

# Seasonal Workers Pilot scheme

## Executive summary

**NFU Scotland wants the Seasonal Workers Pilot (SWP) scheme to be reviewed and replaced with an improved permanent scheme that works for both farm businesses and seasonal migrant workers.**

NFU Scotland have consulted with our members and stakeholders, and reviewed literature on seasonal migrant labour. This document describes the main challenges our members have faced under the SWP. For each challenge there are constructive suggestions as to how the SWP can be reviewed and improved.

## Introduction

The SWP scheme has been welcomed by the horticultural sector. It has enabled businesses to access seasonal migrant labour: a vital and costly component of their operations. The increase in worker allocations to 30,000 places per year was also universally welcomed to better meet the needs of these businesses.

The SWP has been running since 2019. Now is the time to review the scheme. Lessons can be learned from its operation. These lessons can be used to inform a permanent and improved scheme that is a good fit for farm businesses employing seasonal migrant workers, and for the workers themselves to benefit the rural economy.

The emergence of Covid in 2020 made it a particularly difficult year for many businesses, not least horticultural businesses. The pandemic resulted in many additional barriers and difficulties for the horticulture sector, including challenges with recruitment, transportation to the UK, on-farm accommodation, and business operation. These were particularly acute in 2020 and have continued into 2021. It is important to disentangle these additional challenges from the operation of the SWP on the one hand. On the other, it is important to reflect on changes that should be made as we all operate within this new context.

NFU Scotland urges that a review of the SWP includes consultation with horticultural businesses and the membership bodies that represent them. A report from the Independent Labour Organisation<sup>1</sup>. recommends:

*“in reviewing labour market needs and adjusting seasonal migrant workers’ schemes accordingly, workers’ and employers’ organisations should be consulted in the design and implementation”*

NFU Scotland’s request to review the SWP is echoed in a recent report on farm labour in the UK<sup>2</sup> which made this recommendation:

*“It is imperative that the seasonal worker scheme facilitating the movement and recruitment of migrant workers is fit for purpose for all parties. It should be frequently reviewed according to the needs of farm businesses so that numbers available guarantee an avoidance of labour shortfalls. As it stands, the seasonal worker pilot is principally aimed towards meeting labour demands during peak production periods. But businesses relying on seasonal labour and permanent labour need to be considered in both the short and long term. Equally as important, however, are the*

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<sup>1</sup> Seasonal Migrant Workers’ Schemes: Rethinking Fundamental Principles and Mechanisms in light of COVID-19; **ILO Brief; 2020**; [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_745481.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_745481.pdf)

<sup>2</sup> Farm labour in the U.K. Accessing the workforce the industry needs; Centre for Rural Policy Research, University of Exeter; **Nye C, Lobley M; 2021**; [https://www.researchgate.net/publication/352488669\\_Farm\\_labour\\_in\\_the\\_UK\\_Accessing\\_the\\_workforce\\_the\\_industry\\_needs](https://www.researchgate.net/publication/352488669_Farm_labour_in_the_UK_Accessing_the_workforce_the_industry_needs)

*safeguards put in place for the migrant workers participating in the scheme. The pilot scheme requires thorough evaluation and consultation prior to the agreement of a final scheme, with the rights and safety of the employee holding paramount importance”.*

This same report on farm labour in the UK<sup>3</sup> also found that:

*“Changes in immigration policy are likely to impact many sectors in terms of their accessibility to farm labour. Horticulture, dairy, pigs, eggs, and poultry will be particularly affected.”*

*“It is extremely unlikely that the domestic workforce will be able to fulfil the entire workforce requirements of the agricultural industry, and so should only be regarded as part of the wider solution to the farm labour crisis.”*

Bearing this in mind, NFU Scotland has engaged with its members to identify the biggest challenges they have faced with the SWP. This document makes recommendations as to how it can be reviewed and improved to address these challenges under the following categories:

- 1.
2. *Right type of recruitment*
3. *Increasing the returnee rate*
4. *Clarity on contracts*
5. *Visas and transfers*

NFU Scotland hope the evidence provided in this document will inform a review of the SWP. *“Governments need to design and manage immigration policies so that they have – and can be demonstrated to have – tangible benefits at the national and local levels. This requires policy design that is well informed with evidence about impacts and how they are distributed, and that is well integrated with wider policies to support employment, productivity and community goals and vice versa.”*<sup>4</sup>

Seasonal migrant workers are a necessary reality on British farms. *“The economy has changed significantly but it has never really succeeded without the assistance of non-British workers”.*<sup>5</sup> Seasonal migrant workers boost economic activity in rural areas, bringing economic and social benefits to rural communities. NFU Scotland wants the Home Office to account for the wider positive economic and social outcomes that seasonal migrant workers provide in any review of the SWP.

## Right type of recruitment

### What is the problem?

**The arrival of increasing numbers of uninformed and unsuitable workers results in problems for both workers and their employers throughout the season. The widening ‘expectation gap’ between employers and employees is leading to a poorer relationship between the two parties, leading to unhappy and less productive workers that affect both business performance and worker welfare.**

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<sup>3</sup> Farm labour in the U.K. Accessing the workforce the industry needs; Centre for Rural Policy Research, University of Exeter; **Nye C, Lobley M; 2021**;  
[https://www.researchgate.net/publication/352488669\\_Farm\\_labour\\_in\\_the\\_UK\\_Accessing\\_the\\_workforce\\_the\\_in\\_dustry\\_needs](https://www.researchgate.net/publication/352488669_Farm_labour_in_the_UK_Accessing_the_workforce_the_in_dustry_needs)

<sup>4</sup> Entry Points: Making a Success of Immigration to Scotland; Reform Scotland; **McCauley H; 2020**  
<https://reformscotland.com/wp-content/uploads/2021/04/Entry-Points-Making-a-Success-of-Immigration-to-Scotland.pdf>

<sup>5</sup> Who picked British fruit and veg before migrant workers? The Conversation. [Online]; **Nye, C; 2016**  
<https://theconversation.com/who-picked-british-fruit-and-veg-before-migrant-workers-63279>

Seasonal migrant workers are coming to the UK with unrealistic expectations about working conditions, and the terms and conditions of their employment. Some find the work too physically demanding and some are unable to earn enough money to cover their costs.

Farm businesses are receiving workers who are unsuited to the physically demanding work available. These workers result in high business costs in terms of low output relative to hourly pay; and the costs of retraining, administering transfers to other businesses, and in some cases sending workers home.

There are anecdotal reports from our members that workers are paying multiple fees to agencies in their home countries, on top of related additional costs (e.g. travel) as part of the recruitment process. In some cases, workers have borne unnecessary costs (e.g. English lessons), believing this was a necessary part of the recruitment process. Our members have reported a lack of transparency and consistency in what workers are paying, and what they are paying for. These additional costs and barriers, combined with poor information, have unrealistically raised the expectations of workers.

Prior to the SWP, many farm businesses were actively involved in the recruitment of workers. This enabled workers to engage directly with prospective employers about expectations, pay structure, and the living and working conditions on-farm. This resulted in suitable workers with realistic expectations travelling to, and working in, Scotland. In the SWP scheme operators and agents have taken on this recruitment role and are unable to provide the same level of detail that farm businesses themselves can provide.

The SWP has resulted in additional costs for farm businesses. The additional visa and worker travel costs alone are in excess of an average worker's weekly pay. This additional cost burden has raised farm business expectations, in terms of worker output required to cover these costs. Unfortunately the SWP's recruitment process does not deliver on this.

### How do we know?

Research carried out in 2020 and published in 2021 investigating the risks of labour exploitation in Scotland<sup>6</sup> identified:

- *“The majority of SWV workers interviewed referenced commitments on hours, pay and conditions that had been made at point of recruitment about which they felt had not been upheld during their time in Scotland” (p.34)*
- *“When asked to rank their understanding of work in Scotland prior to their arrival in the UK on a scale of 1-5 with 1 representing none and 5 representing excellent, just under half (47 per cent) of SWV workers respondents ranked their understanding 4 or 5. This finding, coupled with interview data, suggests SWV workers felt a high level of confidence that they had the information they needed to make the decision to travel to the UK. However, when asked to compare the information given prior to travelling to the UK with the reality upon arrival, workers on the SWV reported serious differences” (p.34)*
- *“Worker expectations were the most frequently referenced issue discussed in the worker interviews with many SWV workers raising serious concerns about the difference between information given and the reality” (p.35)*
- *“The unmet expectations described by workers in relation to working conditions, working hours and earning potential raise strong risks that many workers were deceived about the nature of the work they would be carrying out in the UK. This is*

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<sup>6</sup> Assessment of the risks of human trafficking for forced labour on the UK Seasonal Workers Pilot; **Focus on Labour Exploitation and Fife Migrants Forum; 2021**; <https://labourexploitation.org/publications/assessment-risks-human-trafficking-forced-labour-uk-seasonal-workers-pilot#overlay-context=publications/assessment-risks-human-trafficking-forced-labour-uk-seasonal-workers-pilot>

*particularly concerning when coupled with the level of debt that workers are taking on to come to Scotland” (p.36)*

## What needs to happen?

A lesson learned in this pilot is that recruitment is not working as well as it has done in the past. Farm businesses had previously been more involved in recruitment. NFU Scotland wants the effectiveness of the recruitment process to be critically evaluated. This evaluation should include looking back at previous schemes, as well as forward to improving the current scheme.

### *Looking back*

The balance of industry and operator recruitment activity in the SAWS scheme should be reviewed. Information should be gathered on how and if the right balance of recruitment activities by different parties, including farm businesses, was struck. The amount and type of information flow from employers to prospective workers under the previous scheme should also be investigated. NFU Scotland believes that lessons can be learned from the previous scheme that could improve the future scheme.

### *Looking forward*

The near universal adoption of virtual meeting tools during the covid restrictions of 2020 and 2021 presents an opportunity to better connect employers with prospective employees. Short, pre-recorded videos using smartphone technology coupled with live interactions in a virtual meeting space could be used to improve the information flow between employers and prospective employees. The use of this technology could add a great deal of value to the recruitment process and reduce the requirement and responsibility of agents to provide information. Connecting and collaborating with agricultural colleges and universities in other countries could also identify enthusiastic and appropriate workers.

## What benefits will these changes bring?

Better connecting farm businesses to prospective employees in a seasonal workers scheme will minimise the risks associated with using agents. ‘Cutting out the middle-man’ will provide multiple benefits: it will improve information flow, recruiting workers with realistic expectations; and will also reduce the amount of additional, and in some cases unnecessary, costs prospective employees are currently incurring in the recruitment process. This will reduce the cost of operating the scheme and will also narrow the ‘expectation gap’ between farm businesses and workers. Happier and more productive workers will pick more, increasing farm business output and workers’ earnings.

## **Increasing the returnee rate**

### What is the problem?

**A lower returnee rate brings in more workers who lack knowledge about the work they have come to do. It has also resulted in increased mixing between different groups of workers, leading to conflict.**

Before the SWP was put in place horticultural businesses had a returnee rate of around 70%. As a business, having a majority of your workforce coming back year after year brings several advantages: the workers are well informed, the business knows they are suited to the work available, and there is a majority cohort of workers who already know each other, reducing the risk of friction between different groups.

A combination of a requirement for EU nationals to apply for Settled or Pre-Settled status, perceived and actual barriers arising from Brexit and the Covid pandemic, and the way that workers have been recruited under the SWP, has combined to result in a lower returnee rate.

This has resulted in less informed, less suitable workers entering the country, leading to additional business costs in terms of recruitment and training. It has also resulted in more mixing of more, and more culturally different, groups.

### How do we know?

The returnee rate of workers has steadily declined since the SWP scheme has been put in place.

A 2019 research update<sup>7</sup> on seasonal migrant workers found:

- *[the current SWP can] “lead to additional business costs in terms of recruitment and training compared to the recent position where a high proportion of jobs are filled by returnees”; and that*
- *“Uncertainty around returnees is causing many farmers and labour providers considerable stress and anxiety, particularly as their production systems, and supply contracts, are not easily turned off and on again”*
- *“any future SAWS scheme will need in-built flexibility to deal with the range of demands for seasonal workers, and should look at ways of facilitating and rewarding returnees within the scheme in order to minimise longer term business disruptions”*

### What needs to happen?

NFU Scotland wants a review of the pilot to consider how the returnee rate can be increased. This evaluation should include looking back at the challenges faced in the past couple of years, as well as forward to improving the current scheme.

#### *Looking back*

In the past growers themselves were involved in recruitment, and over time created lasting networks to access workers. The balance of industry and operator recruitment activity in the SAWS scheme should be reviewed. Information should be gathered on where recruitment activities take place, and how these include engagement with workers who have already participated in the scheme. The barriers that have prevented the return of workers should be identified and considered, and the past drivers of network creation should also be identified and considered.

#### *Looking forward*

Make the process easier for returnees to come back to the same farms, and for other people in their networks to gain employment on these farms. Workers should be able to obtain a visa for the next season at the end of the preceding season whilst they are still in the UK to give these workers the confidence that they will be able to return. In addition, where workers want to stay for longer and are eligible for a different visa, they should be able to apply in the UK transfer to another visa. Scheme operators should also consider how they can work with agencies to create lasting networks.

### What benefits will these changes bring?

A higher returnee rate will bring in the workers who have already developed specific technical skills and expertise learned ‘on the job’ and may be specific to a given farm or crop. It will also bring in those with the right expectations and work ethic. This will reduce recruitment and training costs. Retaining a majority cohort who have already worked and lived together will also reduce the risk of conflict from mixing large amounts of new groups. Happier and more productive workers will pick more, increasing farm business output and workers’ earnings.

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<sup>7</sup> Seasonal Migrant Workers in Scottish Agriculture: an update; **Thomson S, McMorran R; 2019;** [https://www.ruralbrexit.scot/wp-content/uploads/2019/12/Seasonal\\_Workers\\_update\\_briefing.pdf](https://www.ruralbrexit.scot/wp-content/uploads/2019/12/Seasonal_Workers_update_briefing.pdf)

## Clarity on contracts

### What is the problem?

**Workers are not clear on what their employment contracts will be before travelling to the UK.**

When workers sign their recruitment contract with the recruitment agency, they do not at this stage know about their employment contract. This results in confusion when they arrive at a farm business in the UK, as the reality of their employment contract may be quite different to their expectations. This results in a lower morale, unhappiness, and lower productivity.

### How do we know?

Our members have had direct experience of this with their workers.

### What needs to happen?

Workers should have sight of employment contracts, in their own language, when they sign their recruitment contracts.

#### *Looking back*

The balance of industry and operator recruitment activity in the SAWS scheme should be reviewed. The inclusion of farm businesses in the recruitment process should be considered. NFU Scotland believes that lessons can be learned from the previous scheme that could improve the future scheme.

#### *Looking forward*

Involving farm businesses in the recruitment process will make it very clear to potential workers what the employment contract requirements will be, and how this relates to the work they will be expected to carry out.

### What benefits will these changes bring?

This will help recruit workers with realistic expectations. It will reduce the risk of workers arriving in the UK who go on to feel 'trapped' in a contract they did not realise they were signing up to. Happier and more productive workers will increase farm business output and workers' earnings.

## Visas and transfers

### What is the problem?

**The dynamic nature of seasonal agricultural labour is not best served by current requirements. Costs are high, and tie a worker to a particular farm business, making it difficult for them to transfer. The 'cooling off' period between visas is too long, discriminating against good workers who can work across a range of crop types.**

There are many reasons why a worker might want to transfer to a different business. There may be a need for workers to move on if a crop in one location has been fully picked, as the seasonal nature of agricultural work makes it difficult to predict labour requirement peaks and troughs throughout the season. Alternatively, workers may face personal difficulties on a farm, suffering mental and emotional distress, making them want to transfer.

The six-month 'cooling off' period between visas is too long. Good workers are unable to work in different crops across different regions of Great Britain as the year progresses. Agriculture

workers develop specific technical skills and expertise learned ‘on the job’. These skills should be transferred to other businesses in Britain, and not lost because of onerous visa restrictions.

### How do we know?

Our members have had more difficulty in getting the workers that they need later on in the season.

In Canada and New Zealand have longer visa requirements that help meet the needs of employers:

- *“In Canada, under the SAWP (Seasonal Agriculture Worker Program) foreign workers are brought in for up to eight months of the year.”<sup>8</sup>*
- *“New Zealand’s temporary work permit policy will, from 2021, vary the requirements for labour market testing and visa conditions depending on the nature of the regional labour market. This will make it easier for employers in regions where fewer New Zealanders are available to recruit migrants... there will be longer visas available for low-paid jobs in regions that have a low supply of labour and low unemployment, subject to a labour market test.”<sup>9</sup>*

### What needs to happen?

Changing an individual’s visa from a particular farm to a particular region will make it easier for workers to transfer. This should allow more flexibility and movement between farms to make better use of labour resources. The length of the visa period should be examined. NFU Scotland want the ‘cooling-off’ period reduced to four months. There will also be a need to increase the number of visas issued as freedom of movement for EU nationals has now ended, which means that the SWP must now replace freedom of movement as well as the SAWS scheme. The UK government has committed to using existing data about uptake: “The Seasonal Workers Pilot was established to better understand how a bespoke visa category under the new immigration system could meet the needs of UK growers during peak production periods. Defra will continue working with the Home Office to monitor the uptake of visas, along with forecasted supply/demand of seasonal horticultural labour, to ensure that the pilot in its current form is fulfilling its intended purpose.”<sup>10</sup> NFU Scotland urges it to also take into account the implications of the loss of freedom of movement on returnee rates using existing trends.

### What benefits will these changes bring?

Easing transfers and extending visa times will allow farm businesses to best utilise skilled workers, allowing for a more dynamic and flexible workforce that can respond to seasonal peaks and troughs of work across various sectors. It could also incentivise a race to the top in terms of the prioritisation of worker welfare by horticultural businesses to retain their workers. Using a sound evidence base to increase the amount of places under the scheme will ensure fruit and vegetables will be picked. Ensuring that the right amount of labour is available to businesses will also prevent an escalation in labour costs for horticultural businesses who are already facing rising costs.

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<sup>8</sup> Temporary Foreign Workers in Canada; Library of Parliament, Research publications; **Kachulis E, Perez-Leclerc, M; 2020;**

[https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/201936E#a3.2.3](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201936E#a3.2.3)

<sup>9</sup> Entry Points: Making a Success of Immigration to Scotland; Reform Scotland; **McCauley H; 2020**  
<https://reformscotland.com/wp-content/uploads/2021/04/Entry-Points-Making-a-Success-of-Immigration-to-Scotland.pdf>

<sup>10</sup> The UK’s new immigration policy and the food supply chain: Government Response to the Committee’s Third Report of Session 2019–21; **Environment, Food and Rural Affairs Committee; 2021;** <https://committees.parliament.uk/publications/5845/documents/66459/default/>

# Appendix 1: NFU data

## UK horticulture seasonal worker availability, August 2021

The UK horticulture sector has a total seasonal worker requirement of approximately 70,000, predominantly for picking, packing and husbandry work. Typically, 99% of seasonal workers are EU nationals, though with the implementation of the Seasonal Worker Pilot scheme and end of Freedom of Movement, the proportion of non-EU and domestic workers has increased.

### Seasonal Workers Pilot

The allocation of 30,000 visas in 2021 is shared between four operators. The two 'established' operators had filled their entire allocation by July. The two newly appointed operators were able to start recruiting in May but also needed to set up operations in non-EU countries and have faced bottlenecks in allocating visas due to limited visa office opening hours and an increased demand as COVID travel restrictions were being lifted. The current total allocation of visas across the scheme is approximately 20,000, with the two new operators confident of filling all remaining visas by the end of the year.

### EU nationals with settled/ pre-settled status

Businesses typically have 'returnee' rates of around 50%, meaning half of the previous year's EU nationals return the following year. Despite a strong uptake of settled status applications, the returnee rates in the first half of 2021 have been just 35%, mirroring experience in other sectors where EU nationals have returned home and chosen not to come back to the UK. The fall in availability of EU nationals has increased the reliance on the Pilot scheme.

### Domestic recruitment

NFU data shows that approximately 9% of the seasonal workforce in 2020 was UK domestic. This is a significant increase on pre-2020 recruitment and testament to the industry's efforts during the height of the pandemic.

Domestic recruitment in 2021 is currently around 5%, reflecting the difficulties of attracting UK nationals into rural, manual, short term roles, when there are permanent vacancies across a wide range of industries. The NFU's extensive engagement with DWP during 2021 has identified significant practical difficulties in recruiting UK nationals, from low unemployment rates in local areas and a lack of transport for jobseekers.

### Current levels of shortages

NFU data, collected monthly from the largest labour providers and horticultural businesses, shows a shortage across the industry of around 11% in the first half of the year. A bespoke daffodil grower survey, which captured 88% of the entire sector, showed shortages as high as 33% and a resulting crop loss of 24% of the national crop. The ornamentals sector is not currently able to access the seasonal worker pilot scheme.

### Wages

The NFU's 'end of season' survey for 2020 showed an average hourly wage for seasonal workers of £10.35. The NFU daffodil grower survey 2021 showed an average hourly rate of £12.08

This is consistent with anecdotal feedback received from member businesses which regularly report hourly rates above £10 and often as high as £15.