

# Supporting business to meet new UK immigration rules and consumer demand while avoiding worker exploitation

Prof Dave Walsh, Dr Laura Pajón, Ms Karen Lawson, & Prof Khalid Hafeez

## Research Overview

The ongoing research project<sup>1</sup> identifies business preparedness for the UK's January 2021 immigration rules (intended to reduce overall migration levels) in the combined contexts of Brexit and Covid-19. The introduction of the immigration points-based system, which intends to restrict the number of migrant workers, can particularly affect those industries that heavily rely on low-skilled migrant labour, such as the agriculture, horticulture, fishing or construction industry, particularly when meeting seasonal or temporary labour demands.

Preliminary findings from data gathered from 23 interviews conducted with both labour providers and labour users, largely from the agriculture, horticulture and construction sectors, reveals that around 90% (or more) of their workforce comes from the EU. Considering the demographics of their workers, our interviewees view Brexit and the introduction of the immigration points-based system as a threat to the viability of their companies and as an opportunity for criminals to infiltrate labour supply leading to increased risks of labour exploitation and modern slavery.

## Key findings

1. Interviewees foresee a significant shortfall of workers after July 2021 that will impact their businesses' capacity to meet the demand and, in turn, will increase the risk of labour exploitation.
2. Our interviewees reported a current climate of uncertainty prompted by what they described as poor communication from the government, the introduction of the immigration points-based system, and a lack of knowledge about how many legal workers will be available from July 2021.
3. Those interviewed believe that Covid-19 has hidden the real impact of Brexit as furloughed British workers have undertaken some of the work previously done by EU workers. In addition, changes in recruitment practices to comply with Covid-19 restrictions (e.g., no face-to-face interaction) were said to have increased the risk of labour exploitation in their supply chains.
4. Although interviewees have introduced changes (e.g., increasing pay rates) to try and retain EU workers and attract more British workers, all are of the view that there will be widespread labour shortages in the industry after 1<sup>st</sup> July 2021 when the new immigration system becomes fully operational. Those interviewed, tended to agree that British workers would not make up the shortfall, as the work is seasonal; located in rural environments with poor transport links and has irregular hours.
5. It was also stated that the immigration points-based system was likely to create significant pressures to meet demand. Small companies and businesses lower down the supply chain were thought to be those most affected as they lacked the resources to undertake the required checks on the workforce and would be under the most pressure to fulfil orders and get the crops out of the ground. We found there was strong agreement that this will increase the risk and opportunities for labour exploitation to occur.

---

<sup>1</sup> Project funded by the Higher Education Innovation Fund

## Shortage of legal workers

Those interviewed voiced that the lack of clear communication and information from the government, the constant changes introduced and the generalised feeling of government “not listening” to businesses’ concerns create a climate of uncertainty, mainly around the number of legal workers available after July 2021. Despite most of the interviewees confirming that they continue to encourage EU workers currently legitimately in the UK to apply for the pre-settlement/settlement scheme, how many of the workers have applied remains unknown. Yet, all interviewees foresee that there will be a shortage of legal workers available after the 1<sup>st</sup> July when EU workers will no longer have the right to work in the UK legally, unless they have obtained Settled Status. It is believed by those interviewed that this will have severe implications for businesses in the agriculture, horticulture, construction and food processing sectors who are reliant on EU workers and will likely increase the risk of labour exploitation. Those interviewed acknowledge that many EU workers have left the UK, and many of them will not return. This is attributed to the climate of hostility toward EU workers, the devaluation of the pound, and the introduction of the immigration points-based system, which make other EU countries more attractive than the UK. As interviewees see it, the expected shortfall of EU workers is unlikely to be filled by British workers.

## Covid has hidden the real impact of Brexit

The impact that Covid-19 (and government restrictions) has had upon businesses vary. Our preliminary data shows that while for some, it has had a “catastrophic” impact, for many others, Covid-19 has reduced the demand and allowed them to recruit workers who were in the furlough scheme. Hence, disguising the real impact of Brexit. Although many interviewees acknowledge that this strategy has worked well, they also realise it will be unsustainable in the long term (i.e., once these workers return to their normal jobs following the easements to the lockdown). Nonetheless, it was reported to us that a climate of uncertainty and the significant number of unknowns make it difficult to plan and implement a long-term business strategy.

## Future recruitment plans and business viability

Acknowledging that many EU workers will no longer be attracted to work in the UK, interviewees referred to different potential strategies

that could enhance the business’ attractiveness and the retention rates - for example, increasing pay rates, offering other financial incentives, promoting opportunities for career progression, encouraging existing EU workers to apply for Settled Status and securing a good work experience. Many of them also refer to the need to change and invest in their recruitment practices, for instance, through the dedication of funding into databases for active monitoring of the workforce available. There also seems to be some agreement on the need to “*extend the recruitment window*” and to better plan and estimate the workforce needed. Some of the interviewees expect to source and recruit existing EU workers available within the UK, especially those with settled or pre-settled status. Others aim to maximise their recruitment opportunities by having a more substantial presence online (i.e., social media, companies’ webpages) and in the EU, with some of them planning to hire agents who can speak different EU languages. On the other hand, some companies plan to operate entirely in the EU as their only opportunity for survival.

Interviewees are of the view that the issue was not the low rates of pay in the sector, but the (sometimes) “*unpleasant*” nature of the work, the long and variable hours and rural locations which put off British workers from undertaking the work. Furthermore, British workers in the construction industry were said to lack the necessary skills to make up the shortfall in EU workers. The general view amongst those interviewed is that after the 1<sup>st</sup> July 2021 there will be a shortage of legal labour available, which will not be filled by British workers.

Despite the previously suggested strategies, some interviewees expressed strong concerns about the viability of their businesses. They advise that such investment in improving recruitment and retention rates, alongside the increased cost of material and goods coming from the EU, will inevitably translate into an increased cost for the businesses (and consumers).

## Increased pressures and increased risk of labour exploitation

The pressures will be even more prominent in smaller businesses lower down the supply chain where, “*hard and difficult choices will need to be made*” to meet the demand, thus opening opportunities for criminals to engage in malpractice in labour supply chains. Farmers and growers could be faced with a stark choice of “*not picking their crop or using workers who do not have the right to work to pick it*”.

We found a strong consensus that there would be an increased risk of labour exploitation. As one interviewee mentioned, *“it will be a good environment for bad things to happen”*. Despite interviewees recognising the need to be more vigilant of their supply chain, they also acknowledge that the need for subcontracting and the use of agency providers could increase the risk. As many observed, the shortfall of legal workers will promote opportunities for labour exploitation to occur. EU workers in the UK who fail to obtain Settled Status by the 30<sup>th</sup> June, will become ‘illegal’ workers overnight on 1<sup>st</sup> July 2021 leaving them vulnerable to labour exploitation. In addition, EU and overseas workers who enter the UK as visitors, may then remain here (illegally), making themselves vulnerable to exploitation. The number of illegal workers is likely to increase resulting in a larger pool for labour

exploiters to recruit from. Similarly, as one interviewee recognised, there is a risk that the cost of the visa to enter to work into the UK will be passed onto workers, thus increasing opportunities for debt bondage. Data also shows that changes in the recruitment practices were introduced to comply with Covid-19 restrictions, such as reduced face-to-face interactions and checks, making their supply chain more vulnerable to exploitation.

Overall, whereas it remains unknown what the impact of Brexit will be on the risk of exploitation, as one interviewee cited, it seems like *“they haven’t thought about modern slavery within the points-based system”*.

## Recommendations

1. Clearer, targeted guidance issued by the Government to the industry sectors known to use low skilled and migrant labour to inform of the new immigration points-based system. This advice to be particularly targeted at smaller employers, thought to be particularly vulnerable to criminals wishing to exploit the labour.
2. Increase the numbers of workers allowed to come to the UK under the SAWS scheme from its current 30,000 ceiling to more accurately reflect the number of workers the sector requires.
3. Expand the scope of the SAWS scheme to cover the ornamental horticultural sector, such as those involved in flower picking.
4. Increase the resources of the GLAA and the number of inspectors to one labour inspector for every 10,000 workers to bring the UK in line with international standards.
5. Increase the number of pro-active inspections undertaken by the GLAA and HMRC to find cases of labour exploitation and underpayment of the National Minimum wage.
6. The Government should implement the recommendations made by the Independent Review of the Modern Slavery Act 2015 on the legal application of the Act. In particular, those recommendations which would result in better protection for victims from the criminals who exploit them and the legal system when they are discovered.
7. The Government should extend the deadline for EU workers to apply for Settled Status by 6 months so the deadline does not occur in the middle of the harvesting season.

### Contact the research team:

Professor Dave Walsh, De Montfort University, School of Law: [dave.walsh@dmu.ac.uk](mailto:dave.walsh@dmu.ac.uk)