

# Policy Proposal:

# How to ensure safety and dignity for migrant workers

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Authors: The Joint Council for the Welfare of Immigrants (JCWI), Focus on Labour Exploitation (FLEX), Latin American Women Rights Service (LAWRS), Work Rights Centre



THE JOINT COUNCIL  
*for* THE WELFARE  
OF IMMIGRANTS

FOCUS ON  
LABOUR  
EXPLOITATION



## Introduction

This briefing outlines straightforward, workable policy reforms needed to ensure all workers can access safe and decent working conditions, with protections to safeguard against exploitation and being made undocumented, regardless of immigration status.

## Background

Everyone deserves decent pay, safe and dignified working conditions and protections against unscrupulous or exploitative employers. But the UK Government's Hostile Environment increases the risk of exploitation for migrant workers, making it harder to challenge unfair conditions, change employers or demand fair wages. [Evidence shows](#) these policies enable abusive employers to use migrants' immigration status to threaten, control and trap them in abusive and exploitative situations. Even migrants with visas and the right to work often end up in coercive situations because they depend on their employer for their right to stay in the UK. Migrant workers' vulnerability to exploitation is exacerbated by the lack of funding for rigorous enforcement of workplace standards and the fragmented nature of the UK's labour market enforcement system.

## The roots of migrant labour exploitation

Three key factors contribute to the risk of labour exploitation for migrant workers.

### 1. The system of work sponsorship inherent in the UK's points-based immigration system contributes to exploitation

There is clear evidence that restrictive, temporary work visas increase the risk of exploitation for workers and can make people undocumented. [Experts](#) have long raised [concerns](#) regarding the use of sponsorship requirements on visa routes to plug labour shortages. Since January 2021, most migrants wishing to come to the UK to work have required a certificate of sponsorship (CoS) from a business licensed by the Home Office, in order to obtain a visa. Currently, more than 75,000 businesses have a Home Office licence to sponsor migrant workers.<sup>1</sup> In 2023 alone over 195,000 sponsored worker visas were issued, including 118,000 Health and Care Worker visas and 29,000 Seasonal Worker visas.<sup>2</sup> While the system gives visa holders the right to change sponsors in theory, in practice this is near impossible. If a migrant worker reports an abusive sponsor and leaves their employment, their sponsorship and right to be in the UK is put at risk. Anyone on the Health and Care Worker or Skilled Worker visa has just 60 days to pay for and obtain a new visa. During this time workers are unable to access public funds.

#### Seasonal Worker Visa

There is strong [evidence](#) that the UK's six-month long Seasonal Worker Scheme launched in 2019 increases the risk of exploitation and human trafficking for forced labour. There are multiple [reports](#) including by the [Migration Advisory Committee](#) (MAC) and the [ICIBI](#) showing poor worker welfare, unhygienic, unsafe accommodation, or workers earning so little they cannot even make up travel costs. Workers are tied to a specific scheme operator and although they can in theory

<sup>1</sup> Home Office Migration transparency data, Sponsorship transparency data Q3 2023, published 23 November 2023.

<sup>2</sup> Home Office immigration system statistics, Entry clearance visa applications and outcomes detailed datasets, year ending September 2023, published 23 November 2023. Figures include visas issued to main applicants only (excluding dependants).

request to be transferred to a different farm once in the UK, this is often difficult in practice<sup>3</sup>. Further, the extremely temporary non-renewable nature of the scheme leaves workers at risk of being made undocumented if they do not understand the visa rules, or cannot afford immigration fees, or even return flights.

### **Overseas Domestic Worker Visa**

The 6-month Overseas Domestic Worker visa renders visa-holders extremely dependent on their employer and at significant risk of [exploitation](#). In 2012, the Government [removed the rights enshrined within the original Overseas Domestic Worker visa](#), tying migrant domestic workers to their employers and preventing them from applying for extensions of stay and settlement. The Government [introduced a formal right to change employer in 2016](#), but domestic worker experts [highlight](#) that this is only an ‘illusory right’ as the visa remains non-renewable, meaning workers have only weeks or months to find new employment or risk being made undocumented.

### **Health & Care Worker Visa**

There is growing [evidence](#) that workers on the Health & Care Worker visa face increased risk of low pay and exploitation, including debt bondage caused by repayment clauses and illegal recruitment fees to agencies in workers’ countries of origin. The charity Unseen [reported](#) an increase of more than 1,100% in the number of modern slavery cases in the care sector, from just 63 in 2021. As outlined in a [joint position paper](#), this visa creates dependency on individual sponsors, as moving jobs is almost impossible in practice. Where instances of exploitation are raised and employers have their sponsorship licence revoked, workers are left at risk of becoming jobless and undocumented.

## **2. The Hostile Environment fuels labour exploitation through inhibiting reporting**

The Immigration Acts of 2014 and 2016 have created a culture of excessive and unnecessary collection and sharing of immigration data across civil society and public authorities. Evidence shows that immigration data is not only collected by employers through right to work checks, but that data is also routinely shared between labour inspectorates/police and Immigration Enforcement, and in some cases joint inspections are carried out. This happens despite the fact that no [labour market enforcement agency](#) or [local authority](#) has a legal duty to check workers’ immigration status or report workers with insecure immigration status to the Home Office.<sup>4</sup>

As [outlined](#) by LAWRS and FLEX, data sharing includes:

- **Active reports:** An employer or a public authority suspects someone has insecure status and actively reports information about them to Immigration Enforcement putting the migrant at risk of immigration enforcement action then or at a later stage.
- **Simultaneous operations:** These occur when public authorities whose primary purpose is to support people who have experienced abuse and exploitation, such as labour inspectors and police, invite Immigration Enforcement to their operations, or join operations whose main purpose is to enforce immigration policy.

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<sup>3</sup> There are many limits inherent in the short term nature of the SWS, but due to the fact that this scheme is managed by a small number of operators who each have contracts with lots of different farms, transfers can and do happen, just not consistently, not with the transparency needed, and workers are at the mercy of operator’s giving their permission, which doesn’t always happen.

<sup>4</sup> Existing Home Office guidance includes “[Data sharing in enforcement cases: standards of operational practice](#)” (2016), “[Partnership working](#)” (2022) and “[Borders, immigration & citizenship: privacy information notice](#)” (updated October 2023)

- **Advice or information channels:** These occur when a person or agency uses available channels to seek information or advice from the Home Office and the information provided can later be used for immigration enforcement purposes.
- **Chain referrals:** These occur when an agency refers a migrant to another agency for further support, and the respective agency reports the individual to Immigration Enforcement via any of the types of reporting described above.

### 3. The UK's fragmented and under-resourced labour enforcement system is ill-equipped to tackle labour exploitation

The UK has **six different labour market enforcement bodies**, governed by different government departments with different remits. This disjointed system is difficult for workers to navigate, and for authorities to manage efficiently (as outlined by the [Director for Labour Market Enforcement](#), [FLEX](#) and [Work Rights Centre](#)). The ILO [recommends](#) that Governments employ at least one inspector for every 10,000 workers in the country, to safeguard workers' rights. In the UK, the number of labour inspectors has [fallen by a third](#) since 2010, the second biggest cut across Europe during this time, and now has significantly fewer than the recommended minimum number of labour inspectors and inspections.<sup>5</sup> Even where enforcement has been effective and an employer is investigated, punitive actions against the employer can inadvertently leave migrant workers [at risk](#), for example where an employer's sponsorship licence has been revoked and a migrant worker loses their work visa as a result.

### Why past solutions don't work

In the past, the Government have instituted **temporary firewalls** preventing data sharing between different statutory services and the Home Office, however these have not been very successful. Examples include:

- **Grenfell victims:** After the Grenfell fire in 2017, the government offered affected undocumented migrants a 12-month period of limited leave to remain, to increase participation in investigations and support victims. However, the policy was [unsuccessful](#). Very few victims came forward, for fear of their data being shared and the risk of immigration enforcement action after the 12-month period.
- **COVID-19:** During the COVID pandemic in 2020/2021, the government announced that the vaccine would be available to everyone, without immigration checks. Despite this, many migrants did not feel safe to access the vaccine through regular means, choosing to go through community organisation clinics instead. The Government does not have figures on the number of vaccinated undocumented people, but we know that Hostile Environment policies within healthcare – including data-sharing and NHS charging – make it extremely difficult for this community to access adequate healthcare.

Deep-rooted fear of immigration enforcement action caused by excessive data sharing puts communities at risk, hampers public health efforts, and prevents statutory bodies and labour inspectors from doing their jobs properly. In order to work, safe reporting pathways must be permanent, impenetrable, and outlined in legislation or official policy, as opposed to temporary and siloed off.

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<sup>5</sup> For a useful visual representation of the UK's labour market enforcement system, see Work Rights Centre's *Systemic Drivers of Migrant Worker Exploitation in the UK* [report](#), p17.

# Policy Proposal

We recognise that in order to ensure the best possible safety for migrant workers, the Illegal Working Offence must be repealed to ensure everyone has the right to work if they choose, regardless of immigration status. In the more immediate future, we recommend the following changes to better protect migrant workers' safety and dignity.

## 1. Ensuring safe reporting

## 2. Establishing a well-resourced Single Enforcement Body (SEB)

## 3. Removing the risk of exploitation inherent in sponsorship visas

### 1. Ensuring safe reporting

- ✓ ***End data sharing between the police and labour inspectorates with Immigration Enforcement***, to ensure that workers are not put off reporting by fears of immigration enforcement.
- ✓ ***End the practice of simultaneous or coordinated operations*** with immigration authorities, including workplace raids, to ensure that workers can safely report exploitation, and to ensure labour inspectorates can do their jobs properly, therefore protecting conditions and pay for *all* workers.
- ✓ ***Introduce guidance for labour enforcement agencies and local authorities***, to prevent them enquiring about workers' immigration status, and support them to build a culture of trust and accountability. Namely the Home Office and Ministry of Justice should issue a joint statutory guidance, making it clear that public authorities involved in labour enforcement should:
  - not actively enquire about immigration status or carry out checks for immigration enforcement purposes, including during visits and investigation
  - not seek out matters of concern to immigration enforcement bodies
  - not report information on people who have experienced abuse and exploitation, victims and witnesses of crime for immigration enforcement purposes
  - not conduct simultaneous operations with immigration authorities
  - appoint a single point of contact (SPOC) in every force to oversee compliance with guidance
  - ensure that migrants are referred to specialist services, including 'by and for' migrant, Black and minoritised organisations, which can support them to resolve their immigration status
  - work with migrant and community organisations to build trust with the community, and ensure migrants are aware they can securely report abuse and exploitation without fear of facing negative immigration consequences as a result.

This approach is based on guidance from LAWRS and FLEX aimed at police and labour inspectors working with migrants. For more information, see [here](#).

## 2. Establishing a well-resourced Single Enforcement Body (SEB)

- ✓ ***The government must properly fund, resource and enforce labour rights and pay through the establishment of a Single Enforcement Body (SEB).*** Preventing labour exploitation requires strong labour market enforcement. A Single Enforcement Body that incorporates the labour market enforcement functions of the six current labour market enforcement authorities would make it easier for workers to navigate and protect their rights, while levelling the playing field for employers. This body should be accessible to workers in practice, provide fair and efficient remediation and have safe reporting pathways in place, to ensure migrant workers can safely report abuse and exploitation without fear of losing their right to remain, detention or removal. For more information on how this would work in practice, see FLEX's [briefing](#) and Work Rights Centre's [report](#).

## 3. Removing the risk of exploitation inherent in sponsorship visas

- ✓ ***All work visas should be open and flexible,*** allow people to change jobs easily, and come with options to renew and a pathway to permanent settlement.
- ✓ ***The government should make it viable in practice for visa holders to change employers,*** by removing the 60-day time period for workers to find new employment, improving the accessibility of the sponsor register to include industry data, and ending the obligation for workers to make and pay for a new visa when changing jobs (with necessary safeguards to protect against wrongful Immigration Enforcement action).
- ✓ ***Visa fees should be capped at no more than processing cost,*** to enable migrant workers to apply for, extend or switch visas without risking destitution or feel that they have no other choice but to remain in exploitative work conditions due to financial constraints.
- ✓ ***Workers should have access to public funds.*** This would confirm the Home Office's existing 'wide discretion' to remove the No Recourse to Public Funds condition that prevents people accessing state support. Specific access to public funds in this way would empower workers to reject exploitative circumstances, rather than acquiesce to them for fear of falling into debt or becoming destitute.
- ✓ ***The government should provide a safety net for workers affected by workplace exploitation*** (either directly or indirectly eg other workers whose immigration status might be affected because of punitive action taken against a sponsor). This includes by:
  - Providing 'reactivation' or 'bridging' visa to workers at risk of losing their right to stay in the UK or who have been made undocumented eg due to leaving an exploitative work situation or their abusive employer having their sponsorship licence revoked,. To recognise the vulnerability arising from being subjected to exploitation, workers should be granted the unrestricted right to work with this new status. Countries like Ireland, New Zealand and Canada already have this [measure in place](#), and Australia has embedded it in their strategy for migration.
  - These measures must include the rights and entitlements outlined in these recommendations, including safeguards from any immigration enforcement action.

Sector-specific recommendations include:

### **Seasonal Worker Visa**

- ✓ To reflect the limited capacity for earnings on a six-month visa, all associated costs of recruitment should be borne by industry;
- ✓ Scheme Operators should ensure that before departure a contract including pay and duration of work is clearly defined in writing in workers' language with compensation provided if work is cancelled. Once in the UK Scheme Operators should ensure workers are paid in line with their contract for at least the minimum working hours set out in guidelines (32 hours a week);
- ✓ Adherence to transfer request guidelines should be independently monitored and enforced;
- ✓ Ensure access to safe and adequate employment-provided accommodation.

### **Overseas Domestic Worker Visa<sup>6</sup>**

- ✓ Allow visa holders to extend beyond 6 months and change employers safely and easily, through reinstating the pre-2012 visa and all associated rights for domestic workers.

### **Health & Care Work Visa**

- ✓ Recruitment should only take place via agencies on the 'ethical recruiters list', which must have appropriate monitoring conditions in place to ensure compliance.
- ✓ Repeal new restrictive proposals which will prevent overseas care workers from bringing dependents to the UK.

## **Cost and other risk analysis**

### **1. Ensuring safe reporting**

The critical reforms in this proposal would not incur cost to the government beyond the creation of the proposed statutory guidance, appointing a single point of contact (SPOC) to oversee compliance with this guidance and ensuring that civil servants understand how to apply the guidance in their duties. It will reduce costs and administrative burdens from the current excessive levels of data sharing between agencies, and allow each agency to better focus their work and budgets on their respective duties.

### **2. Establishing a well-resourced Single Enforcement Body (SEB)**

Additional costing is required to assess the impact of increasing the number of the UK's labour inspectors and to create a SEB. There are some inevitable risks involved in merging the UK's main labour market enforcement agencies, including initial restructuring costs, merging existing IT systems and ancillary processes, as well as introducing and reinforcing a new organisational culture. However, similar reforms internationally have, after initial teething hurdles, resulted in increased recovery of unpaid wages and other performance indicators e.g. [Ireland's establishment of the Workplace Relations Commission](#). Similarly, the enforcement of labour standards is an important policy objective that protects workers and strengthens the UK's labour market and therefore a necessary cost. Better enforcement could result in financial gains elsewhere, such as increased tax revenue for the government.

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<sup>6</sup> Labour have historically recognised domestic workers as workers with access to rights in the immigration rules, including through introducing the original domestic worker visa in 1998 and [committing](#) in 2008 to "ensuring that future arrangements concerning overseas domestic workers minimise any risk of abuse or exploitation".

### 3. Removing the risk of exploitation inherent in sponsorship visas

The administrative reforms recommended, such as making it easier for workers to switch visas, would not incur additional costs to the government and may in fact lead to savings by ensuring workers are able to retain legal status and right to work. Allowing workers who experienced exploitation to access public funds would likely require initial funding from the government. However, in this context it is important to note that already [around 70% of applications to lift bans on access to public funds are successful](#), and we expect there would be savings for local councils, which currently shoulder the [cost](#) of providing support for people with NRPF. Similarly, if the enforcement of labour standards are prioritised in a way that results in more people safely remaining in employment, we anticipate that this could drive down the costs of this policy in the long-run. Additional costing is needed to assess the impact of reducing visa fees to no more than processing cost. It is worth noting that until 2003, the UK charged [nothing at all](#) for visa extensions, work permits and settlement, and visa fees for initial visas and citizenship were relatively modest.

### Support for the proposal

The 2019 Conservative Party manifesto committed the government to establishing a SEB, but later scrapped these plans. This approach has strong support, including from the [Director of Labour Market Enforcement](#) and civil society organisations. Further, there is strong and increasing support for establishing safe reporting pathways to protect migrant workers and tackle labour exploitation. The [EU Fundamental Rights Agency](#) (FRA), the [International Labour Organisation](#) (ILO), [PICUM](#) (international organisation advocating for undocumented migrants' rights), the UK's expert labour exploitation organisation FLEX, migrant women's organisation LAWRS and human rights organisation [Liberty](#), have all recommended this approach in recent years. The [TUC](#), national federation of UK trade unions, has called for a firewall, including no joint investigations, as a safeguard for migrant workers. In 2021, the UK's previous Director of Labour Market Enforcement, Matthew Taylor, [joined these calls](#), recommending the Government establish safe reporting structures. Beyond the workplace, it is widely understood that safe reporting pathways are needed to protect people's safety and rights. Experts at the UN have [called](#) on Governments to guarantee access to essential services for all migrants, through implementing firewalls.

### Examples of good practice

#### Protecting migrant workers from labour exploitation

Briefings from JCWI, LAWRS, FLEX and the Work Rights Centre have included several international examples of good practice on the enforcement of labour standards and measures to mitigate the vulnerability of migrant workers. These include:

- In the US there is an MOU in place which aims to ensure that all migrant workers are protected by labour standards.
- In Sao Paulo, Brazil, labour inspectors found that separating their work from immigration enforcement improved conditions and was essential to preventing severe abuses.
- New Zealand operates a 'Migrant Exploitation Protection Work Visa', which allows migrant workers who report exploitation on an employer supported work visa to leave their job and work anywhere in the country for any employer, while the exploitation is being investigated by Employment New Zealand.

- Ireland operates a ‘Reactivation Employment Permit’, which is issued to non-EU citizens who held a work permit but became undocumented through ‘no fault of their own’, including because they were subjected to labour exploitation.
- The Australian Fair Work Ombudsman has an ‘Assurance Protocol’ in place with the Department of Home Affairs, to ensure that a worker’s visa is not cancelled when they report exploitation because of a breach of conditions.
- In 2023, the Australian government also announced that it would double the time that temporary visa holders have to switch employers to 180 days, giving workers greater flexibility to leave exploitative workplaces and poor conditions of work.

Given its close relationship with the UK, it is also worth directing specific attention to Australia’s recently published [10-year migration strategy](#), which explicitly looks to tackle similar migrant worker exploitation issues through a number of reforms, including:

- The creation of a substantive visa to allow exploited migrant workers to continue further employment in Australia.
- Restrictions on data sharing between labour and migration regulators to institute a firewall.
- Improving post-arrival monitoring of wages and work conditions to detect exploitation faster.

## Ensuring safe reporting

‘By and for’ organisations in the VAWG sector and experts in the UK have campaigned tirelessly for a firewall between the police and Immigration Enforcement to protect migrant survivors of domestic abuse and other forms of gender-based abuse. Research by LAWRS in 2019 [found](#) that significant numbers of migrant women were too scared to report abuse due to fear of deportation, and many were denied support or not believed by the police. These fears are not unfounded. In fact, an [FOI](#) showed that between May 2020 and September 2022, the details of over 2,000 victims, including 785 victims of modern day slavery and 618 victims of trafficking, among others, were shared with Immigration Enforcement. The [Domestic Abuse Commissioner](#) and the [London Victims Commissioner](#) both support recommendations that a firewall be introduced to ensure migrant victims can report safely.

Further, in December 2020, in response to a [Super Complaint](#) brought by Liberty and Southall Black Sisters, HMICFRS, the IOPC and the College of Policing [recommended](#) safe reporting pathways for migrant victims of crime. The Government has proposed the development of an Immigration Enforcement Migrant Victims Protocol. [We disagree](#) with this response to calls for a firewall and argue that there remains a conflict of interest at the heart of Immigration Enforcement, given that its overriding role is to enforce immigration rules and not provide a safeguarding function. Safe reporting across the board - whether to protect survivors of domestic abuse or workplace exploitation - would ensure that the government fulfils its duties to protect the rights of migrants in the UK.

## Further information

For more detail on the proposals and findings outlined in this briefing, we recommend reading:

- Our joint [briefing](#) outlining the case for safe reporting mechanisms, December 2022
- FLEX [briefing](#) on what an effective Single Enforcement Body looks like, December 2023
- FLEX & LAWRS [guide](#) on preventing and addressing abuse and exploitation: a guide for police and labour inspectors working with migrants
- JCWI policy briefing on migrant workers rights, December 2021
- JCWI evidence submission to the DLME's 2023/2024 strategy, September 2023
- FLEX [briefing](#) on creating a safe and fair immigration policy for migrant workers, November 2022
- Joint [position paper](#) on preventing exploitation in the adult social care sector, December 2023
- Migrant Champions Network & RWCA [briefing](#) on ending data-sharing by local authority labour inspection teams
- Work Rights Centre's [report](#) on systemic drivers of migrant workers exploitation in the UK, November 2023
- Work Rights Centre publications on the risks inherent in the [Seasonal Worker Scheme](#), especially after the [Russian invasion of Ukraine](#), and how to mitigate them.

If you have any questions or require further briefing, please contact Caitlin Boswell on [caitlin.boswell@jcwi.org.uk](mailto:caitlin.boswell@jcwi.org.uk).