other reasons iii) is not competent or capable to do the job iv) if the worker refuses a work offer?
- Responsibility for covering the cost of a worker returning home i) at the end of the season ii) if the worker chooses to return home early iii) in any of the situations above?
- Obligations on an operator should a worker commit a criminal or civil offence?

- Arrangements if the worker has an accident at work or outside of work and is incapacitated and unable to work? Requirement and arrangements for insurance.
- Arrangements around accommodation should a worker fail to pay a client, transfer of liability to operators.
- In the event of serious injury or death, responsibility for arrangements and cost of repatriation? Requirement and arrangements for insurance.
- How will monitoring of implementation of proactive, preventative steps to effectively prevent and respond to potential indicators of modern slavery be achieved?
- Arrangements required to ensure that seasonal workers are aware of their rights – including their right to representation - and have access to remedy if these rights are not respected? Use of technological solutions.
- In the event of a lack of trade union representation, will employers be required or encouraged to facilitate the organisation of such as a seasonal workers' welfare committee to provide a clear opportunity for seasonal workers to voice any concerns or vulnerabilities?



ABOUT THE ASSOCIATION OF LABOUR PROVIDERS (ALP)

ALP (www.labourproviders.org.uk) is a trade association promoting responsible recruitment and good practice for organisations that supply the workforce to the consumer goods supply chain across the food processing, horticultural and wider manufacturing, industrial, warehousing and distribution sectors. End users of such labour may join the ALP as Associate Members.

ALP member organisations supply approximately 70% of the temporary contingent workforce into the food growing and manufacturing supply chain. Many of these workers progress to form the permanent workforce for UK industry. All organisations that supply labour into these sectors are required to be licensed by the Gangmasters and Labour Abuse Authority (GLAA).

Labour providers operate in a very competitive market. The rate charged by a labour provider to the hiring client for the supply of temporary workers is a commercial agreement which must take into account the particular costs of supply. Hirers of temporary labour that pay unrealistically low rates are knowingly or recklessly conniving in illegality as these rates can only be achieved either through worker exploitation or tax evasion or both.

ALP with its partners develops tools and programmes to enable supply chains to prevent and remedy hidden worker exploitation and assess and improve social compliance standards:

ALP is a lead development partner in the Stronger Together programme, a business led multi-stakeholder collaborative initiative to equip employers and recruiters with the practical knowledge and resources to tackle modern slavery in their business and supply chains by providing free good practice guidance and tools through www.stronger2gether.org.

Responsible Recruitment Toolkit, a one-stop capacity building online toolkit to support supply chains to embed responsible recruitment management systems

Complyer – self and third party ethical audits of UK labour providers

Clearview, a global responsible recruitment certification scheme for labour providers.

Fast Forward, a next generation, social compliance audit and labour standards improvement programme in supply chains.

NOTICE

This document has been prepared by the Association of Labour Providers (ALP) and is issued on the basis that it is for information purposes only. ALP does not provide any assurance as to the appropriateness or accuracy of sources of information relied upon and does not accept any responsibility for the underlying data used in this report.

The opinions and conclusions expressed in this report are those of ALP. Should anyone choose to rely on this report, they do so at their own risk. ALP will accordingly accept no responsibility or liability in respect of this report to any person.

No person is permitted to copy, reproduce or disclose the whole or any part of this report unless required to do so by law or by a competent regulatory authority.

ACKNOWLEDGEMENTS

Thanks to the Seasonal Workers Scheme Pilot Operators, growers, seasonal workers and ALP members who have inputted to this report.

CONTACT US

David Camp | ALP Chief Executive | 01276 509306 | info@labourproviders.org.uk

