



An inspection of the immigration system as it relates to the agricultural sector

May – August 2022

David Neal

Independent Chief Inspector of
Borders and Immigration

An inspection of the immigration system as it relates to the agricultural sector

May – August 2022



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, [visit nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third-arty copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/official-documents.

This publication is available at www.gov.uk/ICIBI.

Any enquiries regarding this publication should be sent to us at:

Independent Chief Inspector of Borders and Immigration
1st Floor, Clive House
70 Petty France
London
SW1H 9EX

ISBN 978-1-5286-3714-5

E02806107 12/22

Printed on paper containing 40% recycled fibre content minimum.

Printed in the UK by HH Associates Ltd. on behalf of the Controller of His Majesty's Stationery Office

Our purpose

To help improve the efficiency, effectiveness and consistency of the Home Office's border and immigration functions through unfettered, impartial and evidence-based inspection.

All Independent Chief Inspector of Borders and Immigration inspection reports can be found at www.gov.uk/ICIBI

Email us: chiefinspector@icibi.gov.uk

Write to us: Independent Chief Inspector of
Borders and Immigration
1st Floor, Clive House,
70 Petty France,
London, SW1H 9EX
United Kingdom

Contents

Foreword	2
1. Key findings	4
2. Recommendations	8
3. Background	9
4. Scope	27
5. Methodology	28
6. Inspection findings: immigration routes	29
7. Inspection findings: engagement and communication between the Home Office and the agricultural sector	34
8. Inspection findings: compliance	41
9. Inspection findings: clarity of roles and responsibilities	51
Annex A: Worker welfare interview question analysis	53
Annex B: Seasonal worker distribution by county	57
Annex C: Eligible occupation codes for Skilled Worker route	59
Annex D: Role and remit of the Independent Chief Inspector	61
Annex E: ICIBI 'expectations'	63
Acknowledgements	65

Foreword

The Home Office has facilitated the effective movement of around 66,000 overseas workers into the agricultural sector over the last 18 months in the face of the twin challenges of COVID-19 and the conflict in Ukraine. Bringing foreign labour into the industry plays a pivotal role in the UK's production of food and directly contributes to the country's food security.

In order to recruit overseas workers, the agricultural sector depends on the Home Office providing an efficient and effective immigration system. The Home Office is a critical enabler to the industry and to be effective it needs to be responsive to changing circumstances. Partnership with industry is key to improving agility and, to be effective, that partnership needs to be based on trust and sound communication, underpinned by a clear understanding of roles and responsibilities, and it needs to be balanced, at all times, against the need to protect seasonal workers, who are at increased risk from exploitation.

The Home office has succeeded in playing its part in delivering immigration routes for the agricultural sector that go some way to meeting their stated needs. However, this inspection found significant room for improvement in three key areas: compliance, communication and clarity of roles and responsibilities.

Firstly, with regard to compliance, the Home Office should significantly raise its game to assure itself that scheme operators of the Seasonal Worker route are meeting compliance requirements. Officials acknowledged the tension between supporting the agricultural sector and ensuring good governance of the immigration system and had drafted comprehensive requirements for scheme operators. These have improved as the scheme has matured. However, unless this guidance is underpinned by policies, resolve and resources, it is unlikely to make a material difference. In a supply chain in which workers are vulnerable to exploitation, the Home Office needs to do more to assure itself, the sector and the general public that it is not perpetuating unacceptable employment conditions for seasonal workers.

Secondly, there is significant appetite in the agricultural sector for improved engagement with the Home Office, and numerous organisations expressed a desire for greater collaboration. Unfortunately, the current method for communication and engagement seems to have left the sector and associated stakeholders disappointed. The Home Office should seek to capitalise on the sector's desire to engage.

Finally, this inspection highlighted a lack of clarity regarding roles and responsibilities within government, particularly in relation to the Seasonal Worker route. This is complex, dynamic, cross-government business; seasonal workers directly contribute to our nation's prosperity and food security. The Home Office is a key enabler, but the evidence in this inspection points to the need for a much better coordinated approach across government to really improve effectiveness.

I have made three recommendations.

This report was sent to the Home Secretary on 28 September 2022.

A handwritten signature in black ink, appearing to read 'D. Neal', with a horizontal line underneath.

David Neal
Independent Chief Inspector of Borders and Immigration

1. Key findings

- 1.1** This inspection took a broad, thematic approach to look at immigration as it relates to the agricultural sector. In particular, it examined three areas:
- the effectiveness of the routes available to support the sector
 - the extent and quality of communication and engagement between the Home Office and the sector
 - how the Home Office assures itself that sponsors of agricultural workers are upholding their compliance requirements, including those relating to worker welfare

Immigration routes for the agricultural sector

- 1.2** Multiple agricultural sector organisations publicly criticised the government’s response to labour shortages in the food and farming sector, which they say have become more acute as a result of the UK’s exit from the EU. In response, the government has insisted that the sector must focus on recruiting from the resident labour market and on automation (to reduce the need for physical labour), rather than rely on immigration to meet labour needs.
- 1.3** To bridge the gap between low levels of recruitment from the resident workforce and greater uptake of automation, and in order to meet the agricultural sector’s current labour needs, the government announced the introduction of a ‘Seasonal Workers Pilot’ in 2019, which is now a confirmed visa route until 2024. In 2020, the UK government also added certain agricultural roles to the list of eligible occupations for the Skilled Worker route, part of the revised points-based system.¹
- 1.4** Both routes require that workers be sponsored by either the employer, in the case of the Skilled Worker visa, or a ‘scheme operator’, in the case of the Seasonal Worker visa. While any company can apply to the Home Office for a licence to sponsor an eligible prospective employee for a Skilled Worker visa, the scheme operators that sponsor applicants for Seasonal Worker visas must be endorsed by the Department for Environment, Food and Rural Affairs (Defra) and licensed by the Gangmasters and Labour Abuse Authority (GLAA) in order to be eligible to apply. Scheme operators administer the route, acting as the licensed sponsors for any workers on the route. They recruit overseas workers subject to a quota of 40,000 for 2022, and supply these workers to farms or growers who contract directly with them. As at July 2022, only four organisations hold a sponsorship licence as Seasonal Worker scheme operators.

¹ A points-based immigration system is an immigration system where someone’s eligibility to immigrate is determined by whether they are able to score above a threshold number of points in a scoring system that might include such factors as education level, wealth, connection with the country, language fluency, existing job offer, or others. Following the UK’s departure from the European Union, a revised points-based system (PBS), applicable to both EEA and non-EEA nationals, was introduced and came into effect on 1 January 2021.

Seasonal Worker visa

- 1.5** Through the Seasonal Worker route, the Home Office has facilitated around 66,000 agricultural workers since the route began in 2019, without which the sector says its industry would have “collapsed”. The visa processing service has been effective and efficient, notwithstanding temporary delays in spring 2022 as a result of the Home Office’s prioritisation of visa applications for Ukrainians.
- 1.6** Overall, though, various farmers and farmers’ representative organisations submitted that the Home Office underestimated the efforts they had undertaken to recruit from the resident labour market and overestimated its ability to utilise automation. This led to frictions and frustrations on both sides.
- 1.7** In written submissions and in interviews, farmers and growers raised specific issues with the route, citing areas where improvements could enhance the route’s effectiveness for them. Suggestions included increasing the number of visas issued annually, increasing the length of validity of the visa, and increasing assurances that a scheme would last beyond 2024.

Skilled Worker visa

- 1.8** Through the Skilled Worker route, a total of 2,389 certificates of sponsorship had been assigned for roles within the agricultural sector since the introduction of the revised points-based system.² While uptake of this route is considerably lower than the Seasonal Worker route, this route also supports the mobility that the sector requires.
- 1.9** Some farmers and sector representative organisations welcomed the addition of roles within the industry to the list of eligible occupation codes. However, most of the labour required by the sector related to the picking, packing and processing of fruit and vegetables, roles which some sector organisations describe as skilled, but which are only eligible under the Seasonal Worker route.
- 1.10** Most respondents felt that the eligibility requirements of the Skilled Worker route were too restrictive, especially the English-language requirement. The process of becoming a sponsor was perceived as complicated, expensive, and bureaucratic, despite the Home Office having hosted specific events aimed at supporting the sector to understand how to apply.

Communication and engagement with the agricultural sector

- 1.11** There was a stark contrast between the sector and the Home Office perception of the strength of their communication and engagement, suggesting the relationship currently is not as effective as it could be.
- 1.12** Some stakeholders from the agricultural sector liaised with the Home Office through formal and informal routes. However, farmers and other growers, some of whom employ hundreds of seasonal workers, said that they did not engage at all with the Home Office. They either liaised with Defra, with scheme operators of the Seasonal Worker visa, or with sector representative organisations.

² Home Office PRAU Data – Certificates of sponsorship for all roles engaged in agricultural sector covering 2009 to 3 August 2022.

- 1.13** Where engagement was routine, for example in the stakeholder ‘advisory groups’ regularly convened by the Home Office, agriculture was rarely mentioned. Minutes reviewed by inspectors indicated that the only advisory group in which agriculture was given a specific focus was the Vulnerability Advisory Group, where the focus was on the Seasonal Worker route. Numerous attendees reported that the Home Office was not open to feedback, was not interested in consultation, and that the engagement was ‘one-way’.
- 1.14** The Home Office, however, felt that relations with the sector had improved over time. It acknowledged that it was a relatively embryonic relationship and had evolved more recently as a result of the UK’s exit from the EU and the subsequent development of the visa routes.
- 1.15** The Home Office maintained that it was the responsibility of Defra to ‘own’ stakeholder engagement, though it was unclear to inspectors why this was the case, given that agriculture is the only sector with its own specific immigration route, and that Defra has a limited and specific role. The ICIBI inspection into the immigration system as it relates to the higher education sector noted the Home Office ‘owned’ its engagement with the higher education sector, rather than the Department for Education.
- 1.16** The Seasonal Worker route appeared to have been designed to incorporate cross-government working. However, the evidence suggested that the roles, responsibilities and limitations of different government departments were not clearly defined or publicly understood.

Compliance requirements and worker welfare

- 1.17** The Home Office updated its compliance requirements in April 2021 for scheme operators of the Seasonal Worker route. This was a consequence of a 2019 joint review carried out by Defra and the Home Office, which cited ‘unacceptable’ welfare-related concerns. As a result, the Home Office introduced additional requirements for the four scheme operators. This inspection found that the Home Office’s efforts to update the compliance requirements have been undermined by its inability to measure effectively whether they are being upheld.
- 1.18** The updated compliance requirements for the Seasonal Worker route are not focused solely on immigration compliance, as is the case in other areas where sponsorship is required (for example, for skilled workers or students). Recognising the high-risk nature of the route and the risk of exploitation running through the agricultural sector more broadly, the requirements are also focused on ensuring worker welfare. The guidance states that scheme operators must undertake “robust and comprehensive” monitoring, including ensuring that workers are treated fairly, paid properly, housed in hygienic and safe accommodation, and that they are allowed time off with proper breaks. It states that scheme operators “must fully comply with all the requirements in this section or we will take action against you, up to and including the revocation of your sponsor licence”.
- 1.19** To measure compliance with these worker welfare requirements, the Home Office undertook 25 farm visits between February 2021 and February 2022. Compliance officers interviewed over 800 seasonal workers, representing around 5% of the sponsored seasonal workers at that time.
- 1.20** As a result of visits, 19 reports were drafted and shared with the Home Office’s wider compliance unit. It was not clear what the findings were from the remaining six, where no reports were produced.

- 1.21** All 19 reports were analysed by inspectors. In eight of 19 reports, Home Office compliance officers identified “significant [welfare] issues”. Reports included summaries of interviews in which some workers told compliance officers that they were treated poorly, discriminated against on the basis of nationality, had received incorrect pay, were living in damp, poor-quality and unsafe accommodation, or had been obstructed from accessing healthcare.
- 1.22** At best, reports were fed back to scheme operators months later. At worst, they were not fed back at all. The Home Office stated that no further action could be taken because it did not seek evidence to corroborate the allegations made, and that all allegations had to be investigated thoroughly before action could be taken. No allegations were investigated by the Home Office, by scheme operators, or by other government organisations. Often, by the time the scheme operators received the reports, the workers who had raised the allegations had already left the UK, meaning it was difficult for scheme operators to investigate, or give farms or growers the opportunity to respond.
- 1.23** With regards to immigration compliance, the Home Office states that a scheme operator’s licence will be revoked if, within any 12-month period, “a) fewer than 95 percent of workers are granted entry clearance, b) 3 percent or more who do obtain entry clearance fail to turn up to their place of work, or c) fewer than 97 percent leave the UK at the end of their permitted stay”.
- 1.24** Inspectors requested Home Office data on how it assures itself that scheme operators are meeting these requirements. It shared data that indicated that requirements were not being upheld with a caveat that, due to varying data collection and the Ukrainian conflict, it was not possible to see for 2021 which of the scheme operators had met them. Inspectors concluded that the Home Office is therefore unable to assure itself that these requirements are being met until the data had been reconciled.
- 1.25** Overall, the Home Office has not demonstrated that it has the mechanisms or capabilities in place to assure itself that scheme operators are meeting compliance requirements. When serious concerns have been raised by workers themselves, it did not act promptly or seriously.
- 1.26** Senior Home Office staff told inspectors that it was “guidance” and not law that underpinned the compliance requirements, and that therefore there was a level of discretion that could be applied when deciding what action to take. It was also acknowledged by Home Office staff that removing a scheme operator’s licence for the Seasonal Worker route could have wider, more serious implications for the UK’s ability to source workers.

Clarity of roles and responsibilities

- 1.27** The evidence obtained in the course of the inspection demonstrated there was a lack of clarity as to how roles and responsibilities were divided across the Home Office, other government departments, devolved administrations and local authorities. Inspectors also received contradictory information about the distribution of responsibilities from Home Office staff and other government departments.
- 1.28** In order for responsible parties, including the Home Office, to be held accountable, the Home Office must ensure that there is public clarity over what it is and is not responsible for with regards to immigration routes more generally, but especially in relation to the administration and facilitation of the Seasonal Worker visa route.

2. Recommendations

1 Compliance. Within three months:

- a. Conduct (and publish the findings of) an overdue review of the Seasonal Worker route. This should focus on the 9 objectives of the 2019 Pilot, in particular on objectives 6, 7 and 8.
- b. With regards to the monitoring and reporting regime, the review should focus in particular on:
 - i. improvements to training and guidance for compliance officers
 - ii. creating operating mandates to include when referrals should be made and to whom
 - iii. creating clear policies and guidance for robust action for scheme operators where compliance visits indicate that guidance is not being followed
 - iv. ensuring that compliance visits are driven by intelligence

2 Communication. Within three months, publish a communications and engagement roadmap specifically focused on the agricultural sector. The roadmap should cover:

- a. the aims, terms of reference and frequency of routine communication
- b. details of how the Home Office will actively seek the views of those who participate and contribute
- c. monitoring mechanisms to review progress and ensure that engagement continues to be mutually beneficial
- d. plans for sharing agendas, meeting records, action logs and outcomes with attendees

3 Clarity of roles and responsibilities. Within three months, for the Seasonal Worker route, produce and publish a reference document clarifying who is responsible for what across the Home Office, other government departments, devolved administrations, and local authorities. This reference document should be underpinned by a memorandum of understanding between all the relevant parties.

3. Background

Labour in the agricultural sector

- 3.1** According to the Office for National Statistics, 329,000 people were employed in agriculture, forestry and fishing in the UK in May 2022.³ In 2021, agriculture's contribution to the UK economy was £11.2 billion, or 0.5% of GDP, an increase of £914 million (8.9%) compared with 2020. The UK currently produces about 60% of its domestic food consumption.⁴
- 3.2** Agriculture is the cultivation of the soil for the growing of crops and the rearing of animals to provide food and other products.⁵ Horticulture is a subsection of agriculture and includes both edible and ornamental crops. When referring to 'agriculture' within this report, this also captures 'horticulture'.
- 3.3** In June 2022, the UK government released its food strategy in which it sets itself the objective of delivering a "prosperous agri-food and seafood sector that ensures a secure food supply in an unpredictable world and contributes to the levelling up agenda through good quality jobs around the country".⁶ This strategy noted the link between this objective and the availability of labour, stating: "It is essential that there is a sufficient, qualified, and well-paid workforce to support every food and drink business, dispersed around the whole country."
- 3.4** Whilst the impacts of the UK leaving the EU have resulted in changes to the way the agricultural sector is able to avail itself of labour, and the Home Office plays an important role in this, the sector has a long history of reliance on seasonal migrant workers.

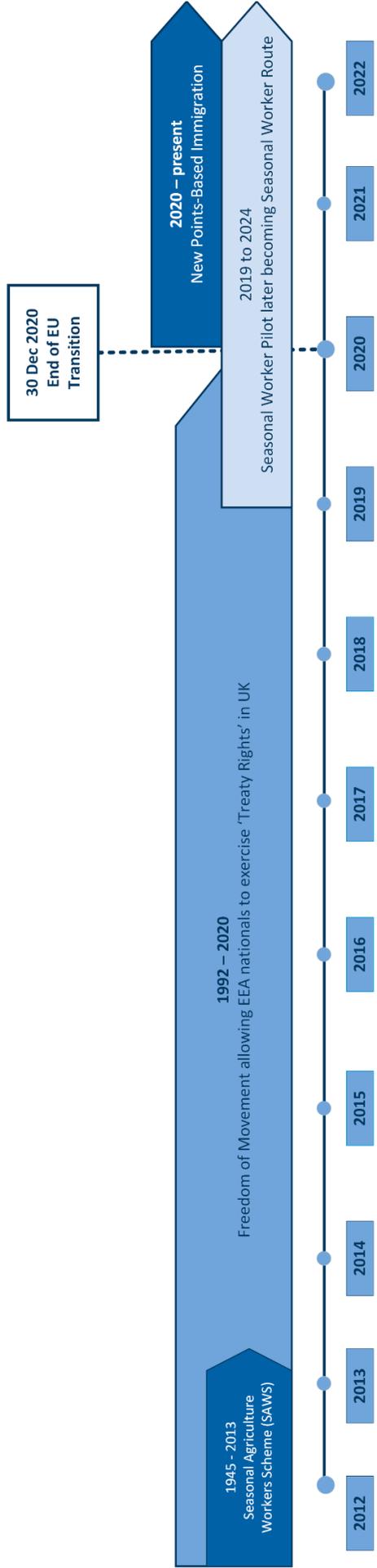
3 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/summaryoflabourmarketstatistics>

4 <https://www.gov.uk/government/statistics/united-kingdom-food-security-report-2021/united-kingdom-food-security-report-2021-theme-2-uk-food-supply-sources>

5 <https://www.bing.com/search?q=agriculture&cvid=ce52fbd36d87455e887baf48bc9b0e1c&aqs=edge..69j57j46j69i59l2j0j69i60l2j69i65j69i60j69i11004.5214j0j4&FORM=ANAB01&PC=U531>

6 <https://www.gov.uk/government/publications/government-food-strategy/government-food-strategy>

Figure 1: A timeline showing the historical relationship between the immigration system and the agricultural sector



History

- 3.5** The Seasonal Agricultural Worker Scheme (SAWS) was established at the end of World War 2, running from 1945 to 2013.⁷ Historically, the scheme was used predominantly by European nationals, with quotas having steadily increased from the early 1990s (5,000) to 21,250 by the time SAWS ended in 2013. At its peak in 2004, 25,000 workers were eligible annually.⁸
- 3.6** The points-based system, instituted in 2008, made no provision for low-skilled labour to be brought to the UK from outside of the European Economic Area (EEA). Whilst a ‘Tier 3’ was planned, in theory, it was never opened as an immigration route as the expansion of EU membership from 2004 onwards ensured an effective supply of labour.⁹
- 3.7** From 2008 until the closure of the scheme in 2013, SAWS was restricted to nationals of Bulgaria and Romania, who remained subject to transitional restrictions on their free movement rights following the accession of their countries to the EU in 2007. Upon the lapsing of those restrictions at the end of 2013, SAWS was closed, as the UK’s need for agricultural labour from abroad was met by EU citizens exercising free movement rights. From 2013 until the UK left the EU in 2020, it is estimated that 99% of the UK’s seasonal agricultural labour force came from EU countries.¹⁰

A new Seasonal Worker route

- 3.8** A new Seasonal Worker Pilot (‘the Pilot’) was announced jointly by the Home Office and the Department for Environment, Food and Rural Affairs (Defra) on 6 September 2018. This two-year pilot provided 2,500 workers (initially) from outside of the European Economic Area (EEA) for the purpose of “alleviating labour shortages during peak production periods”.¹¹ The Pilot was limited to a select number of horticultural roles and was welcomed by the agricultural sector and various other organisations related to the sector. Two scheme operators were used to recruit workers and act as Home Office sponsors.¹²
- 3.9** A number of changes were made to the Pilot before it was officially designated as an immigration route in December 2021, although only being guaranteed to run until 2024, as illustrated in Figure 2.

7 <https://www.gov.uk/government/publications/seasonal-workers-pilot-review/seasonal-workers-pilot-review-2019>

8 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/257242/migrant-seasonal-workers.pdf#:~:text=A%20Seasonal%20Agricultural%20Workers%20Scheme%20%28SAWS%29%20has%20been,quota%20is%2021%2C250%20who%20mostly%20work%20in%20horticulture

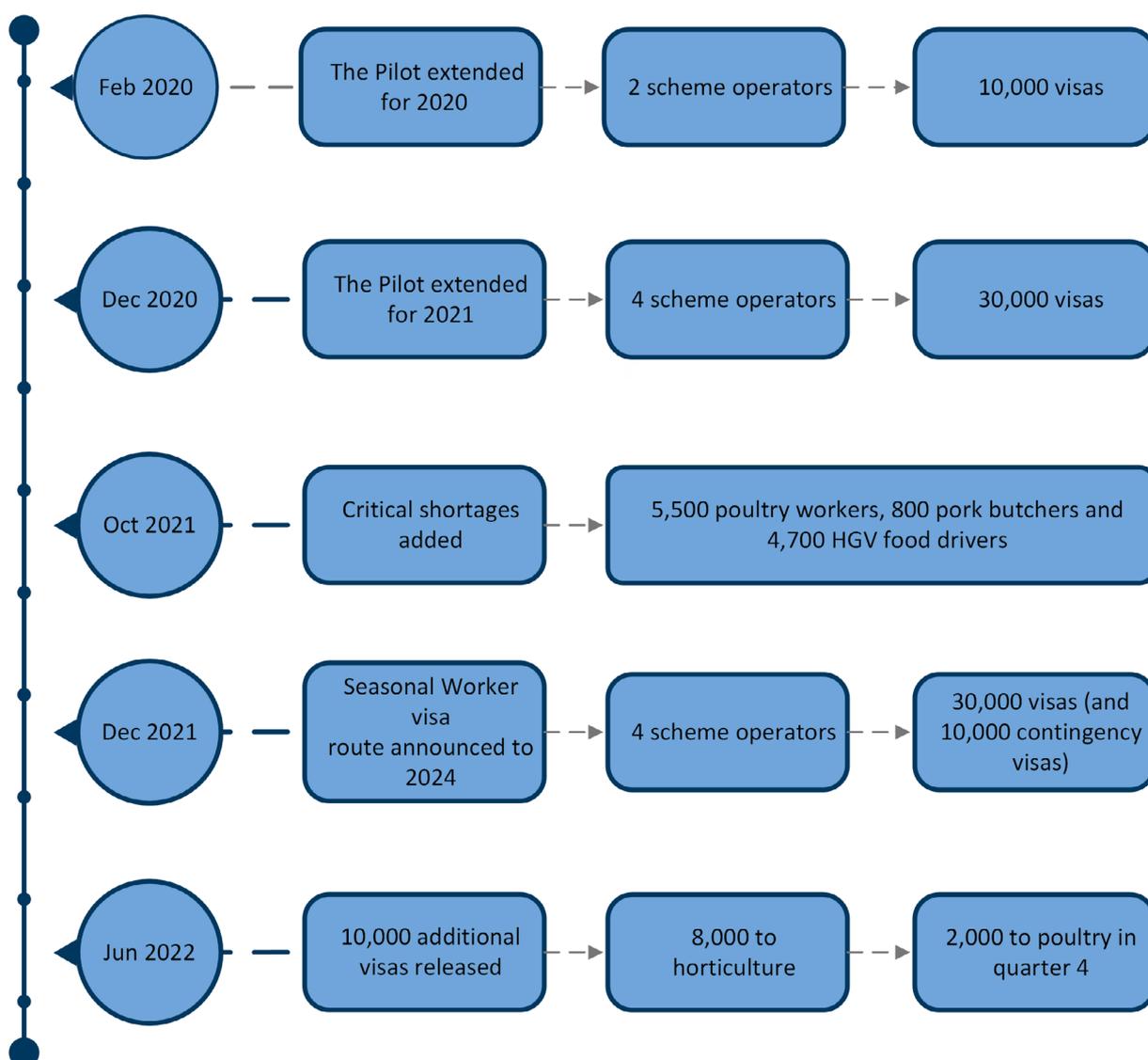
9 “The conditions governing the exercise of the right of free movement and residence within the territory of the Member States by Union citizens and their family members” (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1496157212325&uri=CELEX:32004L0038>)

10 Various sources: Grant Thornton Report (<https://www.nfuonline.com/archive?treeid=152097>), NFU (<https://committees.parliament.uk/writtenevidence/2457/pdf>) and EFRA Report 2017 (<https://committees.parliament.uk/publications/4112/documents/40735/default/>)

11 <https://www.gov.uk/government/news/new-pilot-scheme-to-bring-2500-seasonal-workers-to-uk-farms>

12 <https://www.thegrocer.co.uk/fruit-and-veg/seasonal-agricultural-workers-scheme-pilot-gets-go-ahead/571318.article>

Figure 2: Changes to the Seasonal Worker Pilot (and visa route) from 2020



Roles and responsibilities

3.10 The Pilot (now the Seasonal Worker visa route), a joint initiative of the Home Office and Defra, established a model in which scheme operators are responsible for recruiting a migrant workforce abroad, and then acting as the sponsor for the individuals coming to the UK as seasonal agricultural workers.¹³

3.11 To become a scheme operator, potential sponsors go through a ‘Request for information (RFI)’ process to gain Defra’s endorsement.¹⁴ Operators are assessed by Defra against their ability to score in three areas:

- ability to meet Home Office requirements
- capability to supply workers

¹³ Organisations seeking to bring workers to the UK must obtain a licence to do this, which is also managed by the Home Office. Once a business has obtained a sponsor licence, they are known as a migrant’s ‘sponsor’. <https://www.gov.uk/uk-visa-sponsorship-employers>

¹⁴ <https://www.gov.uk/government/publications/seasonal-worker-visa-route-request-for-information-rfi/how-to-submit-a-response-for-the-request-for-information-rfi>

- ability to deliver in the interests of the horticulture sector¹⁵

3.12 Once Defra’s endorsement is obtained, operators must then apply to the Home Office for a scheme operator’s licence.

3.13 A key part of the RFI assessment is that confirmation must be obtained from each potential scheme operator that they hold a Gangmasters and Labour Abuse Authority (GLAA) licence. The GLAA’s role is:

“To protect vulnerable and exploited workers. Through the intelligence we receive from our inspections, the public, industry and other government departments, we investigate reports of worker exploitation and illegal activity such as human trafficking, forced labour and illegal labour provision, as well as offences under the National Minimum Wage and Employment Agencies Acts.”¹⁶

3.14 The Home Office is responsible for the operation of the Seasonal Worker visa route, including licensing, the visa process and subsequent compliance-related activity related to holding a sponsor licence. The Home Office is the ‘owner’ of the route.

3.15 The Pilot initially recruited two scheme operators before expanding this to four in 2021 through a further RFI process in December 2020.

3.16 Accompanying the government’s announcement on 13 June 2022, a new RFI process was advertised both to replace or renew two of the scheme operators whose endorsement will lapse at the end of 2022, as well as seek endorsement for a new fifth operator specifically focused on recruiting poultry workers.

Operation

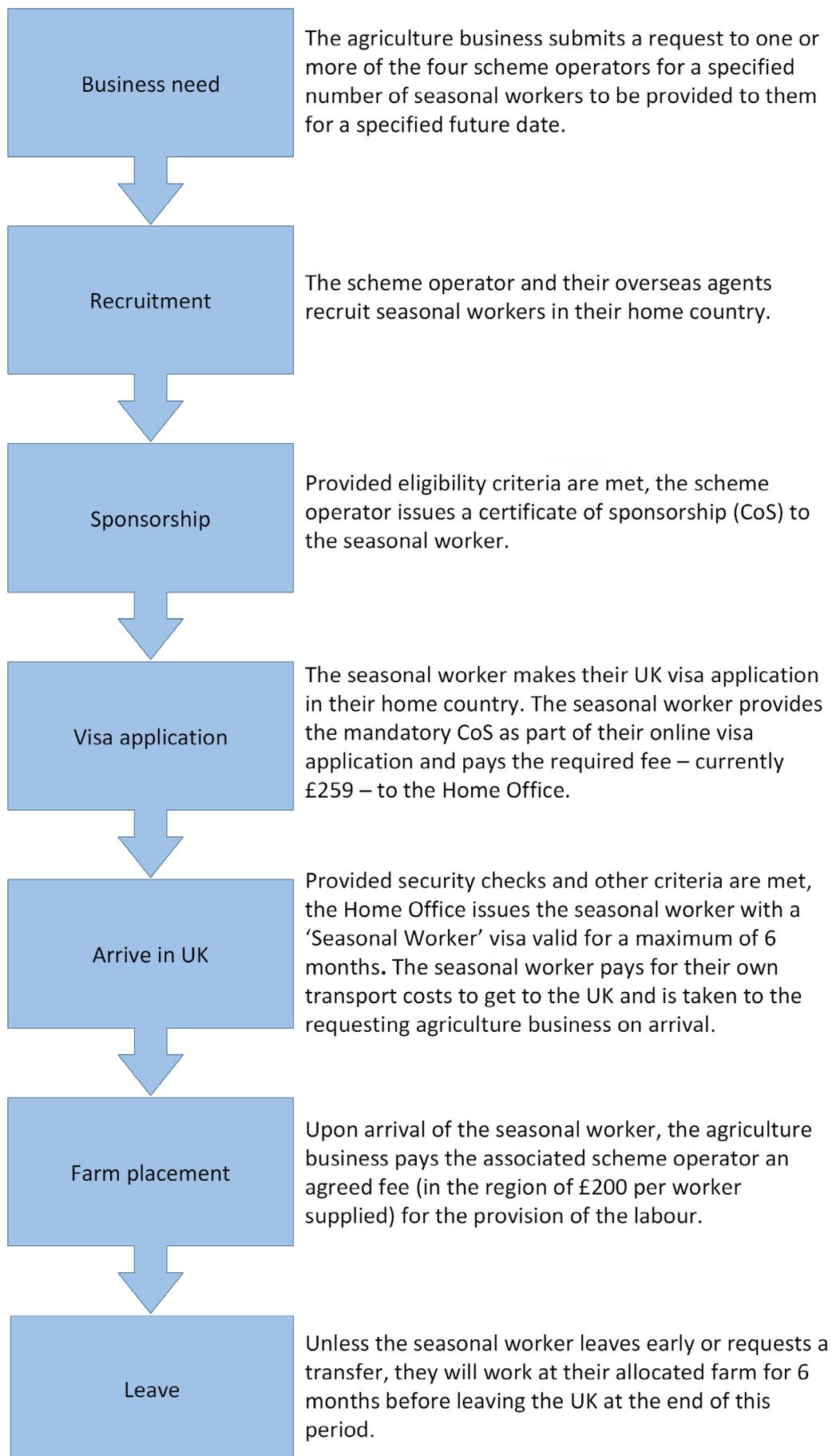
3.17 Each year, the Home Office allocates each scheme operator a limited number of certificates of sponsorship (CoS)¹⁷ from the overall annual limit. Scheme operators can then assign these certificates to potential workers, enabling them to make an application for a visa to come to the UK to undertake seasonal work.

¹⁵ <https://www.gov.uk/government/publications/seasonal-worker-visa-route-request-for-information-rfi/seasonal-worker-visa-route-rfi-notice>

¹⁶ <https://www.gla.gov.uk/who-we-are/what-we-do/>

¹⁷ A certificate with a unique reference number that is allocated to a potential worker and specifies their potential employment. <https://www.gov.uk/uk-visa-sponsorship-employers/certificates-of-sponsorship>

Figure 3: Seasonal Worker visa process map



- 3.18** Once a potential seasonal worker has been issued a CoS by the scheme operator, the operator becomes their sponsor. The worker can then make their visa application. These applications are considered by UK Visas and Immigration’s Work, Study & Citizenship command.
- 3.19** Unlike other immigration routes available for work, the requirements set out in the Immigration Rules for seasonal workers are, in relative terms, simpler. For example, the route has no ‘genuineness’ requirement, nor an English-language requirement.
- 3.20** Home Office transparency data and additional data supplied to inspectors indicate a low visa refusal rate of 1.29% for applicants to the Seasonal Worker route, with most of the small number of unsuccessful applications falling foul of the ‘grounds for refusal’ laid out in Part 9 of the Immigration Rules.^{18,19}
- 3.21** Upon arrival in the UK, seasonal workers are met by either their sponsor or the business in which they will work. The Seasonal Worker visa allows a worker to work for 6 months out of every 12-month period. At the end of this period, they must leave the UK; there is no option to either extend their stay or to switch to another category, with the only exception to this being nationals of Ukraine, who could apply to the Ukraine Extension Scheme.²⁰

Skilled Worker route

- 3.22** After the end of the transition period on 31 December 2020, a revised points-based immigration (PBS) system, applicable to both EEA and non-EEA nationals, was introduced.²¹ This came into effect on 1 January 2021.
- 3.23** A new ‘Skilled Worker route’ replaced Tier 2 of the old points-based system that existed before 1 January 2021. This new route expanded on the eligible occupations available, including the addition of further occupations.²²
- 3.24** The Skilled Worker route requires that sponsors obtain a sponsor licence from the Home Office to be able to recruit skilled workers.²³ However, unlike the Seasonal Worker visa route, there is no overall cap on the number of workers that can be recruited. There is also no requirement for any official endorsement (such as Defra, in the case of the Seasonal Worker visa route), other than the process of obtaining a sponsor licence from the Home Office and meeting its compliance requirements.

18 Home Office transparency data April 2019 to March 2022. “Entry clearance visas summary tables” (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076145/visas-summary-mar-2022-tables.ods/)

19 ‘General grounds for refusal’ include requirements that pertain to an individual’s immigration and criminal conduct, such as having previously breached immigration rules, or having served a custodial prison sentence. The full requirements can be seen here: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

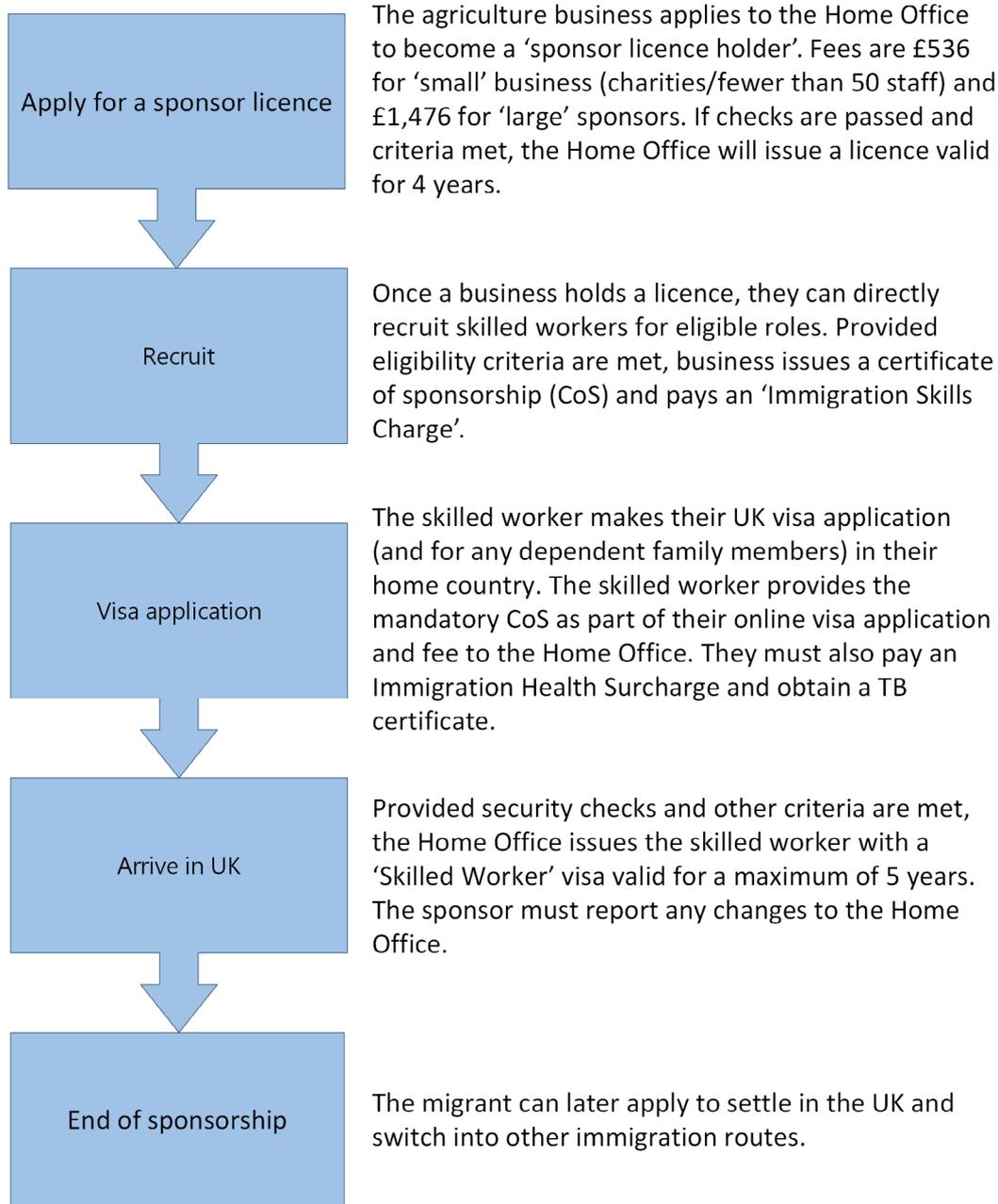
20 The Ukraine Extension Scheme enables Ukrainian nationals already in the UK with permission by 18 March 2022 (or where they held permission which expired on or after 1 January 2022) to continue their stay in the UK. The scheme began on 3 May 2022. (<https://www.gov.uk/government/publications/ukraine-extension-scheme-caseworker-guidance/ukraine-extension-scheme-caseworker-guidance-accessible>)

21 This does not include nationals of the Republic of Ireland.

22 <https://www.gov.uk/guidance/new-immigration-system-what-you-need-to-know#skilled-workers>

23 As of quarter 1 2022 there are 41,621 sponsors registered across all sponsorship routes (both work and study). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078993/UKVI_Sponsorship_Q1_2022.ods

Figure 4: Sponsor licence and recruitment process



3.25 The Skilled Worker route is not subject to a six-month time limit and workers can be granted permission to enter the UK for a period of up to 5 years before seeking further permission to stay in the UK. This route leads to settlement. Workers can also switch into other routes and be accompanied by their family members.

3.26 Workers recruited under the Skilled Worker route are required to meet more requirements under the Immigration Rules than workers under the Seasonal Worker visa route and across three areas, scoring 50 points in total:

Figure 5: Points-based system breakdown

Requirement	Points
Sponsorship	20
Job at appropriate skill level	20
English language skills at level B1 (intermediate)	10

Once recruited, workers are issued a CoS before going through the visa application process. The sponsor is required to pay an ‘Immigration Skills Charge’ (ISC) for each worker they sponsor.²⁴ The skilled worker is also required to pay the ‘Immigration Health Surcharge’ (IHS).²⁵ Applicants applying from designated countries are also required to obtain medical clearance confirming the absence of active pulmonary tuberculosis.²⁶

- 3.27** The Skilled Worker route is subject to a minimum salary requirement. This minimum salary is usually £25,600 but can be higher or lower based on the criteria set out in Figure 6. Potential workers must obtain a further 20 points from the ‘tradeable points’. These points are tradeable based upon the a number of specified circumstances of the potential worker as set out in Figure 6, where these are listed Option A to F:

Figure 6: Tradeable points under the Skilled Worker route

Option	Requirement	Salary	Hourly rate	Going rate ²⁷
A	No requirement	£25,600	£10.10	100%
B	PhD in subject relevant to job	£23,040	£10.10	90%
C	PhD in STEM subject relevant to job	£20,480	£10.10	80%
D	Job on Shortage Occupation List	£20,480	£10.10	80%
E	Applicant is new entrant to labour market (aged under 26)	£20,480	£10.10	70%
F	Job is health/education occupation	£20,480	N/A	100%

- 3.28** The list of eligible occupations was updated on 6 April 2021 to “add fishing and other elementary agriculture occupations not elsewhere classified to the list”. The full list of occupation codes that have been recruited to roles within the agricultural sector from January 2020 to 3 August 2022 is available in Annex C.²⁸

²⁴ ISC is payable each time a sponsor assigns a certificate of sponsorship to a worker on the Skilled Worker route.

²⁵ Migrants applying for permission to enter the UK for longer than 6 months or permission to stay in the UK for any period, normally must pay an IHS to the Home Office at the point of visa application. (<https://www.gov.uk/government/publications/immigration-health-surcharge-applying-for-a-refund/immigration-health-surcharge-guidance-for-reimbursement-2020>)

²⁶ <https://www.gov.uk/tb-test-visa>

²⁷ ‘Going rate’ is set out in Appendix Skilled Occupations (<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-skilled-occupations>) and sets out the minimum salary that should be earned by the sponsored worker across all of the ‘options’.

²⁸ <https://www.gov.uk/government/publications/skilled-worker-visa-eligible-occupations#full-publication-update-history:~:text=6%20April%202021,to%20the%20list>

Sponsorship and compliance

3.29 In order to ensure they maintain their sponsor licence, all Home Office sponsor licence holders have several ongoing general responsibilities. Guidance to sponsors states:

“You must:

- check that your foreign workers have the necessary skills, qualifications, or professional accreditations to do their jobs, and keep copies of documents showing this
- only assign certificates of sponsorship to workers when the job is suitable for sponsorship
- tell UK Visas and Immigration (UKVI) if your sponsored workers are not complying with the conditions of their visa

Your licence may be downgraded, suspended, or withdrawn if you do not fulfil these responsibilities.”²⁹

3.30 The same guidance further sets out responsibilities with regards to the monitoring of employees:

“You must have HR systems in place that let you:

- monitor your employees’ immigration status
- keep copies of relevant documents for each employee, including passport and right to work information
- track and record employees’ attendance
- keep employee contact details up to date
- report to UKVI if there is a problem, for example if your employee stops coming to work”

3.31 Additionally, the four scheme operators under the Seasonal Worker visa route must ensure that they meet a number of additional compliance requirements, including targets on the number of visa applications refused and the number of workers who leave the UK at the end of their stay. There are also specified requirements for the monitoring of worker welfare, covering points such as the scheme operators’ responsibility to:

- ensure health and safety, including work environment and personal protective equipment
- ensure fair treatment, including the prohibition of threatening or violent behaviour and discrimination
- ensure accurate provision of employment contracts and pay, including holidays and sick pay
- ensuring the provision of hygienic and safe accommodation³⁰

3.32 The Home Office’s Sponsor Compliance Network (SCN) is responsible for monitoring the compliance of all sponsors with these requirements. The SCN is a cross-command network of compliance teams. The SCN works across all routes, not just agriculture, to deliver compliance activity.

²⁹ <https://www.gov.uk/uk-visa-sponsorship-employers/your-responsibilities>

³⁰ <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker-accessible-version#SE3>

Nationality of seasonal workers and geopolitical impacts

- 3.33** The invasion of Ukraine in February 2022 impacted on the agricultural sector in various ways. The humanitarian impact notwithstanding, the most tangible impact in terms of the effect on the agricultural sector was the impact on the availability of seasonal agricultural labour.³¹
- 3.34** Data supplied by the Home Office detailing certificates of sponsorship assigned under the Seasonal Worker visa route from inception to August 2022 are referenced in Figure 7 below. This shows the top 12 nationalities sponsored for a Seasonal Worker visa. Ukrainian nationals accounted for more than half of all workers sponsored through this route between 2019 and 2022, and for more than two-thirds of all sponsored seasonal workers in 2021, the year immediately prior to the Russian invasion.

Figure 7: Top 12 seasonal worker by nationality

Position	Nationality	2019	2020	2021	2022	Total	% of total
1	Ukraine	2,261	6,427	19,307	5,831	33,826	51.25%
2	Tajikistan		3	881	4,010	4,894	7.41%
3	Uzbekistan		2	565	3,689	4,256	6.45%
4	Kyrgyzstan		1	284	3,852	4,137	6.27%
5	Russia	47	213	2,089	735	3,084	4.67%
6	Nepal			517	2,472	2,989	4.53%
7	Bulgaria		2	1,208	556	1,766	2.68%
8	Kazakhstan	4	11	325	1,423	1,763	2.67%
9	Moldova	185	320	907	235	1,647	2.50%
10	Romania			772	766	1,538	2.33%
11	Indonesia				1,465	1,465	2.22%
12	Belarus		206	1,012	25	1,243	1.88%
	All others	6	230	1,043	2,120	3,399	5.15%
	Grand total	2,503	7,415	28,910	27,179	66,007	

³¹ <https://www.theguardian.com/environment/2022/mar/11/uk-farmers-call-for-urgent-action-to-prevent-soaring-food-prices>

3.35 In addition, this data showed preliminary changes to the nationality structure of the Seasonal Worker visa route between 2021 and 2022, as outlined in Figure 8:

Figure 8: Top 10 nationalities assigned CoS for Seasonal Worker visas in 2022 vs 2021

Nationality	2021 position	2022 position	Change	Volume change
Ukraine	1	1	–	– 13,476
Tajikistan	6	2	+ 4	+ 3,129
Kyrgyzstan	11	3	+ 8	+ 3,568
Uzbekistan	8	4	+ 4	+ 3,124
Nepal	9	5	+ 4	+ 1,955
Indonesia	None	6	–	+ 1,465
Kazakhstan	10	7	+ 3	+ 1,098
Romania	7	8	– 1	– 6
Russia	2	9	– 7	– 1,354
Macedonia	14	10	+ 4	+ 521

The most notable change is in how sponsorship has moved from being dominated by nationals of Ukraine, to the central Asian countries of Uzbekistan, Tajikistan, Kyrgyzstan and Kazakhstan, as well as Nepal. In 2021, no seasonal workers from Indonesia were sponsored at all, but as at July 2022, Indonesians form a significant proportion of Seasonal Worker visa holders.

3.36 There were also a significant number of ‘sponsor notifications’ relayed from scheme operators to the Home Office in 2022 when compared with the preceding years. A sponsor notification allows a scheme operator to inform the Home Office to a change in the sponsorship status of a migrant. Normally, this notification is for reasons prescribed by the Home Office. When considering the number of CoS withdrawals in 2022, alongside the number of instances where scheme operators have ceased to sponsor a worker, over 2,000 Ukrainian nationals that were recruited have either not arrived in the UK or have left the UK.

3.37 As a result of the reduced availability of Ukrainian nationals, scheme operators had to diversify their recruitment practices more. Whilst there had been some recruitment from countries such as Nepal and Indonesia prior to the Russian invasion of Ukraine, scheme operators subsequently needed to focus on recruiting more workers from further afield and in countries where they had had less exposure and limited historical experience.³² There are multiple risks arising from this, including around quickly understanding local labour laws and practices, and increasing the probability of workers being charged recruitment fees, which increases the risks of debt bondage.³³ At the time of writing, this has already been reported, with various reports of illegal recruitment fees being charged in Nepal and Indonesia, although it is not clear from the reports when these practices are thought to have occurred.^{34,35}

32 <https://www.pressreader.com/uk/the-sunday-telegraph-money-business/20220508/281715503201085?msclkid=adaa0263cf9011ec86cbb4598a454626>

33 Debt bondage describes the practice of a person being forced to work to pay off a debt, where most or all of the money earned is used to pay off a loan.

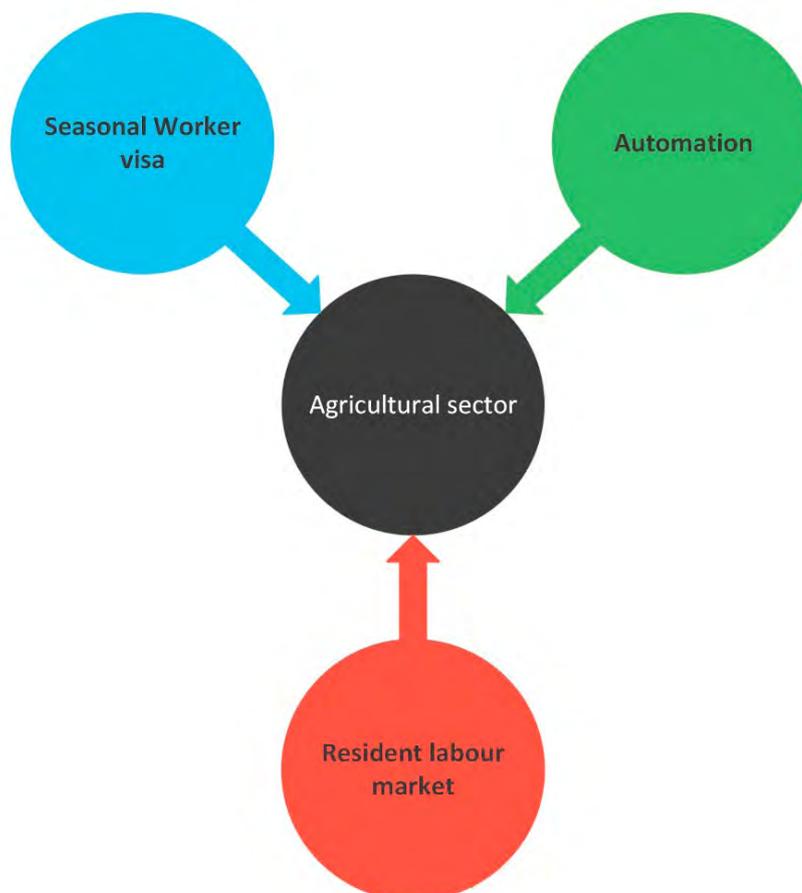
34 <https://www.theguardian.com/global-development/2022/may/27/migrant-fruit-pickers-charged-thousands-in-fees-to-work-on-uk-farms-investigation-shows>

35 <https://www.theguardian.com/uk-news/2022/aug/14/uk-farm-workers-kent-debt-indonesian-brokers>

Policy

- 3.38** As a matter of policy, the government is not in favour of creating permanent migration routes to meet all the perceived labour needs of the agricultural sector. Alongside promoting the Skilled Worker route, the government’s view is that “it is crucial that the sector must show greater urgency in modernising its business practices through automation for labour substitution and the recruitment of domestic UK workers and away from a heavy reliance on overseas workers”.³⁶

Figure 9: The Home Office’s ‘policy trilogy’



- 3.39** Historically, recruitment from the resident labour market has been limited. At an appearance before the Environment, Food and Rural Affairs Select Committee in December 2020, a Defra minister stated that prior to EU exit, UK-born workers made up about 1% of the seasonal agricultural labour force.³⁷
- 3.40** An Environment, Food and Rural Affairs Committee inquiry report in December 2020 found that about 50% of the workforce was estimated to comprise EEA nationals with either pre-settled or settled status under the EU Settlement Scheme.³⁸ The gap between these two figures creates a structural reliance on migration as a source of labour.
- 3.41** There is a perception across the sector and organisations that represent it that recruiting from the resident labour market is difficult. Diversifying the workforce and improving working

³⁶ <https://www.gov.uk/government/publications/seasonal-worker-visa-route-request-for-information-rfi/seasonal-worker-visa-route-rfi-notice>

³⁷ <https://committees.parliament.uk/oralevidence/1232/default/>

³⁸ <https://committees.parliament.uk/work/190/labour-in-the-food-supply-chain/publications/>

conditions are touted as solutions to this.³⁹ In a position statement to inspectors, the Home Office said that the Seasonal Worker visa route was “never intended to replace investment in the workforce, modernisation and automation”.

3.42 Several factors may account for the low levels of participation by the resident labour force in seasonal agricultural work:

- work locations are remote and are often not commutable, meaning workers are isolated
- the work is arduous, and often outside and in inclement weather
- the roles are seasonal

3.43 In May 2020, during the COVID-19 pandemic, when movement across various international borders was limited, the UK agricultural sector needed to find new ways of working. Defra initiated a ‘Pick for Britain’ campaign aimed at employing workers from the resident labour market.⁴⁰ The campaign was closed in April the following year. Information on how many workers were recruited through that campaign is limited, though anecdotally the scheme was said to not have been successful and was cited by some sector organisations as evidence of how difficult recruitment in the resident labour market is.

3.44 Defra released an independent report, ‘Automation in horticulture review’, in July 2022. This report sought to clarify the extent to which “new robotic technologies, and currently available automation, [can] ease the horticulture sector’s dependency on seasonal labour”.⁴¹ The report states that there is a “gap” between the current labour situation and the future of automated farming. It acknowledges “the need for a secure source of labour in the period before mass-adoption of automation technology is feasible”.

Labour exploitation

3.45 The agricultural sector is commonly considered to be an industry where labour exploitation is a risk. This view is not unique to any one perspective focused or concerned with the agricultural sector, being shared by the Home Office, other government departments, agricultural membership organisations, the former Independent Anti-Slavery Commissioner (IASC), trade unions and non-government organisations (NGOs).

3.46 In a statement to inspectors, the Home Office articulated the inherent tension between “the continuing demand from the sector for ever greater numbers of workers” against the “ongoing concerns about employment conditions and migrant welfare”.

3.47 A review of the Pilot in 2019 was published on 24 December 2021. This review found no evidence of modern slavery or exploitation. However, there were several welfare-related concerns raised by migrants that the Home Office acknowledged as being “unacceptable”. To mitigate these, the Home Office “reviewed the requirements placed on the scheme operators and updated the seasonal worker sponsor guidance to tighten the compliance requirements”.⁴²

3.48 Some serious and well-documented concerns remain. The International Labour Organization, a UN agency, highlights issues including:

³⁹ <https://questions-statements.parliament.uk/written-questions/detail/2021-09-09/45958>

⁴⁰ “Pick for Britain was a 2020 campaign launched by the Department for Environment, Food and Rural Affairs of the Government of the United Kingdom and British food industry to encourage UK citizens to help with the harvesting of fruit and vegetable crops during the COVID-19 pandemic.” (https://en.wikipedia.org/wiki/Pick_for_Britain)

⁴¹ <https://www.gov.uk/government/publications/defra-led-review-of-automation-in-horticulture/automation-in-horticulture-review>

⁴² <https://www.gov.uk/government/publications/seasonal-workers-pilot-review/seasonal-workers-pilot-review-2019>

- unfree recruitment practices⁴³
- work and life under duress⁴⁴
- impossibility of leaving employer⁴⁵

3.49 These concerns are not limited to agricultural worker or seasonal labour schemes generally but are applicable more widely to various high-risk sectors.

3.50 The charging of recruitment fees, for example, might create a situation where a worker, unaware that such charges are not permitted, requires a loan to be able to pay such fees and therefore access employment.⁴⁶ Taking out such loans, which in many cases might be from unofficial or unregulated sources, means the worker has been forced into debt bondage and has no choice but to remain in their employment to service repayment of the loan, creating a situation where it is not possible to leave employment, despite potentially poor working conditions.

3.51 In January 2022, the Independent Anti-Slavery Commissioner stated in response to the 2019 Pilot:

“Evidence suggests that workers migrating over longer distances are at greater risk of exploitation, particularly in the form of recruitment fees, bogus recruitment, and debt bondage. Labour suppliers and agents in more distant countries will be even more difficult to scrutinise or hold to account.”⁴⁷

3.52 The agricultural sector has put mechanisms in place aimed at helping to prevent workers becoming victims of modern slavery or labour exploitation. For example, initiatives such as the Modern Slavery Intelligence Network are extensively supported by the agricultural sector and other businesses sitting in the agri-food supply chain.⁴⁸

3.53 In addition to the Home Office’s compliance requirements, which act as an assurance process, various other external assurance bodies and processes exist. For example, most UK supermarket websites carry a modern slavery statement outlining the steps they take to ensure recruitment is responsible and that produce is ethically sourced.⁴⁹

3.54 Other initiatives include Sedex Members Ethical Trade Audit (SMETA) audits, which allow businesses to understand the working conditions that exist throughout their supply chains.⁵⁰

43 The International Labour Organization (ILO) defines this as: “Deceptive and/or forced recruitment. ‘Deceptive recruitment’ occurs when a person is recruited using false promises about the work. This represents involuntariness insofar as the worker would not have accepted the job had he or she been aware of the true working or other conditions. ‘Forced recruitment’ occurs when constraints are applied to force the worker to work for a particular employer against his or her will. In both forms, some element of penalty must be present.” The payment of a recruitment fee is an indicator within this heading: “Recruitment linked to debt (advance or loan)”.

44 The ILO defines this as: “Work under duress’ may entail an excessive volume of work or tasks that are beyond what can reasonably be expected within the framework of national labour law. ‘Life under duress’ refers to situations of coercion, degrading living conditions, limitations on freedom or excessive dependency imposed on a worker by the employer. In addition, some elements of penalty must be present.”

45 The ILO defines this as: “A form of limitation on freedom by the use or threat of penalty is treated as a separate dimension as it is a critical component of trafficking” (https://www.ilo.org/beirut/publications/WCMS_211214/lang--en/index.htm).

46 Para. SE3.9 (<https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker-accessible-version>)

47 <https://www.antislaverycommissioner.co.uk/news-insights/iasc-raises-concerns-over-labour-exploitation-risk-for-migrant-agricultural-workers/>

48 <https://www.msin.org.uk/>

49 <https://www.about.sainsburys.co.uk/sustainability/plan-for-better/our-stories/2017/standing-up-to-modern-slavery> and <https://corporate.asda.com/article/modern-slavery-statement#:~:text=May%2003%2C%202022%20We%20are%20very%20pleased%20to,within%20our%20own%20operations%20and%20global%20supply%20chains.>

50 <https://www.sedex.com/our-services/smeta-audit/>

UK geography

- 3.55** Agriculture is a key driver of the rural economy, across the four nations of the UK. Variations in climate and soil type result in variations in the nature of agricultural activity in different regions, and the distribution of seasonal workers across the UK reflects this. The largest concentrations of seasonal agricultural workers are found in Kent and Herefordshire, with significant numbers to be found across much of the rest of England and Scotland. (See Figures 10 and 11 and Annex B.)

Figure 10: The distribution of seasonal workers across the UK by county/region (January 2019 to August 2022)

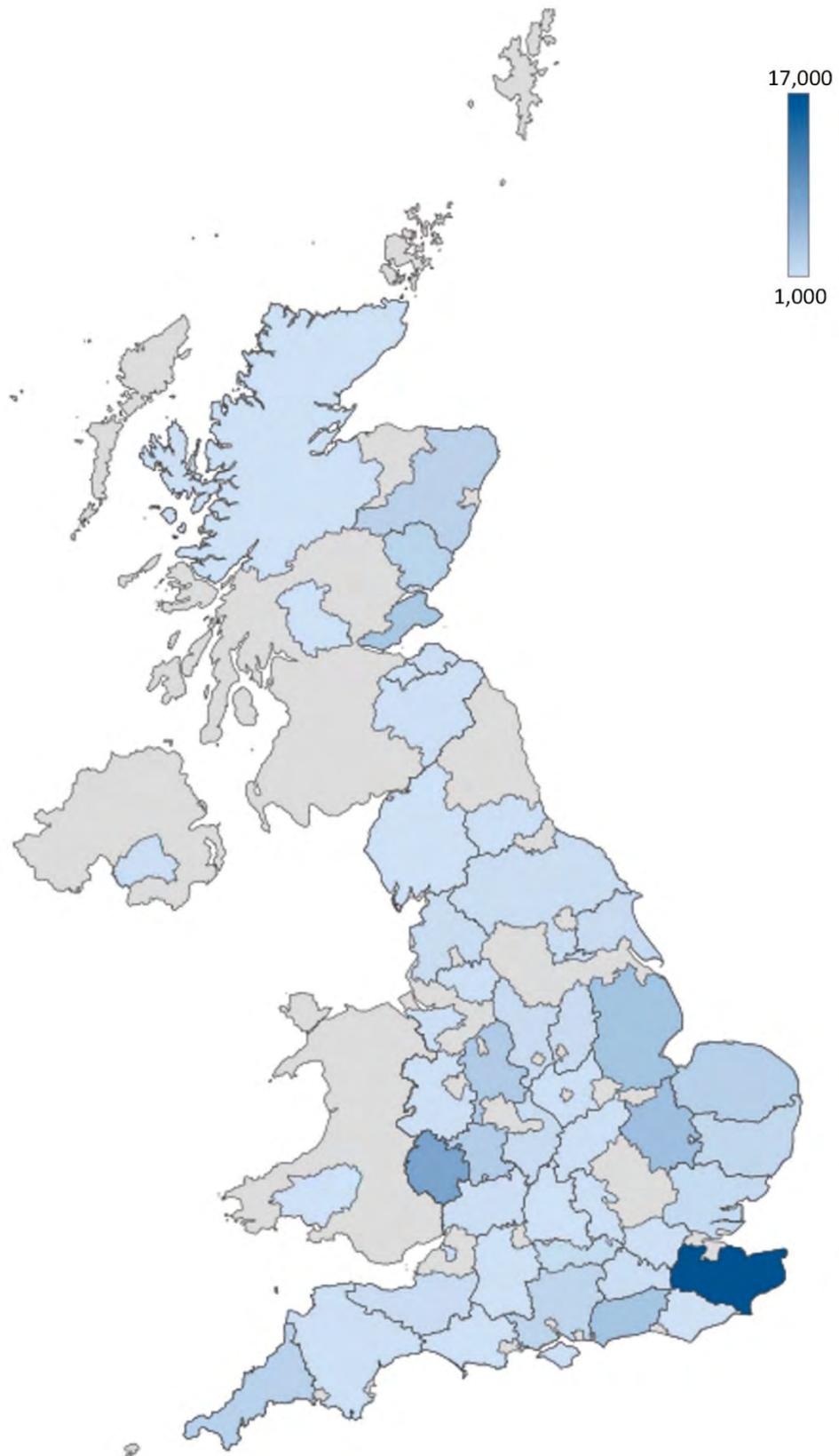


Figure 11: Distribution of seasonal workers by constituent country of UK (January 2019 to August 2022)



4. Scope

4.1 This inspection adopted a broad perspective to gain an understanding of the interaction between the UK's immigration system and the agricultural sector. In particular, the inspection focused on three areas:

- the effectiveness of the immigration routes available for agricultural workers, including through the Skilled Worker route and the Seasonal Worker route, to support the UK's agricultural sector
- the extent and quality of communication and engagement between the Home Office and the agricultural sector
- the effectiveness of compliance requirements on sponsors, and how the Home Office assures itself that sponsors of migrant agricultural workers are upholding requirements, including those relating to worker welfare and employment conditions

5. Methodology

5.1 Inspectors undertook the following activities:

- reviewed open-source material, including Home Office guidance to sponsors and Home Office migration transparency data
- on 23 May, published a 'call for evidence' on the ICIBI website, seeking submissions from anyone with knowledge and experience of the interaction between the Home Office and the agricultural sector
- analysed 20 written submissions from a broad range of stakeholders, including a large supermarket chain, non-government organisations (NGOs) and small farms
- made preliminary, formal and final evidence requests to the Home Office, and analysed over 150 pieces of documentary evidence provided in response to these requests
- conducted familiarisation calls with Home Office teams involved in the sponsorship regime for the agricultural sector
- conducted interviews with a variety of stakeholders, including devolved governments; the Department for Environment, Food and Rural Affairs; the Gangmasters and Labour Abuse Authority; NGOs; farmers; sector representative organisations; trade unions and the 4 scheme operators for the Seasonal Worker visa route
- analysed 19 Home Office compliance reports against a set of expectations listed in SE3.4 of the Workers and Temporary Workers guidance
- visited five farms across Scotland and the west of England, conducted focus groups with 26 seasonal workers and interviewed senior farm managers
- conducted interviews and focus groups with 29 members of Home Office staff at grades from Administrative Officer to Senior Civil Servant
- presented the inspection's emerging findings to the responsible Home Office Senior Civil Servants

6. Inspection findings: immigration routes

Seasonal Worker visa

- 6.1** The Home Office is responsible for the design and oversight of the Seasonal Worker visa route, retaining responsibility for assessing and deciding visa applications. Scheme operators, who hold a Home Office sponsor licence, are responsible for the recruitment of overseas potential workers, issuing certificates of sponsorship and, once the Home Office has granted a visa, arranging workers' employment with farmers and growers across the UK. Usually, workers are employed directly by the farm or grower with whom they are placed, but in some cases, the worker's contract of employment is with the scheme operator. Irrespective of who is legally defined as the employer, scheme operators undertake the sponsorship requirements for the worker.
- 6.2** At the time of inspection, the four scheme operators were:
- Pro-Force⁵¹
 - AG Recruitment⁵²
 - Fruitful Jobs⁵³
 - Concordia⁵⁴
- 6.3** A range of businesses and membership organisations from the agricultural sector stated that the Seasonal Worker visa route, introduced in 2019, was vital to the continued existence of the sector. A farm manager told inspectors that "restrictions on EEA [European Economic Area] workers had a big impact, so the Seasonal Worker visa is even more critical". Without it, they said, "there would be no fruit and vegetables in UK".

Visa efficiency

- 6.4** In response to the inspection's call for evidence and in interviews with inspectors, the four scheme operators reported that the Home Office's visa processing system for seasonal workers was efficient overall. This was attributed to the fact that the visa application, and therefore the processing of the application, is relatively straightforward when compared with other immigration routes.⁵⁵ In most cases, the only reason for refusal is because they do not hold a valid certificate of sponsorship (CoS), or they do not meet the requirements specified in Part 9 of the Immigration Rules (grounds for refusal), which cover, amongst other factors, criminality and security checks.⁵⁶

51 <https://pro-force.co.uk/>

52 <https://agrecruitment.eu/>

53 <https://www.fruitfuljobs.com/>

54 <https://www.concordiavolunteers.org.uk/listing/category/seasonal-work>

55 For example, fewer evidential thresholds, less supporting documentation to review, and no 'genuineness' test.

56 <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

6.5 Delays in processing visas during the initial stages of the conflict in Ukraine (from February 2022) were reported by the scheme operators, businesses and trade associations. During those delays, the sector told inspectors they would have appreciated more information from the Home Office about when the application decision-making service standards might return to normal. One farm manager told inspectors that seasonal workers had arrived later than anticipated due to visa delays. They criticised the lack of warning or communication from the Home Office and stated, “in our business most things have a two-month lead time ... I know the situation was dire, but we just didn’t hear anything.”⁵⁷

6.6 In response to a question by inspectors about temporary visa delays, a senior Home Office manager said:

“[UK Visas and Immigration] are highly competitive [relative to other countries] in terms of [visa processing] speed. This includes Seasonal Workers and in recovery from the Ukrainian demand, we have prioritised certain routes and one of those is Seasonal Workers.”

6.7 Scheme operators told inspectors that delays as a result of the conflict in Ukraine were temporary and that, by summer 2022, they had been resolved.

Post-review improvements

6.8 A joint Home Office and Department for Environment, Food and Rural Affairs (Defra) review of the performance of the Seasonal Worker Pilot in its first year of operation entitled, ‘Seasonal workers pilot review 2019’, stated that the review had “shown positive aspects of the Pilot as well as some clear areas for improvement, particularly with concern to migrant welfare, which the Home Office has already taken steps to address.”

6.9 When asked by inspectors what improvements had been made to the scheme as a result of the 2019 review, several respondents from the agricultural sector reported that it had resulted in the banning of zero-hours contracts and the introduction of minimum hours available work guarantees.

6.10 The same respondents also stated that the change to ensure that workers had a right to request a move to another location offering similar work was a positive outcome from the review. This change was acknowledged as offering an effective safeguard against exploitation by some non-government organisations (NGOs). However, concerns remained that seasonal workers were often not advised of this right to request to move farms, that some requests were not granted when they could have been, and that some workers were being made to pay for the cost of the transfer.

Difficulties associated with the route

6.11 A recurring theme from the agricultural sector, scheme operators and stakeholders was frustration at the repeated occurrence of short-notice announcements by the Home Office concerning amendments to the Seasonal Worker visa route terms and policies. They cited that relatively late timing of notification of changes made short-term planning hurried and had negative impacts for businesses across the sector. For example, the change to the 2022–23 scheme stating that the minimum hourly rate that a seasonal worker would be paid

⁵⁷ In its factual accuracy response, the Home Office told inspectors that broader communication messages were issued on gov.uk and through other channels to cover all impacted visa routes. They further stated that to have communicated with every sector, visa applicant and sponsor individually would have taken staff away from delivering critical Ukraine visa decisions.

would be £10.10 per hour rather than the UK minimum wage rate of £9.50 per hour, as had been expected.

- 6.12** On 17 March 2022, the National Farmers Union (NFU) published an article titled, ‘Seasonal worker wages – new guidance provides clarity’.⁵⁸ This article claimed that the NFU had just received clear guidance on the wage increases 3 weeks before it was due for Home Office policy implementation on 6 April 2022.
- 6.13** Several of the farms visited during this inspection said that such short-notice changes to the scheme had a negative impact on their business plans. They stated that much of their planning for crops, expected yields, workforce requirements and supplier contracts were finalised between November and December of the previous year – in this case 2021.

Long-term planning

- 6.14** The sector consistently voiced concern about the uncertainty around the longer-term future of the Seasonal Worker visa route. The route has been confirmed to run until 2024. The longer-term future for a visa route specifically for seasonal workers in the agricultural sector forms part of a holistic UK immigration policy and will be dependent upon various ministerial and political commitments.
- 6.15** The sector perception of the short-term nature of the scheme, coupled with the fact that the number of visas available in a given year is not announced until relatively shortly before the start of each season, was said to make short-, medium-, and long-term planning for the sector extremely difficult. One sector association representative stated that “this year [2022], over half our members haven’t planted at all, and the others have up to 40% shortages of labour”. A farm owner told inspectors that they were reducing planned output as a lack of guaranteed staff “would mean crops rotting in the ground”, adding that uncertainty about the availability of workers over the medium term “puts the whole sector in jeopardy”.

Home Office understanding of sector response

- 6.16** The overwhelming majority of the agricultural sector representatives that were interviewed or responded to this inspection’s call for evidence felt that the Home Office did not have an understanding of what attempts the sector had made to meet the government’s objective of reducing the current demand for migrant labour. The government would like to see this reduced by a combination of greater employment from the resident labour market and through greater use of automation to pick and pack crops.
- 6.17** Many of the farmers interviewed stated that they had tried to recruit from the locally resident labour market, but this had been unsuccessful without exception. The Home Office described seasonal roles in this sector as being “poorly remunerated, despite the hard, physical work and long hours involved”. It explained that this, alongside other factors including the physical isolation of many farms, “makes these roles unattractive to resident workers”.
- 6.18** The government has said that the sector should improve working conditions to make it more attractive to resident workers. Many farm managers told inspectors that they have tried numerous initiatives to recruit local workers, but that it remained difficult. Responding to the concerns about its seasonal nature making the roles less competitive, a farm manager said:

58 <https://www.nfuonline.com/updates-and-information/seasonal-worker-scheme-wage-requirements/>

“It is impossible to give somebody a 9 to 5 job, because we are so reliant on the weather and other things. If you get frost, in a couple of days it can ruin everything, so you’re so dependent on that, and the locals just will not engage with it, with that type of work.”

- 6.19** As for automation, there was little evidence, from the sector, that technology is sufficiently advanced to replace labour. Sector organisations, farmers and growers described that because automation requires a high-capital outlay, confidence that it will be possible to recoup that cost over the medium to long term is a significant factor in determining whether investments will ultimately be made.
- 6.20** A recent report on ‘Automation in horticulture review’ stated that “a long-term seasonal workers scheme would help to stabilise workforce pressures in the sector, helping growers to better evaluate their labour needs over time and incentivising long-term capital investments in automation technology”. It further states that the length of any future scheme beyond 2024 should, “ideally, match the period preceding the feasible mass-adaptation of automation in technology”.⁵⁹ The general consensus among farmers and sector representative organisations was that the mass-adaptation of automation was “decades away”.

Visa length

- 6.21** Many farmers and farmer representatives referred to a visa length of six months being too short. Several farmers and growers commented that due to modern growing techniques, the agricultural season is no longer limited to April to September but is ‘virtually’ year-round. One sector organisation explained:

“Workers are needed for 11 months. The June, July, August season only applies to soft fruit and some other crops, and the Seasonal Worker route is more applicable to them. Ours is a more of a year-round operation.”

- 6.22** As seasonal workers’ visas limited them to a maximum six-month period within the UK, some farmers explained that it discourages them from investing time and money in training for higher-skilled jobs, and therefore hindered workers’ development for possible return work in the coming years.

Skilled Worker route

- 6.23** Apart from the Seasonal Worker visa, there are no other immigration routes specifically targeted at the food and agricultural sector. However, there are 65 occupation codes within the Skilled Worker visa route that have been recruited from by the agricultural sector, including veterinarians, which has also been added to the shortage occupations list (SOL).^{60,61} Eligible occupation codes for the Skilled Worker visa route are wide ranging and include office-based roles such as those within IT and marketing, as opposed to more traditional agriculture and horticulture roles such as veterinarians and farmers.
- 6.24** The sector has welcomed the addition of roles to the route. Senior managers within the Home Office told inspectors that these were added as a direct response to the sector wishing to retain workers for longer than a season. However, despite the additions to eligible occupations under the Skilled Worker route, growers and farmers told inspectors that they

⁵⁹ <https://www.gov.uk/government/publications/defra-led-review-of-automation-in-horticulture/automation-in-horticulture-review>

⁶⁰ Home Office PRAU Data – Certificates of sponsorship for all roles engaged in agricultural sector covering 2009 to 3 August 2022.

⁶¹ The full list of occupation codes is listed at Annex C.

would like to see the list expanded to cover what they perceived to be skilled roles but that are informally classified as 'unskilled'. One farmer, for example, said that planters and pickers should be eligible job codes under the Skilled Worker route. Another farming manager stated that they had many vacancies that they considered to be skilled, but they were not eligible as they weren't included on the SOL.

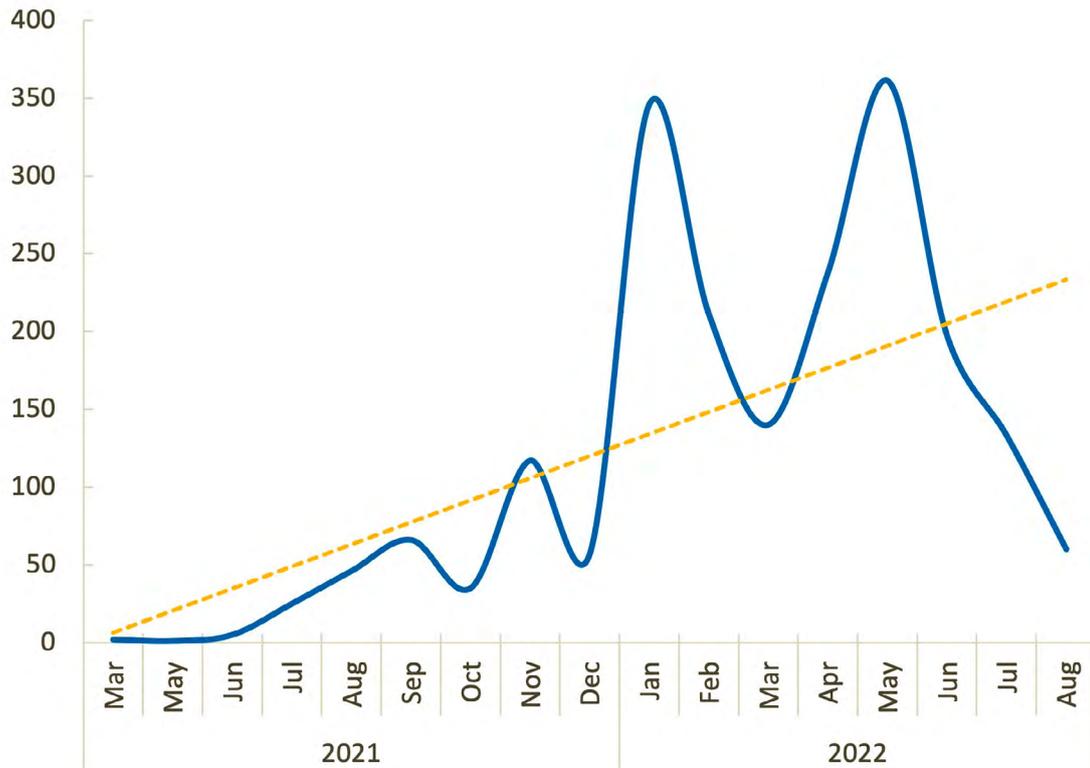
- 6.25** Despite the addition of occupations, the sector employs a relatively low proportion of workers from this route. As of 3 August 2022, since the inception of the Skilled Worker route, a total of 436,181 CoS had been assigned by sponsor licence holders across all sectors using the route; only 2,389 of these – just 0.05% of the total – had been issued by agricultural sector employers.
- 6.26** The limited uptake of the route to source workers for the sector was not just due to the ineligibility of certain roles. Most respondents to this inspection's call for evidence, and participants in inspectors' interviews with representatives of the agricultural sector, characterised the route as being "expensive", "inflexible" and "bureaucratic".
- 6.27** Employers said that they had filled skilled worker jobs, such as packhouse roles, using workers with settled or pre-settled status under the EU Settlement Scheme. Workers tended to return each year, and having been with them over a number of seasons, had worked their way up through the more skilled roles on the farm. One farmer explained, "The industry is being ran [sic] by our returnee workers – if it weren't for them, the industry would collapse."
- 6.28** One of the scheme operators also commented that the agricultural industry is only just [in July 2022] getting to grips with the Skilled Worker route and that it therefore might be too soon to assess how effective the route is for the sector.
- 6.29** A Home Office manager of the Skilled Worker route told inspectors that they believed the list of eligible occupations covered what the sector needed. In response to a question around the sector's perception that the route was bureaucratic and expensive, they responded that the level of complexity involved in getting and using a sponsor licence was less than some of the processes that the farms had to go through when dealing with Defra.
- 6.30** Another Home Office official involved in the design of the Skilled Worker visa stated that it is not the role of the government to fulfil every labour need by creating a visa scheme specifically:
- "Some jobs simply don't qualify [if they] are not skilled enough or paid enough but aren't seasonal – so they won't come under either route. Government policy isn't 'there's a gap, let's fill it with a visa scheme'."
- 6.31** There is a discrepancy between the perspectives of the sector and the Home Office on the effectiveness of the Skilled Worker route to provide labour for the agriculture sector. However, it is early days for the route following on from the UK's exit from the EU, the COVID-19 pandemic and the expiry of the period within which citizens of EEA countries and Switzerland resident in the UK had to apply for immigration status. It remains to be seen whether uptake will improve as the Home Office evaluates and adjusts the route, and the sector becomes more attuned to accessing labour via the new points-based system.

7. Inspection findings: engagement and communication between the Home Office and the agricultural sector

Sector engagement regarding the points-based system

- 7.1** Engagement between the Home Office and organisations who have an interest in the points-based immigration system (PBS) is led by the Home Office External Engagement team, who sit within the Home Office Future Borders and Immigration System (FBIS) command. A PowerPoint presentation shared with inspectors on the Home Office’s external engagement stated that its purpose is ensuring that “businesses, employers, educational establishments, applicants and other interested parties understand how to use the new system”. It states that through this engagement, stakeholders from a range of sectors “have the opportunity to feed into the programme as the system develops”.
- 7.2** Evidence provided to inspectors stated that, as at the end of June 2022, “the Home Office [had] delivered over 580 events, reaching nearly 42,000 stakeholders” and that the “agriculture and food supply sector had been present at many of these cross-sector events”, though it was not clear from the evidence provided whether this number relates to individuals or organisations.
- 7.3** From March 2020 to June 2022, the Home Office led or had participated in 17 “agricultural or food supply sector” focused events across the United Kingdom. For example, in November 2021, the Home Office and the Department for Environment, Food and Rural Affairs (Defra) ran a seminar for the pork butchery and pig farming sector, in which they outlined PBS routes and requirements, detailed how to become a licensed sponsor and explained how to conduct ‘right to work’ checks.
- 7.4** The Home Office said this seminar was organised in response to reports from the sector that they did not know how to use the PBS to sponsor butchers. The Home Office said that seminars like this were not limited to the pork sector and that there will also be a practical support seminar for the fishing sector in the future.
- 7.5** Figure 12 shows the number of food preparation and hospitality trade workers sponsored through the Seasonal Worker route from 2021 to 2022 under the category, covering such roles as butchers, meat processors, slaughter persons, and poultry processors amongst other similar roles. In total, the number of certificates of sponsorship (CoS) issued under this category in 2021 was 354; in just the first 8 months of 2022, this number has jumped to 1,695. It is not possible to attribute directly the marked increase to the engagement event – other factors, such as COVID-19-related travel restrictions, may also have played a part – however, the timing of the increase does indicate the potential positive impact of direct engagement with the sector.

Figure 12: The number of skilled worker CoS assigned in the food preparation and hospitality trade, including butchery roles (March 2021 to August 2022)



7.6 The Home Office and other government departments engage with stakeholders through four advisory groups, established in June 2019, as listed in Figure 13.

Figure 13: Regular stakeholder engagement relating to the points-based system

Name	Attendees	Frequency
Education Advisory Group	Home Office and higher education institutions and representative bodies	Approximately monthly
National Advisory Group	Variety of bodies from devolved nations of Northern Ireland and Scotland, including some agricultural sector organisations such as the National Farmers Union (NFU) and the Northern Ireland Agri-Food Alliance	Approximately monthly
Employers Advisory Group	Variety of attendees from some the UK's biggest employers and from representative organisations, including some agricultural sector organisations such as the NFU	Approximately monthly
Vulnerability Advisory Group	Variety of non-government organisations, including migrants' rights organisations, as well as representative organisations and refugee organisations	Approximately monthly

As part of this inspection, inspectors requested minutes, terms of reference and action logs for each of the four advisory groups. Membership of the groups is published on GOV.UK; however, inspectors were told that terms of reference are a “work in progress” as at July 2022.⁶²

- 7.7** The minutes provided detailed the topics covered at, and actions taken as a result of, advisory group meetings. The sessions appeared more oriented towards disseminating information to attendees than towards gathering input from them. Where action points were recorded, it was not always clear how they were followed up or resolved.
- 7.8** The Vulnerability Advisory Group was the exception. After raising issues initially in December 2020, attendees wrote a joint letter to the Home Office dated 3 June 2021, highlighting what they felt was inadequate follow-up to actions or answers to questions, inadequate minutes and a lack of connection to other advisory groups. As a result, an additional meeting to discuss the letter and the Home Office response was scheduled, and following this (for this group), more detailed minutes, action logs and a forward look at topics to be covered were recorded. This included a single meeting wholly dedicated to the Seasonal Worker route.
- 7.9** Inspectors interviewed various members across the groups who routinely attended. Attendees were often critical about the nature and quality of the meetings, suggesting they were “a cynical attempt to demonstrate stakeholder engagement” and that organisations found it “incredibly challenging to open a dialogue with the Home Office”. Capturing the views of many stakeholders, one organisation said that the engagement is “one-way” and that the group solely existed to “humour” stakeholders, rather than for genuine, fruitful engagement and consultation. Another, echoing this, said:
- “I’ve tried to discuss issues within the Home Office Vulnerability Advisory Group ... but this is really just a one-way street for the Home Office to tell attendees what is going on ... it [the Home Office] is not willing to listen, not open to discussion, and not able to take any sort of challenge.”
- 7.10** Describing a session at one of the groups, where the Minister for Future Borders and Immigration was in attendance, attendees told inspectors that they were required to send questions in advance, which were then vetted. While sending questions for ministers in advance may be custom, one attendee expressed frustration at the fact that they were “not allowed to speak” in response.
- 7.11** In contrast, Home Office staff felt the advisory groups worked well, highlighting the sector sits within a wider immigration system, with one staff member reporting that the meetings were useful, and that they receive a lot of “useful information” from attendees. It was caveated that concerns raised about specifics in relation to the Seasonal Worker route were often not substantiated with evidence.

Vulnerability Advisory Group and Seasonal Worker visa

- 7.12** The Vulnerability Advisory Group was the only group where the agricultural sector was given a specific focus, with a standalone meeting dedicated to the Seasonal Worker visa in August 2021, at the request of the group’s members. Attendees included non-government organisations (NGOs) focused on labour exploitation, migrant rights organisations, legal representative organisations, as well as the Gangmasters Labour Abuse Authority (GLAA), Defra, and various Home Office staff involved in the PBS.

⁶² <https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system-advisory-group-membership>

- 7.13** At the time of this meeting, the 2019 review of the Seasonal Worker Pilot ('the Pilot') had not been published, and so its content could not be discussed. The Home Office reminded attendees that they could not discuss specific allegations relating to potential exploitation and that these had to instead be made through the "appropriate channels". The Home Office said the Seasonal Worker visa had a strong focus on migrant welfare and that the sponsorship framework provided the Home Office with the power to revoke licences where necessary.
- 7.14** The group was updated that new guidance stipulated that "zero-hour contracts are outlawed" and that all employer contracts must be in the employee's first language. The group were assured that, "thanks to migrant surveys", the Home Office had a "solid understanding of what is happening on the ground". When asked about this, the Home Office stated that compliance visits are "systematic" and that visits were in "full swing" after a lull during the height of COVID-19 pandemic restrictions. Officials told the group that the Home Office conducts "on-the-spot checks" and that visits were "intelligence led".
- 7.15** At the meeting, attendees raised concerns about recruitment practices, debt bondage, inability to leave the employer, and life under duress, issues that were highlighted in a report into the Pilot published by Focus on Labour Exploitation (FLEX) in March 2021.⁶³ The report explained that migrants arriving to farms with a Seasonal Worker visa may be in debt due to illegal recruitment fees and other onboarding fees that they might have borrowed money for, such as the cost of the flight. Attendees suggested that at the end of their stay, workers could not always afford to return home and therefore became more vulnerable to exploitation within the UK. The group also highlighted concerns around the low standard of accommodation at UK farms.
- 7.16** Home Office officials confirmed that it had read the FLEX report and recognised some of the behaviours highlighted in the research. It agreed with the recommendations that stated there were areas of policy that would benefit from clarification, to the extent that the Home Office had used FLEX's wording around the employee transfer process in the updated guidance published in April 2021. On concerns about substandard accommodation, the Home Office responded to attendees at the meeting that this was a responsibility of local government. The Home Office gave the group assurances that it "may not be obvious" what action is being taken as a result of compliance visits "owing to confidentiality and the need not to prejudice due process".
- 7.17** In one meeting with the group in October 2021, the Minister for Future Borders and Immigration responded to a question asking how the government would respond to evidence that the Seasonal Worker visa has encouraged exploitation. The minister responded that any evidence of abuse should be passed to the "relevant authorities" and that it would "not be appropriate" to discuss specific cases within the forum. He noted that the government was aware of the abuses short-term visa schemes could lead to, which is why they were "not keen" to create other specific short-term visa routes, for example, for au pairs. He emphasised that the government was clear that it must "ensure the licensing process for employers taking on workers on temporary visas is appropriate, and work with local authorities and the Health and Safety Executive on housing quality and the safety of work respectively".

⁶³ <https://labourexploitation.org/publications/assessment-risks-human-trafficking-forced-labour-uk-seasonal-workers-pilot>. "You must 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 before they start to work on the farm."

7.18 In November 2021, the 2019 review of the Pilot had not been published. Minutes from the advisory group state that the group had “further reiterated their concerns around temporary work routes and the potential risk of exploitation” and that they were “keen to discuss the Seasonal Worker Pilot report”. The 2019 review was published on 24 December 2021. While the Home Office reported in the evidence submission to inspectors that the Seasonal Worker route was reviewed annually, and that further internal reviews had covered similar ground to the 2019 review, no further reviews have been published, nor, despite being requested, have they been provided to inspectors. It was not clear therefore whether they had been completed.

Sector perception of general engagement

- 7.19** Despite the agricultural sector being the only sector with a dedicated immigration route, the evidence showed no formal routine engagement between the sector and the Home Office, outside the PBS advisory groups. However, inspectors noted the National Farmers Union (NFU) is a member of both the Employer and the National Advisory Group, and that NFU Scotland, NFU Wales and the Northern Ireland Agri-Food Alliance are all also members of the National Advisory Group.
- 7.20** The Home Office told inspectors that it was the responsibility of Department for Environment, Food and Rural Affairs (Defra) to lead on sectoral engagement, although when asked in the evidence request to detail the responsibilities of other government departments in relation to the agricultural sector, it stated that Defra was only responsible for the endorsement of scheme operators for the Seasonal Worker route.
- 7.21** Reflecting the Home Office statement, farmers and sector representatives described to inspectors that they have little communication with the Home Office and they raise issues via Defra, MPs or with the scheme operators for the Seasonal Worker route. In addition to what the sector perceived as a lack of communication, the timing of communication was also an issue. Communication of changes and decisions were seen as “last minute”, which the sector said created problems in terms of business planning.
- 7.22** Sector representatives interviewed explained that the change to the minimum pay rate had business implications, as programmes, contracts and pricing structures with supermarkets and other buyers had already been agreed. The increased minimum hourly rate pushed up pay across other job roles in the sector to reflect the greater responsibility or skills required in more complex or supervisory roles, with one farm explaining to inspectors: “We pay the EUSS [EU Settled Status] workers the same rate, and it’s led to supervisor rates being pushed up. I would see it as unethical to pay different rates [for the same work].” More broadly, the increased cost of wages which had not been budgeted for put at risk other business investments such as accommodation, on-farm facilities and automation. Another farm explained: “The increase has a knock-on effect – the farm had to make that business decision – we weren’t able to renegotiate with supermarkets.”
- 7.23** An organisation whose focus was worker welfare and seeking to drive good practice in the sector agreed this was an area where the communication had been particularly poor, explaining that the change had occurred last minute, “without consultation and impact assessment” and had “unworkable rules which had to be changed twice”.

- 7.24** Sector organisations, farmers and growers, reported that they “wouldn’t even know the mechanism to feed back to the Home Office”, with some who had been involved in Home Office compliance visits explaining that, despite Home Office staff being onsite, interviewing their workers, they received no feedback following the visit. A grower representative organisation explained that it was “difficult to access the right people to have an open and honest conversation” even when engagement was necessary as opposed to desirable.
- 7.25** Other government departments and devolved administrations echoed the sector’s view. One government department reported that “there’s a bottle neck, we have to go through the sponsor unit, who in turn contact the Home Office [relevant team].” Another government department suggested that any response was to “always just ‘cut and paste’ the policy line”.
- 7.26** Devolved administrations described needing to route questions through ministers because immigration is a reserved matter. This meant obtaining responses could sometimes be a lengthy process. The Scottish Government gave an example that its minister had asked the Home Office what was required to activate the release of the extra 10,000 visas for the Seasonal Worker route and this was not answered. The Scottish Government also shared its experience of trying to obtain data from the Home Office. It described the need for data showing the locations and numbers of seasonal workers in Scotland to support planning for COVID-19 testing, ensure preparedness for a major incident, and take account of the fact that local government is responsible for assuring a good standard of accommodation. It reported being unable to obtain such data from the Home Office, with one official advising “we don’t get any stats or figures”. The data was ultimately supplied to Public Health Scotland in response to the public health issues raised.

Home Office perception of general engagement

- 7.27** Home Office staff views on how it engaged with the agricultural sector varied. A senior staff member said “our engagement has got better”, explaining they had previously felt they were just being “shouted at” by the sector. The Home Office stated that it “always engaged with the sector, but there was a while where it was quite politicised ... now it is a more productive relationship and we talk about how immigration can work for them”.
- 7.28** However, other Home Office staff members acknowledged there were no routes for farmers or workers on the routes to engage with the Home Office, explaining, “We don’t feed back to farms, that’s not our duty – they will get a report from the licensing unit, or letter. It’s not our role to discuss what our findings are.” One staff member working in compliance, recognising their role in providing a service to the sector, acknowledged “we need to make sure we are engaged better.”
- 7.29** The Home Office referenced having a good relationship with the four operators of the Seasonal Worker route and said that the scheme operators are able to raise concerns or ask questions through dedicated Home Office email addresses. However, officials said that if farmers, growers, or migrant agricultural workers sent an email to the inbox, “[they] don’t answer ... we send it to the sponsor [scheme operator].”
- 7.30** The availability of an email inbox was confirmed by the scheme operators, but they spoke of a “dictatorial relationship”, little opportunity to provide input, feeling “bullied”, and a “lack of understanding”, with three of the four suggesting communication and engagement was an area that required attention.

Future of engagement

- 7.31** Multiple stakeholders from the agricultural sector referenced a desire for better communication and engagement with the Home Office. One of the four scheme operators said, “more working together will create better results”.
- 7.32** Another stakeholder recognised the issues they had were not all the responsibility of the Home Office, suggesting that the “industry should be coming together to establish better standards”.
- 7.33** Regarding the Seasonal Worker route, it appeared designed to incorporate cross-government working and a collaborative approach, but inspectors noted the roles, responsibilities and remit of others in relation to the route were not publicly available or widely understood.
- 7.34** A sector representative organisation described that in relation to the release and number of additional visas, something that would sit within the Home Office remit, they had communicated with Defra “that we needed a decision conveyed by February [2022]. It ended up being confirmed to us with the publication of the food strategy document [July 2022].” A separate representative group interested in worker welfare said: “You raise something with one body as a policy issue, and they won’t be sure if it’s their responsibility or someone else’s.”
- 7.35** A grower explained: “We tend to hear a lot through rumours. Direct communication is virtually non-existent. It doesn’t feel collaborative at all.” A Home Office staff member involved in policy agreed that communication via other government departments was not always optimal, and that they would like to see “more direct channels to the Home Office to cut out whispers and losses in translation through another department”.
- 7.36** It was evident that the sector and scheme operators viewed overseas labour as essential to the industry’s existence, and more effective communication and engagement would facilitate an improved understanding of where government policy and the sector’s needs diverge or can be better balanced.

8. Inspection findings: compliance

- 8.1** The Home Office imposes compliance requirements on all sponsors across immigration routes. It states that those who benefit directly from migration, such as employers, should play their “part in ensuring the immigration system is not abused”. Various guidance documents set out sponsorship duties and expected behaviours, and sponsors are obligated to meet all of the relevant requirements.⁶⁴ The objectives of the sponsorship duties include:
- “preventing abuse of immigration laws and sponsorship arrangements
 - capturing early any patterns of behaviour that may cause concern
 - addressing possible weaknesses in process which can cause those patterns
 - monitoring compliance with the Immigration Rules, all parts of the Worker and Temporary Worker sponsorship guidance, and wider UK law (such as employment law)
 - ensuring sponsors do not behave in a way that is detrimental to the wider public good”⁶⁵
- 8.2** Home Office guidance states that action may be taken against a sponsor if these duties are breached, or if a sponsor behaves in a way that is not compatible with being licensed by the Home Office.
- 8.3** This inspection focused on sponsorship compliance for the Seasonal Worker route, rather than the Skilled Worker route, due to the route’s specific connection to the agricultural sector, and unique structure designed to mitigate the associated risks of labour exploitation.

Guidance for sponsors of seasonal workers

- 8.4** The ‘Seasonal Workers Pilot review 2019’ (published December 2021) acknowledged that migrants under the Seasonal Worker scheme may be more vulnerable and open to exploitation than “other workers”.⁶⁶ Multiple factors contribute to the heightened vulnerability of seasonal workers, including the temporary nature of the route, and that workers are often accommodated by their employer and are physically isolated. Scheme operators must therefore meet the requirements laid out in four guidance documents:
- ‘Sponsor a Seasonal Worker’⁶⁷
 - ‘Workers and Temporary Workers: guidance for sponsors part 1: apply for a licence’⁶⁸
 - ‘Workers and Temporary Workers: guidance for sponsors part 2: sponsor a worker’⁶⁹

64 <https://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators>

65 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance-accessible-version>

66 <https://www.gov.uk/government/publications/seasonal-workers-pilot-review/seasonal-workers-pilot-review-2019#review-of-the-2019-pilot>

67 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-2-sponsor-a-worker>

68 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-1-apply-for-a-licence>

69 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-2-sponsor-a-worker>

- ‘Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance’^{70,71}
- 8.5** Section SE3 of the ‘Sponsor a Seasonal Worker’ guidance sets out the responsibilities of the approved scheme operators on the Seasonal Worker route in relation to sponsored workers, including monitoring workers’ welfare and compliance with visa requirements. The guidance states that the Home Office “will take action” in response to compliance failings, up to and including revocation of the sponsorship licence.
- 8.6** The ‘Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance’ guidance at section C1.9 sets out the duties of licensed sponsors, including:
- “reporting duties
 - record keeping duties
 - compliance with immigration laws and Worker and Temporary worker guidance
 - compliance with UK law
 - not engaging in behaviours that are not conducive to the public good”
- 8.7** This guidance also sets out the sanctions available in cases of non-compliance, including suspension and revocation of the licence.
- 8.8** The Home Office told inspectors that the guidance was “sense checked” with the Gangmasters and Labour Abuse Authority (GLAA) to ensure consistency with the licensing requirements of the GLAA, and that the minimum standards prescribed were acceptable.
- 8.9** Section SE3.4 of the ‘Sponsor a Seasonal Worker’ guidance sets out the requirements for monitoring workers’ welfare and an expectation for “robust and comprehensive monitoring” of sponsored workers, including ensuring that:
- “the workers’ work environment is safe and complies with relevant Health and Safety requirements
 - employers take adequate steps to ensure workers understand Health and Safety procedures, including providing translations into the workers’ first language if required
 - workers are treated fairly by their employer, including not penalising workers for failing to work at the fair piece rate
 - workers are given an employment contract in their first language, as well as in English – these must not be zero-hours contracts
 - workers are paid properly – this includes satisfying National Minimum Wage regulations, including those on fair rates for piece work, and Holiday Pay
 - workers are allowed time off and proper breaks
 - workers are made fully aware of procedures if they are sick or injured, including how to make a claim on any medical insurance they may have
 - workers are provided with appropriate equipment to do their job safely and are not charged for it, including any replacements of worn and accidentally damaged items

70 This guidance also applies to workers on other sponsored routes.

71 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance/workers-and-temporary-workers-guidance-for-sponsors-part-3-sponsor-duties-and-compliance-accessible-version>

- employers with whom you have placed workers do not impose additional, unnecessary charges on workers, whether directly or indirectly
- workers are housed in hygienic and safe accommodation that is in a good state of repair
- workers are not transported in unsafe vehicles
- workers are not threatened with, or subjected to, violence
- workers are not subject to any discrimination
- workers' passports, travel documents or any other identity documents are not withheld from them
- procedures are in place to enable workers to report any concerns to you
- workers are made fully aware of the expectations on you and the employer, and how to report any concerns where those expectations are not met"

Worker welfare and compliance visits

- 8.10** To ascertain levels of compliance, the Home Office Sponsor Visits team, part of the wider Home Office Sponsor Compliance Network (SCN), conducts site visits to farms. Visits were resumed in 2021 following a pause as a result of the COVID-19 pandemic. Data provided by the Home Office indicated that 25 compliance visits were conducted between June 2021 and February 2022. A total of 903 seasonal agricultural workers were interviewed.
- 8.11** The purpose of these interviews was to ensure that workers had been "recruited fairly, correctly and of their own free will, that they are working under UK legislated terms and conditions, pay and living arrangements in line with the minimum UK accepted standards and are not subjected to unfair treatment and/or bullying".

Compliance visits reports

- 8.12** For its reports on visits to employers of seasonal workers, Home Office compliance staff use a bespoke form. The form prompts compliance staff to record information on:
- sponsor details
 - visit details
 - checks and interviews
 - monitoring immigration status
 - maintaining migrant contact details
 - record keeping and recruitment practices
 - migrant tracking and monitoring
 - general sponsor duties
 - observations and summary
 - compliance officer and countersigning officer details
- 8.13** Of 25 compliance visits that were conducted, the Home Office recorded that "significant issues" were raised at 13 visits. The data for one farm had not been fully recorded, in that while migrant interviews had been conducted, the spreadsheet did not record whether issues had been raised or not.

- 8.14** As part of a further evidence request, the Home Office provided copies of compliance reports. The data provided indicated that although the compliance team carried out 25 visits between June 2021 and February 2022, welfare interviews were only conducted at 19 of those visits. Inspectors analysed all 19 reports against the set of expectations contained in the guidance for scheme operators, as well as the indicators of labour exploitation as set out by the International Labour Organization.^{72,73}
- 8.15** Some reports indicated no issues at all. One even noted that the farm had “exceeded” expectations as set out in the requirements. However, inspectors noted that there were reports that had not been marked as having “significant issues” even though notes from welfare interviews indicated serious or alarming concerns. Most commonly, these related to the poor condition of accommodation.
- 8.16** Some issues reported can be down to subjective opinion and expectations, for example, the standard of accommodation and amount of hours worked being considered ‘not enough’, even if they were over 37 hours. However, others were more serious, such as cases in which workers reported not being paid correctly for the hours they had worked, not being issued with personal protective equipment (PPE), or not having access to healthcare.
- 8.17** In one compliance report, drafted in November 2021, where 82 seasonal workers were interviewed, significant concerns were listed around poor accommodation, ill-treatment, being denied healthcare, and being refused holiday. With regards to ill-treatment, the summary states that workers felt that they were being discriminated against on the basis of their nationality. The compliance officer wrote:
- “It is apparent from speaking to the Seasonal workers, all Ukrainian nationals feel they have been treated unfairly, have been shouted at, and treated less favourably than the other nationalities, Bulgarians and Russians. This ill treatment stemmed from the [redacted – scheme operator name] employees and line supervisors.”
- 8.18** Summarising a welfare interview, the officer wrote:
- “[Worker] mentions being shouted at, stringent attitude towards the Ukrainian nationals by staff, also because she is Ukrainian, she is taken off the line, unable to report as supervisors are also Romanian. Wrote letters to [redacted – scheme operator] but she was called by [name redacted] and told to stop writing letters, requested to go to another farm but told ‘no you aren’t going anywhere’.”
- 8.19** In one summary of an interview, the officer wrote that a migrant expressed that she was “unhappy and became emotional during the interview”. They described working conditions that were the direct cause of this, stating, “the employers demand a high quality and the line manager, [name redacted], frequently shouts and swears at them.”
- 8.20** In one compliance report, there was anecdotal evidence of finding it difficult to access healthcare. A Home Office compliance officer summarised an interview, stating: “he was trying to get help, but no one would help him ... he was in agony for about 4 hours and then he had to pull out his own tooth.”

72 <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker-accessible-version>

73 https://www.ilo.org/global/topics/forced-labour/publications/WCMS_105035/lang--en/index.htm

- 8.21** One visit report noted migrants reporting that more favourable treatment was given to workers of certain nationalities in terms of provision of gas and washing facilities.
- 8.22** Further, there was often a lag of months between when the welfare interviews were conducted and the production of the reports, making further investigation and follow-up more difficult.

Feedback of compliance reports to scheme operators and compliance action

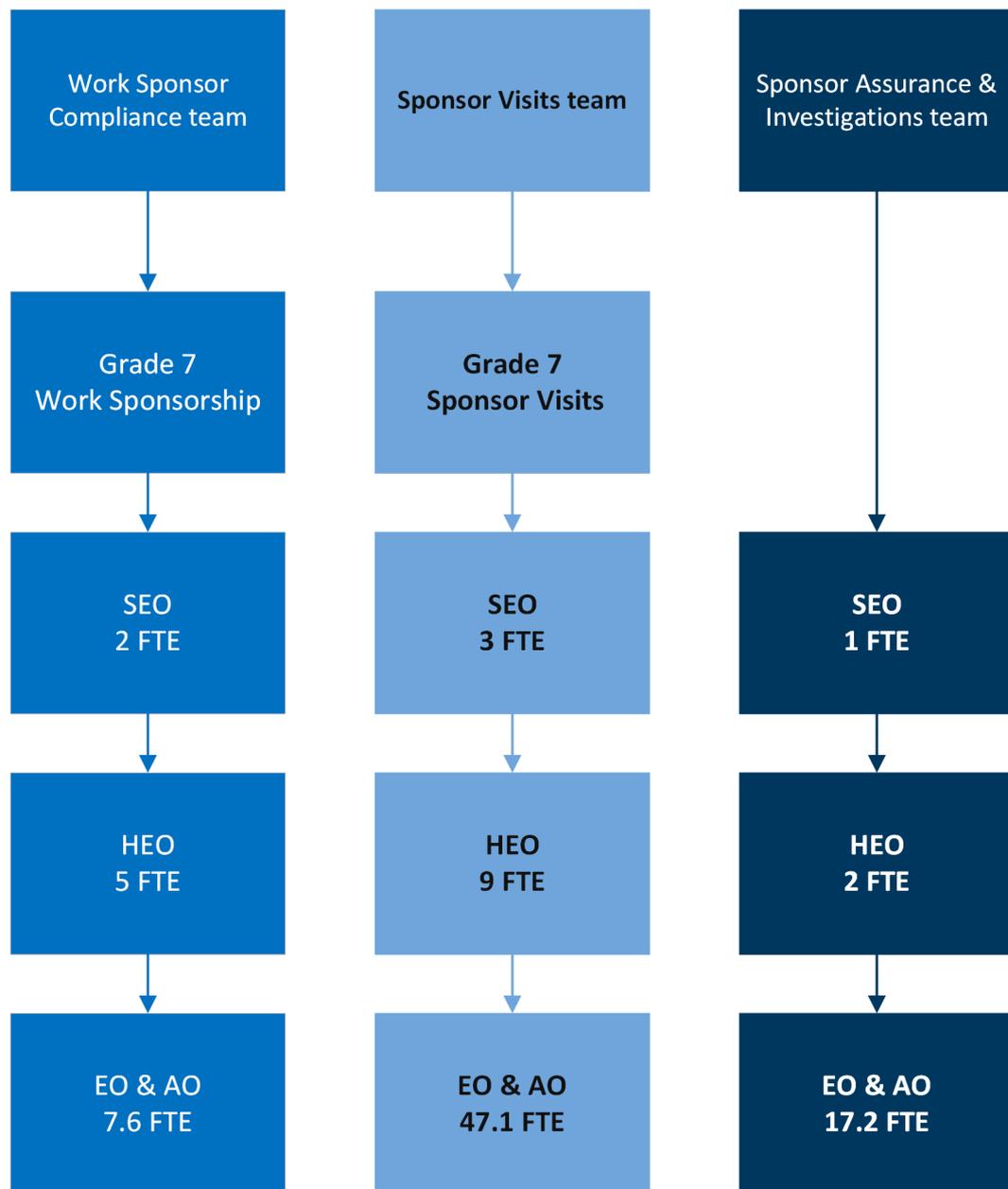
- 8.23** Section SE3 of the ‘Sponsor a Seasonal Worker’ guidance sets out responsibilities of approved scheme operators on the Seasonal Worker route. SE3.2 states that scheme operators “must fully comply with all the requirements in this section or we will take action against you, up to and including the revocation of your sponsor licence”. Further, SE3.3 states: “you are responsible for all the workers you sponsor on this scheme ... if you do not maintain a high standard of welfare and control – for example, if workers are not doing the work you said they would – we will take action against you.”
- 8.24** However, stakeholders raised concerns that compliance issues were not followed up. A non-governmental organisation (NGO) submitted that there is limited information about how the Home Office monitors compliance requirements placed on scheme operators and questioned whether compliance monitoring is sufficiently comprehensive, or results in appropriate action.
- 8.25** Front-line Home Office compliance staff confirmed that there is a lack of follow-up, with some explaining that they are “very reactive”, and they also did not know what happens with the reports or whether the issues were reported to more senior officials.
- 8.26** Compliance staff gave examples of issues that were being raised by workers at the visits, including discrimination allegations, preferred nationalities getting easier jobs, being bullied, sworn at and being excluded from work. Compliance staff told inspectors: “this raises alarm bells, but we don’t know what happens with this information.” This approach was compared by stakeholders with that of the GLAA, who inspectors were told give feedback to make necessary changes straight away, whereas Home Office compliance visits do not provide feedback and reports are received much later, and only on request.
- 8.27** A farm stated that they had “zero feedback” following a Home Office compliance visit but took the position that “no news is good news”. Inspectors asked the Home Office to provide copies of formal correspondence to scheme operators and clarify what action had been taken. It said that, because of a lack of “actual tangible evidence”, no formal correspondence was issued and no action was taken.
- 8.28** The Home Office provided copies of informal emails it had sent to scheme operators. These emails showed that only seven of the 19 compliance reports were fed back to the relevant scheme operators. In one instance, a scheme operator was not provided the report for a compliance visit to a farm where significant issues were identified by compliance officers.
- 8.29** Furthermore, in one example, an email was sent to a scheme operator containing a report for a farm that the scheme operator did not have workers at. This indicated that information relating to the performance of a third party, including personal details of seasonal workers and farm staff, was erroneously disclosed to another scheme operator. Additionally, the email stated that issues identified appeared to be in “direct contravention of guidance and agreements”, but there is no evidence that this error was identified or that the report was subsequently sent to the correct scheme operator.

- 8.30** The Home Office gave assurances to the Vulnerability Advisory Group that it “may not be obvious” what action is being taken as a result of compliance visits “owing to confidentiality and the need not to prejudice due process”. However, Home Office documents and interviews with compliance staff show that (the department’s assurances to stakeholders notwithstanding) there is in fact no effective process in place for follow-up action on compliance concerns.
- 8.31** Attendees of the Vulnerability Advisory Group questioned enforcement of non-compliance and were assured that the Home Office conduct “on-the-spot checks” and that visits were “intelligence led”. However, in reality inspectors failed to see evidence of this. The inspection found that compliance visits are driven by numerical targets. Compliance staff told inspectors of the “ministerial drive to do 5,000 audits on migrants a year”, which leads to some farms, with small numbers of seasonal workers, being overlooked. Inspectors were told by compliance staff that “choosing where to go is based on who is prepared to be audited or picking the largest provider” to meet Home Office targets of interviewing 5% of seasonal workers. This target is confirmed in documents provided to inspectors. This raises concerns regarding the integrity of assurances given to the sector.

Training and resourcing for compliance team

- 8.32** Despite the serious nature of issues raised at some compliance visits, a lack of resourcing across the Sponsor Compliance Network (SCN) was raised by Home Office staff and stakeholders. Officials told inspectors that limited resources prevent further evidence-gathering. A Home Office staff member working in compliance told inspectors, “It is challenging to gather evidence with the resources available.” Compliance staff also spoke of working long days to fit in interviews, in addition to travel time to the farms. It was reported that compliance had long been underfunded and understaffed. When asked about their workload, compliance officers described being “swamped”, stating that current resourcing is around 50% capacity of what it should be.
- 8.33** In spring 2022, the Home Office began to increase staffing across the Seasonal Worker route, to include a full-time higher executive officer (HEO) and an executive officer (EO) role within the Sponsor Assurance and Investigation team (SAIT). During focus groups, inspectors were told that these roles were ‘ring-fenced’ to deal solely with sponsor compliance on the Seasonal Worker route. SAIT assure sponsors against the sponsor compliance guidance and collect and investigate data, which is used to inform the visits to be undertaken by the Sponsor Visits team.
- 8.34** Figure 14 below sets out the structure of the Home Office’s SCN. The SCN is tasked to conduct compliance audits and wellbeing interviews in the agricultural sector.

Figure 14: Home Office Sponsor Compliance Network organogram



- 8.35** Some scheme operators expressed scepticism to inspectors about the level of training and experience of compliance staff, who were tasked with conducting compliance visits and drafting reports.
- 8.36** Inspectors reviewed the staff training package, consisting of 27 slides which outline the scheme operators' compliance requirements, onsite logistics and support, health and safety and post-visit processes, including report drafting. Slides on modern slavery, identifying potential victims of modern slavery, and welfare concerns are also included. The slides did not cover interviewing skills or detail what the welfare interviews with workers would cover.
- 8.37** Home Office staff interviewed by inspectors did not consider the training to be comprehensive, explaining: "We see people in difficult situations asking for help, crying. We want to help... but don't know who is accountable. On farms, it's more of a welfare check, what I personally think is wrong or an issue. [I] don't know if what we are reporting is useful, do we need

more clarity on allegations, or documents to prove something?” They also appeared unclear on the processes to follow when issues were identified. Some staff reported they “refer to the National Referral Mechanism, Department for Environment, Food and Rural Affairs representatives or GLAA”. Another staff member explained that the reports are “based on audits and are a fact-finding mission. We only report or red-flag any issues that require immediate action or are of immediate concern. Other areas are expected to go to the relevant bodies to take it forward. What happens with the reports once they are written is out of our scope.”

- 8.38** As a result of staff feedback, the Home Office delivered refresher training to small regional groups via Microsoft Teams, ahead of visits being conducted in 2022. The refresher training consisted of a review of a briefing note and a ‘question-and-answer style’ session for all compliance staff to ask questions and clarify processes. It was unclear who presented this material, and it had not been delivered at the point inspectors were speaking to staff.

Improvements for 2022 compliance visits

- 8.39** The Seasonal Workers Pilot 2021 Compliance Network Review (November 2021) set out the issues identified by the compliance network across the 2019–20 and 2021–22 Seasonal Worker Pilot models.⁷⁴ It further set out suggested improvements based on lessons learned, such as for compliance officers to “obtain as much detail as possible when migrants are raising issues about their working conditions. For instance, a caravan number would be really useful when issues are raised re their living conditions.”

- 8.40** Inspectors were told that as part of a suite of improvements to compliance processes, interviews will now be conducted with migrants first and farm managers after, which would allow them to raise any issues with farm managers. The ‘SAWS 2022: Seasonal Agricultural Workers Scheme SCN briefing note’ aimed at compliance staff sets out:

“Migrant interviews must be conducted before the farm manager interview. Accommodation and welfare issues reported by migrant workers should be collated and verified/evidenced where possible, then passed to the lead CO [compliance officer] at the end of the day.”

- 8.41** Contractual issues were raised by a number of stakeholders. Organisations supporting rights of seasonal workers raised issues with contractual hours differing from the hours the workers actually get. These organisations told inspectors that the agreements with scheme operators sometimes differ from the agreements with the farms. Interviews with farm operators showed that the farms do not see the agreements made with agencies in the home country and thus they would not be aware of any differences.

- 8.42** Inspectors noted that in compliance reports, it was difficult to identify whether certain compliance requirements had been assessed or not. It was not possible to see from the reports which requirements were checked, with no mention made of some requirements. Confirmation that all requirements were checked would provide a more meaningful assessment. Inspectors note that the revised ‘SWP Migrant Interview Record’⁷⁵ improves upon this. However, this interview record template still does not have a comprehensive set of questions which would allow officers to measure fully worker welfare requirements as set out in guidance. Specific gaps include the following:

⁷⁴ The SCN did not undertake any compliance visits during the 2020-2021 season as these were paused as a result of COVID-19.

⁷⁵ Annex A.

- “the workers’ work environment is safe and complies with relevant Health and Safety requirements
- workers are not transported in unsafe vehicles
- workers are not subject to any discrimination
- procedures are in place to enable workers to report any concerns to you
- workers are made fully aware of the expectations on you and the employer, and how to report any concerns where those expectations are not met”

8.43 Despite improvements to the templates, training and guidance surrounding compliance, more work remains to be done to ensure that worker welfare is effectively assured by a robust compliance regime.

8.44 Compliance staff told inspectors of the difficulties interviewing the migrants where they were “getting hassled to get back to work”. Inspectors interviewed groups of workers during the onsite phase of our inspection, and one group raised the concerns that their pay was cut while attending such interviews. If this were more widespread, the willingness of seasonal workers to engage with – and disclose concerns to – compliance officers during visits will be significantly compromised.

Immigration control compliance requirements

8.45 Section SE3.15 of the ‘Sponsor a Seasonal Worker’ guidance states:

“We will revoke your licence if, within any 12-month period, any of the following occur:

- fewer than 95 percent of your sponsored workers are granted entry clearance (a visa)
- 3 percent or more of your sponsored workers who obtain entry clearance (a visa) fail to arrive at their place of employment
- fewer than 97 percent of your sponsored workers who obtain entry clearance (a visa) leave the UK at the end of their permitted stay”

8.46 The Home Office told inspectors that data capture by the SAIT team in relation to these three areas was a result of checks against three different Home Office systems – Proviso,⁷⁶ PBS Metastorm⁷⁷ and the Management Information and Data Analysis Service (MIDAS).⁷⁸ Inspectors were told MIDAS had limitations and does not always capture workers’ travel via the common travel area. The system allows Home Office staff to view records of a person’s entry to and exit from the UK. However, it does not capture all arrivals and departures across all modes of transportation and therefore the data is not consistently available. Compliance staff also told inspectors there was a reliance on scheme operators’ reporting of data, such as the number of seasonal workers failing to arrive in the UK.

8.47 According to Home Office data provided to inspectors, scheme operators are not meeting the minimum requirements set out above. Data showed that for two scheme operators, fewer than 97% of sponsored workers who obtained visas left the UK at the end of their stay in 2021. This is in contravention of the above guidance and, according to said guidance, will result in revocation of licences. However, no action has been taken.

⁷⁶ Visa application database used by the Home Office.

⁷⁷ Sponsorship and licensing database used by the Home Office.

⁷⁸ System used by the Home Office to monitor entry and exit from the UK.

- 8.48** The Home Office responded that the data set is incomplete, has not been finalised and that they are in the process of visiting providers to raise issues around absconder rates. The Home Office cited further difficulties in reconciling the data due to status changes of Ukrainians from Seasonal Worker to the Ukraine Extensions Scheme, for example.
- 8.49** The Home Office stated it would consider suspension and the ‘formal path’ if metrics are still not met following receipt of the 2022 interview records. However, the Home Office accepts that immediate revocation would remove a large volume of labour from the agricultural sector.
- 8.50** Home Office compliance staff articulated the difficulties scheme operators have around these requirements and their responsibilities. One example given was difficulties in evidencing the number of workers who leave the UK at the end of their permitted stay. Scheme operators send copies of travel tickets as evidence of departure, but this is where their responsibility ends, as the Home Office accepts that scheme operators “can’t walk them on the plane”.
- 8.51** To state in guidance that revocation action will be taken against scheme operators who fail to meet stated criteria but then not to implement reliable and consistent mechanisms to accurately capture the specified data undermines this aspect of the Home Office’s compliance duties. There also appears to be a reluctance to enforce the guidance due to a lack of contingency to employ agriculture workers, should a scheme operator’s licence be revoked.

9. Inspection findings: clarity of roles and responsibilities

- 9.1** Challenges with communication with the agriculture sector and with compliance within the seasonal work were often exacerbated by a lack of clarity over roles and responsibilities of the various government departments or bodies involved (or not). The evidence obtained in the course of the inspection did not provide a clear picture as to how responsibilities were divided across the Home Office, other government departments, devolved administrations and local authorities. Inspectors also received contradictory information about the distribution of responsibilities from Home Office staff and other government departments.
- 9.2** A lack of clarity about responsibilities further complicated how communication and engagement worked in practice for stakeholders, fuelling a negative perception of the communication channels and contributing to the feeling of a lack of understanding about how the two visas routes are coordinated, and who, exactly, is responsible for what.
- 9.3** With regards to compliance of scheme operators, Home Office staff described it as a “muddy arena”, referring to overlaps in terms of responsibilities and handoffs between itself and others. Compliance staff questioned why they were duplicating duties that were being carried out by other organisations or departments. However, conversely, other government departments (OGDs) and arm’s-length bodies were quite clear in how their responsibilities differed from that of the Home Office. For example, while a good working relationship between the Home Office and the GLAA was evident, divisions of responsibility for certain aspects were unclear.
- 9.4** Of all compliance visits where migrant welfare interviews were completed, 48% included an accompanying member of staff from the GLAA. The Seasonal Workers Pilot 2021 Compliance Network Review (November 2021) cites the GLAA representation during compliance visits as being “invaluable”. It also states that “issues have been taken forward by GLAA to investigate further as a result”. This was echoed by Home Office compliance staff, who stated that identified issues were raised with the GLAA for them to progress. However, this is contrary to what inspectors were told in interviews with the GLAA. The GLAA’s remit is to check that businesses licensed by the GLAA are acting in accordance with that licence, although they said they have worked with operators to try to address some of the “low-level matters” such as managing expectations for workers who did not like the accommodation or the weather.
- 9.5** The GLAA told inspectors that its responsibilities were “very different” from that of the Home Office. However, there is some crossover between the GLAA’s licensing standards, and the Home Office seasonal worker sponsor guidance.^{79,80} The GLAA’s licensing requirements are contained in a 36-page document, last updated in January 2020, which includes prescriptive expectations around forced labour and mistreatment of workers, accommodation, working conditions, health and safety, and recruiting workers, among other things. Under each subsection it states: “failure against this standard may lead to a licence being revoked with immediate effect.” However, the GLAA told inspectors that there was a misconception that

⁷⁹ <https://www.gla.gov.uk/i-am-a/i-supply-workers/do-i-need-a-glaa-licence/licensing-standards/>

⁸⁰ <https://www.gov.uk/government/publications/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker/workers-and-temporary-workers-guidance-for-sponsors-sponsor-a-seasonal-worker-accessible-version>

they were enforcing the Seasonal Worker scheme, and referred to them ensuring their licensing requirements were being upheld as being distinct from the Home Office compliance guidance.

- 9.6** In terms of other organisations and responsibility, the Health and Safety Executive (HSE) also described its role as being “quite separate” from Home Office responsibilities in that the HSE conducts targeted campaigns in agriculture, such as identifying any health and safety issues in dairy farming, rather than check compliance at the level of individual farms or employers.
- 9.7** Despite both the Home Office and the GLAA having requirements for accommodation as conditions of licensing, the Home Office considers that substandard accommodation is the responsibility of local government. The Home Office has no documented process in terms of onward referral to other agencies, such as the GLAA, the HSE or the local authority, and reference to onward referral in training material is vague. For example, the Seasonal Workers Pilot Training PowerPoint slides simply state: “any evidence of modern slavery is gathered and referred as appropriate.” The notes accompanying the slides make reference to local authority safeguarding services, but there is no further information about when or how this would be done. A lack of clear guidance regarding escalation of identified issues leads to a risk of serious issues being unresolved.⁸¹
- 9.8** With regards to immigration compliance, Home Office staff told inspectors of limitations to their role, which they attributed to a “lack of power”. Staff gave the example of an increase in recruitment of seasonal workers from so-called ‘high-risk’ nationalities, which they were unable to prevent from a visa perspective, and stated that “harm data” showed that 70–80% of those absconding or claiming asylum on the work routes are seasonal workers.⁸²
- 9.9** To reduce the risk of scheme operators recruiting workers from these countries, Home Office compliance staff explained that they used “soft powers” such as “pulling a face” to try to negotiate with a scheme operator to persuade them to reconsider the countries they recruit from. Though correct that they had no actual powers under which to enforce recruitment from certain countries, or to ban recruitment from other countries, the Home Office does have powers to remove a scheme operator’s licence where the number of people who do not leave the UK at the end of the six-month period (for example, due to claiming asylum or absconding) falls below 97%.
- 9.10** While the Home Office, other government departments and local authorities may have duplicated responsibilities with regards to the welfare of workers in the UK on a Seasonal Worker visa, it is clear that at present there is a lack of clarity about who is holding farmers and scheme operators accountable. The Home Office, as the owner of the Seasonal Worker route and the holder of sponsor licences, ought to be assuring itself that the scheme operators are upholding the various requirements, whether or not it considers that some aspects should also be the responsibility of another party. At present, it is not able to do this.⁸³

81 In its factual accuracy response, the Home Office stated: “The Home Office sets no minimum standards for accommodation. We require that all accommodation complies with UK law – which is licensed by local government. We believe the GLAA takes the same position and does not set its own standards.”

82 Data provided to inspectors indicated that between March 2019 and March 2022, 209 workers who arrived on a Seasonal Worker visa subsequently claimed asylum, representing 0.4% of the total number of workers, 41 of whom were Nepalese nationals. Of central Asian countries, 20 were from Uzbekistan and 18 were from Tajikistan. The Home Office could not provide data on the number of absconders, and so this 70–80% figure could not be verified by inspectors. 11

83 In its factual accuracy response, the Home Office commented that if it “identifies potential issues whilst undertaking site visits, these will be reported to the relevant authorities – as duty bound.”

Annex A: Worker welfare interview question analysis

Figure 15: Migrant interview questions and inspectors' analysis of 2022 migrant interview record

Migrant interview question	ICIBI analysis
How were you recruited to this job?	Not linked to a specific requirement but likely linked to recruitment fees and wider labour exploitation concerns.
Who arranged your transport to the UK?	Not linked to a specific requirement but likely linked to recruitment fees, debt bondage and wider labour exploitation concerns.
How did you pay for this?	Not linked to a specific requirement but probably linked to debt bondage. Question could go further and ask if migrant has taken a loan from anyone, which might also place them into debt bondage, or make them more vulnerable to exploitation. Although not strictly within the Home Office's remit to police, it would give an indication of the risks present in the scheme.
Did you pay anyone a fee to come to the UK?	SE3.9 – "You must not place any additional charges on participating workers, beyond the costs of administrating the scheme."
What is your job role?	SE3.10 – "You cannot use the Seasonal Worker route to source your own labour needs." SE3.11. – "You must not place workers at an employment business or agency."
Do you have a contract? Have you signed it?	SE3.4 – "Workers are given an employment contract in their first language, as well as in English – these must not be zero-hours contracts."
Was your contract provided in your own language?	SE3.4 – "Workers are given an employment contract in their first language, as well as in English – these must not be zero-hours contracts."
Did you receive a health and safety briefing before you started work?	SE3.4 – "Employers take adequate steps to ensure workers understand Health and Safety procedures, including providing translations into the workers' first language if required."
Was this provided in your own language?	SE3.4 – "Employers take adequate steps to ensure workers understand Health and Safety procedures, including providing translations into the workers' first language if required."

Figure 15 (continued)

Migrant interview question	ICIBI analysis
Have you been provided with PPE? What were you given?	SE3.4 – “Workers are provided with appropriate equipment to do their job safely and are not charged for it, including any replacements of worn and accidentally damaged items.”
Is replacement PPE free?	SE3.4 – “Workers are provided with appropriate equipment to do their job safely and are not charged for it, including any replacements of worn and accidentally damaged items.”
How many hours a day or week do you work? Is this stipulated in the contract? (should be 48-hour week unless they agree to more)	Not linked to a specific requirement of SE3.4 (other than no zero-hours contracts, as above).
Do you actually work that number of hours? If not, why not?	Not linked to a specific requirement of SE3.4 (other than no zero-hours contracts, as above).
Do you work ‘piece’ work – is this fair?	SE3.4 – “Workers are treated fairly by their employer, including not penalising workers for failing to work at the fair piece rate.” It is noted that this requirement asks a broader question about fair treatment, as opposed to being specifically about piece rates.
Do you receive regular breaks during the working day? What are they?	SE3.4 – “Workers are allowed time off and proper breaks.”
Where do you sleep, wash, cook, eat?	Not linked to a specific requirement.
Do you pay for accommodation? How much per day/week/month?	Not linked to a specific Home Office requirement but accommodation provided by an employer can be considered when calculating the National Minimum Wage or National Living Wage.
Do you have any concerns about your accommodation? (evidence required: photos, accommodation location/ number, specifics, view this if possible)	SE3.4 – “Workers are housed in hygienic and safe accommodation that is in a good state of repair.” It is good to see that evidence will be sought by COs, which will strengthen feedback to scheme operators.
Have you raised accommodation issues with the farm or sponsor representative? If so, what happened? (again, specifics required – dates/ evidence, etc)	SE3.4 – “Workers are housed in hygienic and safe accommodation that is in a good state of repair.” It is good to see that evidence will be sought by COs, which will strengthen feedback to scheme operators.
How are you paid? (cash, bank transfer, etc)	SE3.4 – “Workers are paid properly – this includes paying the minimum hourly rate, alongside satisfying relevant National Minimum Wage regulations, including those on fair rates for piece work, and holiday pay.”

Figure 15 (continued)

Migrant interview question	ICIBI analysis
How much are you paid? Per hour, per day, per week, per month? (NMW, NLW or AWO should be paid) £10.10 ph?	<p>SE3.4 – “Workers are paid properly – this includes paying the minimum hourly rate, alongside satisfying relevant National Minimum Wage regulations, including those on fair rates for piece work, and holiday pay.”</p> <p>SE6.1 – “You must confirm the worker you are sponsoring will be paid at least £10.10 for each hour they work.”</p>
Do they deduct anything from your salary? What? (i.e., transportation costs, petrol, accommodation, PPE)	<p>SE3.4 – “Employers with whom you have placed workers do not impose additional, unnecessary charges on workers, whether directly or indirectly.”</p> <p>SE6.2 – “The hourly rate only includes guaranteed basic gross pay (before income tax and including employee pension and national insurance contributions), and does not include other pay and benefits.”</p>
If you have to travel to another area, are you charged transportation costs? If so, how much?	<p>SE3.4 – “Employers with whom you have placed workers do not impose additional, unnecessary charges on workers, whether directly or indirectly.”</p>
Do you receive pay slips? Do you have one I can see?	<p>SE3.4 – “Workers are paid properly – this includes paying the minimum hourly rate, alongside satisfying relevant National Minimum Wage regulations, including those on fair rates for piece work, and holiday pay.”</p>
Are your wages usually correct?	<p>SE3.4 – “Workers are paid properly – this includes paying the minimum hourly rate, alongside satisfying relevant National Minimum Wage regulations, including those on fair rates for piece work, and holiday pay.”</p>
Do you receive sick pay and holiday pay?	<p>SE3.4 – “Workers are paid properly – this includes paying the minimum hourly rate, alongside satisfying relevant National Minimum Wage regulations, including those on fair rates for piece work, and holiday pay.”</p> <p>SE3.4 – “Workers are made fully aware of procedures if they are sick or injured, including how to make a claim on any medical insurance they may have.”</p>
If you are sick or get injured, are you aware of what to do?	<p>SE3.4 – “Workers are made fully aware of procedures if they are sick or injured, including how to make a claim on any medical insurance they may have.”</p>
Have you ever been subjected to any physical or mental mistreatment here?	<p>SE3.4 – “Workers are not threatened with, or subjected to, violence.”</p> <p>It is noted that the wording could be clearer here and be more specifically related to the requirement.</p>
Have you ever been threatened?	<p>SE3.4 – “Workers are not threatened with, or subjected to, violence.”</p> <p>It is noted that the wording could be clearer here and be more specifically related to the requirement.</p>

Figure 15 (continued)

Migrant interview question	ICIBI analysis
<p>Have you ever requested a transfer to another farm? What was the outcome?</p>	<p>SE3.7. – “You must 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 before they start to work on the farm.”</p> <p>SE3.8. – “You must not normally refuse requests from participating workers to change employers. Participating workers can change employers if they wish and must normally be allowed to do so, unless there are significant reasons not to permit this (for example, their visa will imminently expire and the duration of the necessary training requirements would make such a move impractical).”</p>
<p>Have you ever taken a loan from your employer? If so, how much and what are the repayment terms?</p>	<p>Not linked to a specific requirement but thematically linked to debt bondage.</p>
<p>Has your employer taken your passport or other ID documents off you?</p>	<p>SE3.4 – “Workers’ passports, travel documents or any other identity documents are not withheld from them.”</p>
<p>Is there anything else you would like to ask or tell us?</p>	

Annex B: Seasonal worker distribution by county

Figure 16: Distribution of seasonal workers by country and county/region (March 2019 – August 2022)

Country	County	Workers	%
England	Kent	17,595	26.7%
	Herefordshire	7,225	10.9%
	Cambridgeshire	3,918	5.9%
	Lincolnshire	3,380	5.1%
	West Sussex	3,249	4.9%
	Staffordshire	2,547	3.9%
	Worcestershire	2,329	3.5%
	Norfolk	2,031	3.1%
	Cornwall	1,788	2.7%
	Hampshire	1,383	2.1%
	Suffolk	1,079	1.6%
	Essex	778	1.2%
	Berkshire	680	1.0%
	East Riding of Yorkshire	657	1.0%
	Derbyshire	633	1.0%
	Warwickshire	603	0.9%
	Nottinghamshire	570	0.9%
	Lancashire	530	0.8%
	Somerset	435	0.7%
	Bristol	401	0.6%
	North Yorkshire	362	0.5%
	Surrey	317	0.5%
	Bedfordshire	271	0.4%
	Gloucestershire	194	0.3%
	West Yorkshire	170	0.3%
	Cheshire	163	0.2%
Merseyside	159	0.2%	
Buckinghamshire	145	0.2%	

Figure 16 (continued)

Country	County	Workers	%
England	Devon	142	0.2%
	Northamptonshire	137	0.2%
	Shropshire	137	0.2%
	Greater Manchester	107	0.2%
	Greater London	98	0.1%
	Leicestershire	83	0.1%
	County Durham	82	0.1%
	Isle of Wight	80	0.1%
	Cumbria	46	0.1%
	Wiltshire	44	0.1%
	Oxfordshire	26	0.0%
	West Midlands	26	0.0%
	East Sussex	8	0.0%
	Dorset	1	0.0%
Northern Ireland	County Tyrone	606	0.9%
	County Down	341	0.5%
	County Armagh	275	0.4%
	Antrim	43	0.1%
	County Londonderry	7	0.0%
Scotland	Fife	2,988	4.5%
	Perth and Kinross	2,889	4.4%
	Aberdeenshire	1,697	2.6%
	Angus	1,663	2.5%
	East Lothian	341	0.5%
	Scottish Borders	139	0.2%
	Dundee	137	0.2%
	Highland	60	0.1%
	Midlothian	38	0.1%
	Stirling	9	0.0%
	Ross and Cromarty	1	0.0%
Wales	Carmarthenshire	32	0.0%
	Pembrokeshire	17	0.0%
Unknown ⁸⁴	Unknown	115	0.2%
Grand total		66,007	

84 This figure includes 115 workers whose address it was not possible to discern from the data supplied by the Home Office. The certificate of sponsorship data provided is fed by inputs from sponsors.

Annex C: Eligible occupation codes for Skilled Worker route

Figure 17: Eligible occupation codes currently used by the agricultural sector under the Skilled Worker route

Occupation code
1115 Chief executives and senior officials
1121 Production managers and directors in manufacturing
1131 Financial managers and directors
1132 Marketing and sales directors
1133 Purchasing managers and directors
1134 Advertising and public relations directors
1135 Human resource managers and directors
1139 Functional managers and directors not elsewhere classified
1211 Managers and proprietors in agriculture and horticulture
1213 Managers and proprietors in forestry, fishing and related services
1251 Property, housing and estate managers
2111 Chemical scientists
2112 Biological scientists and biochemists
2114 Social and humanities scientists
2119 Natural and social science professionals not elsewhere classified. For Skilled Worker purposes, occupation code 2119 includes researchers in research organisations other than universities.
2122 Mechanical engineers
2126 Design and development engineers
2127 Production and process engineers
2129 Engineering professionals not elsewhere classified
2133 IT specialist managers
2134 IT project and programme managers
2135 IT business analysts, architects and systems designers
2136 Programmers and software development professionals
2137 Web design and development professionals
2139 Information technology and telecommunications professionals not elsewhere classified
2141 Conservation professionals

Figure 17 (continued)

Occupation code
2142 Environment professionals
2150 Research and development managers
2216 Veterinarians
2421 Chartered and certified accountants
2424 Business and financial project management professionals
2461 Quality control and planning engineers
2462 Quality assurance and regulatory professionals
3111 Laboratory technicians
3113 Engineering technicians
3115 Quality assurance technicians
3116 Planning, process and production technicians
3131 IT operations technicians
3513 Ship and hovercraft officers
3534 Finance and investment analysts and advisers
3537 Financial and accounting technicians
3539 Business and related associate professionals not elsewhere classified
3541 Buyers and procurement officers
3543 Marketing associate professionals
3545 Sales accounts and business development managers
3562 Human resources and industrial relations officers
4134 Transport and distribution clerks and assistants
4151 Sales administrators
5111 Farmers
5112 Horticultural trades
5119 Agricultural and fishing trades not elsewhere classified
5312 Bricklayers and masons
5431 Butchers
5433 Fishmongers and poultry dressers
5434 Chefs
6139 Animal care services occupations not elsewhere classified
7220 Customer service managers and supervisors
8232 Marine and waterways transport operatives

Annex D: Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf. The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions and in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on paragraph 17 of Schedule 3 to the Equality Act 2010” (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session.

Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

Annex E: ICIBI ‘expectations’

Background and explanatory documents are easy to understand and use (e.g. statements of intent (both ministerial and managerial), impact assessments, legislation, policies, guidance, instructions, strategies, business plans, intranet and GOV.UK pages, posters, leaflets etc.)

- They are written in plain, unambiguous English (with foreign language versions available, where appropriate)
- They are kept up to date
- They are readily accessible to anyone who needs to rely on them (with online signposting and links, wherever possible)
- Processes are simple to follow and transparent
- They are IT-enabled and include input formatting to prevent users from making data entry errors
- Mandatory requirements, including the nature and extent of evidence required to support applications and claims, are clearly defined
- The potential for blockages and delays is designed out, wherever possible
- They are resourced to meet time and quality standards (including legal requirements, Service Level Agreements, published targets)

Anyone exercising an immigration, asylum, nationality or customs function on behalf of the Home Secretary is fully competent

- Individuals understand their role, responsibilities, accountabilities and powers
- Everyone receives the training they need for their current role and for their professional development, plus regular feedback on their performance
- Individuals and teams have the tools, support and leadership they need to perform efficiently, effectively and lawfully
- Everyone is making full use of their powers and capabilities, including to prevent, detect, investigate and, where appropriate, prosecute offences
- The workplace culture ensures that individuals feel able to raise concerns and issues without fear of the consequences

Decisions and actions are ‘right first time’

- They are demonstrably evidence-based or, where appropriate, intelligence-led
- They are made in accordance with relevant legislation and guidance
- They are reasonable (in light of the available evidence) and consistent
- They are recorded and communicated accurately, in the required format and detail, and can be readily retrieved (with due regard to data protection requirements)

Errors are identified, acknowledged and promptly ‘put right’

- Safeguards, management oversight, and quality assurance measures are in place, are tested and are seen to be effective
- Complaints are handled efficiently, effectively and consistently
- Lessons are learned and shared, including from administrative reviews and litigation
- There is a commitment to continuous improvement, including by the prompt implementation of recommendations from reviews, inspections and audits

Each immigration, asylum, nationality or customs function has a Home Office (Borders, Immigration and Citizenship System) ‘owner’

- The BICS ‘owner’ is accountable for
- implementation of relevant policies and processes
- performance (informed by routine collection and analysis of Management Information (MI) and data, and monitoring of agreed targets/deliverables/budgets)
- resourcing (including workforce planning and capability development, including knowledge and information management)
- managing risks (including maintaining a Risk Register)
- communications, collaborations and deconfliction within the Home Office, with other government departments and agencies, and other affected bodies
- effective monitoring and management of relevant contracted out services
- stakeholder engagement (including customers, applicants, claimants and their representatives)

Acknowledgements

The inspection team is grateful to the Home Office for its co-operation and assistance during this inspection and for the contributions from the staff who participated. We are also grateful to the agriculture stakeholders who contributed.

Inspection team members

Lead Inspector: Tessa Wilson

Project Manager: Daniel Cartwright

Inspector: Nicola Sorockyj

Inspector: Rachael Wood

Inspector: Chris Thompson

