

Labour in the Food Supply Chain DEFRA Inquiry

Submission by the Rights Lab, University of Nottingham

The Rights Lab at the University of Nottingham has built the first large-scale research platform for ending slavery, bringing together the largest group of modern slavery scholars in the world to tackle a key challenge of global development and one of the great human rights issues of our time. The Rights Lab works to support the wider antislavery movement with an advanced research agenda. More information about the Rights Lab is available at: <http://www.nottingham.ac.uk/rights-lab>

The COVID-19 pandemic and the measures being undertaken to slow its pace and effect have short, medium and long term impacts on the problem of modern slavery and forced labour. The Rights Lab has developed an [early-stage research agenda for anti-slavery responses to COVID-19](#), and a call for a coordinated, systematic and inter-disciplinary research effort, which includes questions on the impact of Coronavirus on business and workers which we will seek to answer of the coming months.

This submission covers the following key issues:

1. The impact of the proposed points-based immigration system
 - Worker Shortage
 - Risk of increased labour exploitation
 - Agriculture and modern slavery
2. On whether staff retention methods and automation compensate for the impact of a points-based immigration system
 - Staff Retention
 - Automation
 - Market concerns
3. The impact of the seasonal agricultural workers pilot scheme

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Inquiry questions

1. What impact will the Government's proposed points-based immigration system have on labour in the food supply chain? Which sectors will be most affected by a reduced ability to recruit from abroad?

Worker shortages

The points based system will significantly reduce the number of people available to work in food manufacturing and production in the UK, leaving the UK food industry critically under resourced. The sector is characterised by low wage seasonal work on farms and in factories, and of the 75,000 strong *temporary* workforce who are employed in the sector each year, it is estimated that 98% are recruited from outside the UK¹. Whilst the country of origin of these migrant workforces has changed over the years, most have come from countries in mainland Europe. Very few employees in this job profile are British nationals.

Despite recent attempts to recruit British workers into the sector in response to the COVID-19 pandemic, the success rate has been poor with very small numbers progressing from showing interest to actually taking up employment in a food manufacturing or farming role – despite the current high numbers of unemployment². Therefore, whilst the sector still relies on migrant low wage labour, the points-based immigration system *which would exclude individuals seeking this type of work entering the UK*, would result in significant challenges to staffing in the sector and be detrimental to the sustainability of the industry.

Seasonality of work patterns would make the agricultural industry particularly vulnerable to labour shortages as a result of a points-based system. Whilst food manufacturing roles, which more often provide year round contracts, may continue to be filled by migrant employees with permanent settled status in the UK, seasonal harvest work requires migrant provided with on-site accommodation by employers. Typically they come to the UK with friends and family and return year on year. The Agricultural sector is heavily reliant on this annual influx of migrant workers to pick the produce on British farms. This was recently evidenced by the unprecedented move by major British grower *Gs Fresh*, who chartered flights specifically for Romanian workers to undertake the harvest in their UK farms, in light of the COVID-19 crisis. It is evident therefore that a points-based migration system, which would make the long-established annual influx of seasonal migrant workers impossible, would have significant impacts on the Agricultural sector.

Risk of increased labour exploitation

The Rights Lab is concerned not only for the sustainability of the Agricultural sector as a result of the points-based system, but also for the welfare of agricultural workers. Labour exploitation, up to and including modern slavery, can occur when employees are controlled by their employer or recruiter or gangmaster. 26% of the estimated 24.9m people in forced labour worldwide (ILO 2017), work in the food supply chain. In the UK, which has an estimated 130,000 people in modern slavery, forced labour is the most common form of exploitation (Walk Free, 2018). Individuals become vulnerable to forced labour when they are in desperate need of work, have low/no income and/or when the demand for low wage labour is high.

¹ <https://commonslibrary.parliament.uk/research-briefings/cbp-7987/>

² <https://www.theguardian.com/environment/2020/apr/17/british-workers-reject-fruit-picking-jobs-as-romanians-flown-in-coronavirus>

Whilst worker protection from modern slavery has improved since 2005 as a result of the work of the Gangmasters and Labour Abuse Authority (GLAA), and private sector awareness of the issue is growing due to business compliance requirements within the 2015 Modern Slavery Act, worker shortages caused by a points-based system from 2021 onwards, risk reversing this progress. Mechanisms such as the regulation of gangmasters supplying workers to food production sites, right-to-work document checks and emerging best practice of employee training on the risks of modern slavery are at risk of being diluted or even forgotten if the pressures of recruiting a sufficient workforce overwhelms employers. If workers are no longer available through regulated and approved routes, there is the risk that illicit and unscrupulous gangmasters will thrive, and individuals may be introduced into the workforce in ways that risk them suffering exploitation.

The proposed points-based system is likely to succeed in reducing numbers of regulated low wage migrants coming to work in the UK, but it is also likely to create an increase in the number of undocumented low wage workers finding their way to the UK for work; and this type of worker is at high risk of exploitation in the form of coercion, threats, underpayment of wages, unsatisfactory and unsafe accommodation and informal contracts³.

Agriculture and modern slavery

Although acknowledged as a sector at increased risk of modern slavery, research by the Rights Lab in 2017 and 2019 shows that UK Agricultural businesses have yet to perform well under the 2015 Modern Slavery Act (MSA). An assessment of the performance of the top agriculture businesses against the reporting requirements found that only 77% of companies have an in-date statement available, and of those only 54% are signed by a Board Member (a requirement of the Act), showing significant lack of engagement in the spirit and purpose of the legislation. In addition, the quality of the content was poor, with required sections left unaddressed or uncompleted, and a tick-box approach being applied to completion of the statement⁴. The average performance on quality of statements was not observed to be increasing year on year, indicating that businesses were not learning from others and engagement on the issue was generally very poor. When these findings are considered, alongside the new risks that the introduction of a points-based system will bring to the sector, it is *highly likely that the impact of the policy will be an increase labour exploitation up to and including modern slavery in British agriculture.*

2. Will investment in staff retention, productivity, technology and innovation compensate for the Government not introducing an immigration route for 'lower-skilled workers'?

Worker engagement and retention

Investment in staff retention, productivity, technology and innovation will not compensate for the Government not introducing an immigration route for 'lower-skilled workers' in the short term (the next 5 years). Even without restrictions on migration of low-skilled workers to the

³ <https://www.fginsight.com/news/news/good-conditions-key-to-recruitment-drive-107792>; <https://www.foodnavigator.com/Article/2020/04/23/Foreign-worker-drive-exposes-risk-of-exploitation-and-organised-crime-fears-employment-agency>

⁴ 2017: <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/mseu/mseu-resources/2018/november/modern-slavery-act-and-agriculture.pdf>
2019: <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/mseu/mseu-resources/2019/september/agriculture-and-modern-slavery-act-reporting.pdf>

UK, the UK Food Manufacturing sector (agriculture in particular) has been short of workers for nearly 5 years⁵. Rights Lab know that large employers in the sector are already working very hard to recruit and engage returning workforces and doing everything they can to ensure they are a first choice employer in the sector; tools such as [this 10 point plan](#) to help farmers attract worker launched in 2018 by the NFU and ALP show it has been a concern and priority for some time. Whilst some businesses may find they are yet to exhaust the range of ways to attract and maintain workers, the small margins on fresh produce products and the demand for cheap food makes it difficult to consider increasing hourly rates. In this context, inviting employers to consider investing in staff retention as a response to being short of thousands of migrant workers from next year, shows limited awareness of the realities these employers are faced with.

Automation

Through the Rights Lab's work with HR and ethical trade colleagues in the sector, we know that investment in automation and innovation to reduce the amount of manual labour needed is something they are keen to pursue. However they also acknowledge that investment in machinery to manufacture or pick products that are normally done by a dexterous hand, is costly and takes time to develop. The points-based migration policy was announced in February 2020 with implementation planned for January 2021. This gives employers 11 months to respond – a period manifestly insufficient for most business to implement automation. Furthermore, the seasonal nature of agricultural work means that any machinery purchased would rarely be used across the whole year, making justification for investment in expensive machinery which will only be used for part of the year, even more challenging.

In addition, the financial and strategic impact of COVID-19 on many food business in the UK will be significant; some agricultural businesses will lose substantial amounts of profit as a result of the lack of workforce and inability to harvest this year alone. Alternatively, even for those businesses for whom the crisis is proving profitable due to the increase in demand, it is unlikely they have the strategic capacity to consider longer term investment in innovation, as they seek to deal with the immediate impact of the virus. This will leave them vulnerable and unprepared for the impact a points-based migration system implemented in January 2021 would bring, and even less prepared to respond to the anticipated increase in risk of worker exploitation that will likely follow.

Market competition concerns as a result of premature moves to automation

Finally, there are market and competition concerns with encouraging all manufacturing to use mechanisation and automation as soon as possible. Whilst development of machinery to produce food items (that are normally made by hand) is still relatively limited, the variation of products available, and innovation opportunities available, risk being significantly reduced. With all elements of manual processing removed, manufacturers may find themselves unable to distinguish their products from others who use the same production machinery, reducing competition and providing less choice for the consumer. In addition, as small businesses are much less likely to be able to invest in capital-intensive machinery than large businesses, the industry's ecosystem may become less able to innovate and compete, which can result in wide spread acquisitions and job losses. Ultimately, automation and innovation of the industry should be encouraged but implementation of automation before the technology and sector is ready – as a points-based migration policy does - risks leaving the industry and employees worse off.

⁵ <https://www.theguardian.com/business/2016/nov/02/worker-shortages-for-uk-food-industry-at-12-year-low>

3. What impact has the seasonal agricultural workers pilot scheme had on agriculture and horticulture? What should be the future of the scheme including whether it should cover more, or different, agricultural and horticultural sectors?

Through its discussions with industry leaders and the food sector in general, the Rights Lab understands that even the increase in workers provided through the pilot, from 2,500 to 10,000 in 2020, will not make up for the worker shortages the industry is experiencing. Whilst the scheme supported much needed recruitment in part, employers continue to innovate to attract and recruit workers in house. Such endeavours include establishing their own recruitment agencies, building relationships with labour providers in key sourcing countries, or investing in high quality accommodation and facilities to ensure they are the employer of choice to any prospective workers. These investments indicate that the seasonal worker pilot scheme is not considered a total solution to their challenges, and therefore should not be considered an anti-dote to the negative impact that a points-based system will have on recruitment challenges across the sector.

4. How many seasonal workers are required in agriculture and horticulture each year, and how can this demand be reasonably met from 2021?

No comment.