

IOM Submission to the Migration Advisory Committee Call for Evidence on the Seasonal Worker Visa

Introduction

Established in 1951, the International Organization for Migration (IOM) is the leading intergovernmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. With 175 member states and offices in over 100 countries, IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants.

A key area of IOM's work is to optimise the benefits of labour migration for migrants as well as for the countries of origin and destination. IOM offers policy and technical advice to national governments and supports the development of policies, legislation and administrative structures that promote efficient, effective and transparent labour migration practices (including temporary worker schemes for sectors such as agriculture). Within this area of work, IOM is particularly focused on the ethical recruitment and treatment of migrant workers.

IOM's flagship initiative for the ethical recruitment of migrant workers is called [IRIS](#) (the International Recruitment Integrity System), created with a coalition of partners from government, civil society and the private sector. A key component of IRIS is the [IRIS Standard](#) which consists of seven Principles supported by specific Criteria. It is a key document in the IRIS compliance system and is used to verify labour recruiters' compliance with the ethical recruitment principles.

In October 2022, IOM began implementing an FCDO-funded short-term project in Kyrgyzstan and Tajikistan to support safe migration of seasonal workers to the UK, reflecting increased recruitment from Central Asian countries. Key activities included the development of comprehensive Pre-Departure Orientation (PDO) materials, delegation visits to the UK for government agencies responsible for labour migration, as well as survey and focus groups discussions with returnee workers. IOM recently concluded a second project in Uzbekistan with a similar set of activities.

Since March 2023, IOM UK has been a member of the governance committee of the taskforce on the Seasonal Worker Scheme, as well as the wider taskforce itself.

Submission overview

IOM's submission to the Migration Advisory Committee (MAC) inquiry on the seasonal worker visa provides some general comments and reflections, drawing on our global labour migration experience and our specific experience from the Central Asian projects (including the visits, surveys and focus groups discussions).

Some of the points provided correspond with questions in the '*responding as a representative organisation*' questionnaire issued by the MAC. Where this is the case, the question number is indicated in the sub-heading text. While IOM is not a representative organisation as such, this

questionnaire most closely applies to us, although it is worth noting that we were not in a position to answer many of the questions (such as those designed for employers or representative organisations). For this reason, our comments are more general, organised around the themes of: 1) design of the seasonal workers visa, 2) stakeholder information and consultation, and 3) safeguarding the welfare of workers. The final section contains responses to the closing questions in the questionnaire.

The following submission from IOM is being provided on a voluntary basis and should not be interpreted or construed as a waiver, express or implied, of the privileges and immunities of IOM and its officials.

1. Design of the Seasonal Worker Visa and related policy

A. *Workers bearing the costs of migration – relates to questions 10, 11, 12*

At present, workers who are recruited for the Seasonal Worker visa route are required to pay for their visa and flights to the UK. These costs can come to between £600 and £1,800, depending on the distance travelled costs and how far ahead of travel flight tickets are purchased. The table below provides an overview of the estimated costs incurred by a Kyrgyz worker coming to the UK under the scheme, based on our learning from the Kyrgyzstan project, ranging from £914 to £1,839. It is important to note that these are just the allowable costs, and there can also be significant fees paid to illicit brokers and other actors along the recruitment chain, significantly increasing the costs paid by workers¹.

Table 1: Estimated legal costs paid by Kyrgyz nationals to work in the UK

Travel and subsistence to attend interviews	£10 to £100
UK visa cost	£259
UK visa processing cost	£30 to £90
Translation and notary service	£15 to £30
Travel and subsistence to obtain visa <i>As there is no visa processing centre in Kyrgyzstan, workers must travel and stay in Kazakhstan (Almaty) to obtain visas.</i>	£100 to £300
Travel to and from the UK (return flights)	£500 to £1000
Travel from airport to farm	£0 to £60
<i>Total estimated costs to workers</i>	<i>£914 to £1,839</i>

The workers, who are usually from lower-income countries, are often required to raise these funds through borrowing from family members, selling assets or borrowing from formal or informal lenders. For example, in an IOM survey of seventy-seven returnee Tajik workers, 48% said they had taken loans to fund their travel to the UK. As a result, workers are often in debt before they come to the UK which

¹ For example, the House of Lords Horticulture Committee heard that interim report findings showed that the lowest total costs paid by Indonesian workers in order to work on the scheme in 2022 was £3,500.

<https://committees.parliament.uk/event/17572/formal-meeting-oral-evidence-session/>

can increase risks of exploitation and reduce the earning potential of participating in the scheme (as they will need to spend a significant proportion of their initial income to repay these costs).

International standards on the fair and ethical recruitment of migrant workers state that recruitment fees and related costs should not be paid by the worker, rather they should be paid by the employer. The [ILO General Principles and Operational Guidelines for Fair Recruitment](#) states that “No recruitment fees or relates costs be charged to, or otherwise borne by, workers or jobseekers”. This includes all costs detailed in its definition of recruitment fees and related costs, which specifies travel and administrative costs (such as visa fees).

Similarly, the first principle within the IRIS Standard is the prohibition of recruitment fees and related costs to migrant workers, with related costs covering expenses such as flights and visas. This aligns with the [Employer Pays Principle](#) which states that the costs of recruitment should be borne by the employer and not by the worker.

Transforming the current model of workers paying the costs of travel to come to the UK to a model in which the employer and/or others in the value chain covers the cost will require some consultation and planning. For this reason, IOM has suggested that a feasibility study be carried out as a first step to help suggest a process of redesigning the scheme to align with this principle. This has been suggested both to the Taskforce and the government (Defra and Home Office), recognising the need for policy makers to further engage in these discussions. It is worth noting that in 2018 the UK government developed, alongside the governments of Canada, USA, New Zealand and Australia, [principles for nations to adopt to tackle modern slavery in global supply chains](#). This includes the principle that “governments should advance responsible recruitment practices, including by implementing polices that incentivise and support responsible practice, and by supporting initiatives such as the ‘Employer Pays Principle’”. It would be a positive step for the UK government to take action towards applying this principle to the Seasonal worker visa route.

While the UK scheme continues to require workers to pay for the costs of migration, additional efforts should be made to ensure these costs are minimised to the extent possible. One way in which this could be achieved would be for the Home Office to only require workers to pay the actual cost of processing the visa, which is currently listed as £129 in the government’s visa fees transparency data tables (shown as the ‘estimated unit cost’), rather than the £259 fee which is currently charged, and more than twice as much.² It is indeed arguable that the contribution of seasonal workers promotes economic growth in the UK, one of the factors which the Home Secretary considers when setting the amount of any fee or rate.³

² See Visa fees transparency data, <https://www.gov.uk/government/publications/visa-fees-transparency-data> accessed on 7 September 2023.

³ Immigration Act 2014, s68(9)

B. Guaranteeing employees work for the full duration of their visa – relates to questions 13 and 14

During IOM's engagement with workers and other key stakeholders in Kyrgyzstan, Tajikistan and Uzbekistan, including through surveys and focus group discussions, it became apparent that they expected to be employed in the UK for close to the full six-month duration of their visas and were making calculations about their potential earnings in line with this. However, in reality, the average duration of employment for the workers was significantly less. For example, in the survey of returnee workers from Tajikistan, the average duration of employment was 3.8 months. Similarly, when 211 returnee Kyrgyz workers were asked a question about transfers, 75% reported that they had to request a transfer because work had run out on the farm, and of these, 50% had their applications rejected, indicating that they were left without work earlier than expected.

It is also worth noting that during a visit to a farm in July 2023, during which time IOM Uzbekistan staff had the opportunity to speak to Uzbek workers about their experiences, many were clearly concerned about their employment on the farm running out and not being able to find employment elsewhere.

A short duration of employment can have an extremely negative impact on the workers. In the worst-case scenario, the duration of employment is so short, with no further employment available via transfers that the workers cannot recoup the costs that they invested in coming to the UK and they make an overall financial loss, pushing them further into debt, as highlighted in media articles in 2022.⁴ While this number is likely to be small, it is arguably unacceptable and unethical for there to be any workers left worse off after they have been recruited to work in the UK. Furthermore, in situations where workers are not given sufficient employment to repay their costs and save money, there is likely to be a greater risk of workers seeking irregular employment as they become increasingly desperate to earn money while they are in the UK.

It is therefore essential to guarantee workers with a minimum period of employment over the six-month duration of the visa as every week is vital. While IOM understands that achieving the full six months is very difficult in practice (as some time is usually required around arrival and departure), this should be set to a minimum of five months or 22 weeks.

C. Issues with transfers – relates to question 56

As noted above, the survey IOM carried out in Kyrgyzstan with 211 returnee workers found that 75% had to request a transfer as work ran out on the farm where they were employed - for no fault of their own. Of this cohort, close to 50% had their application rejected.

In July 2023, IOM UK was contacted by two Latin American consulates regarding some workers that had been recruited from their respective countries and were facing challenges in one particular farm where some members of the management team spoke Spanish. During a telephone call with one of the workers, they explained that a large group of workers had been recruited from Latin America to

⁴ <https://www.theguardian.com/uk-news/2022/nov/13/seasonal-fruit-pickers-left-thousands-in-debt-after-being-sent-home-early-from-uk-farms>

work on a particular farm in the UK. As a result of issues they were experiencing on the farm (explained below), some of the workers had requested a transfer, only to be told by the operator that there were no other farms in the UK with management that spoke Spanish and could receive Spanish-speaking staff.

While this evidence is anecdotal, it indicates that the transfer arrangements within the scheme may not be effective for the workers, with transfers being rejected for a variety of reasons which may reflect poor operator decisions and planning. While the guidance does require operators to ‘establish a clear employer transfer pathway, including transparent criteria for making a transfer request and a process for considering such requests’⁵, it appears as though this is not always working well in practice, and it is not clear how this is inspected or audited.

Through engagement with workers on the Central Asian projects IOM also learned that when transfers are arranged, workers are usually required to pay for the costs of transport, including in cases where the transfer was requested solely as a result of work running out on the farm where they were initially employed, sometimes after a period of just a few weeks. Journeys between farms often cover large distances and may not be well serviced by public transport facilities, meaning that the costs to travel between farms can be significant. To strengthen the transfer arrangements within the scheme, the costs of transport between farms should be covered by the operators and/or farms in cases where work has run out or when a transfer is being requested due to worker welfare issues (see question 3 below).

D. Length of visa – relates to question 18

During informal discussions with workers on farms visits with delegations from Kyrgyzstan and Uzbekistan, some workers indicated that they would like the opportunity to stay and work in the UK for longer than the period granted to them in their visa. In most cases, workers cited the need to maximise their earnings and repay the costs of coming to the UK as their reasons why.

However, it is important to note that if the visa were extended to a period over six months, there would likely be additional costs, such as the ‘immigration health surcharge’ (the minimum rate currently charged for this is £470) and the fee to undertake a TB test (required for nationals of some countries, including in Central Asia where a significant number of workers are being recruited from). IOM believes longer-term visa options to enable migrant workers to move from seasonal to more stable residence would be beneficial. However, unless there are policy changes introduced to bring the UK scheme in line with the Employer Pays Principle, there is a risk that extending the duration of the visa would significantly increase the costs borne by the workers, further increasing the debt they take on. In addition, as noted above, unless there are policy changes to guarantee a minimum period of employment for workers, extending the visa could further exacerbate the risks of workers not being

⁵ UK Visas and Immigration, ‘Workers and Temporary Workers: guidance for sponsors: sponsor a seasonal worker’, available: <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>

able to recoup the costs of coming to the UK. Any plans to extend the visa should first consider the other policy changes required to prevent workers from entering greater debt.

E. Tax and national insurance contributions

Seasonal workers are registered under the Pay As You Earn (PAYE) system, meaning that income tax is deducted from their pay. However, in most cases it is extremely unlikely that a seasonal worker will earn more than the current Personal Allowance of £12,570 in a tax year given that they work for less than 6 months. For workers to receive a tax refund, they must make an application to HMRC and then receive the funds into a UK bank account (or a cheque, which is challenging given that workers return home at the end of their employment). Workers that IOM spoke to during farm visits and during focus groups discussions once they had returned home indicated that getting the tax refund from HMRC had been difficult in practice, with some being unsuccessful and others having to use an agent to process the refund for them, usually taking a proportion of the refund.

Seasonal workers are not entitled to access public funds, despite the fact that they are required to make primary National Insurance Contributions (NICs) and their employers must make employer's contributions. This appears to be a contradiction with the stated purpose of NIC, to count towards benefits and pensions such as job-seekers allowance, employment and support allowance. As such, this is effectively a double tax for the workers.

A specific tax code for seasonal workers would help overcome these issues and ensure workers are not in a situation of paying tax that they struggle to get refunded and NICs that they cannot then benefit from. The savings to the employers of not paying employee contributions could also help fund the costs of travel and visas for the workers, as part of the process of adopting the Employer Pays Principle.

2. Stakeholder information and consultation – relates questions 22 and 46

As part of the projects in Central Asia, IOM developed Pre-Departure Orientation (PDO) materials to be used by the government agencies responsible for labour migration during preparation sessions with the workers. In the process of developing the PDO content, we noticed that information about the seasonal worker scheme is fragmented with no dedicated pages on the gov.uk site containing essential information about the scheme, including, for example, the names of all the operators. IOM had to gather information from many different sources and on multiple occasions found contradictory information or significant information gaps. IOM also found that there is very little public information about the operators in terms of the countries they are recruiting from and their specific modes of recruitment (such as whether they open an office in a recruitment country, work with a sub-contractor, engage with a government agency or recruit online).

The seasonal worker scheme is complex, covering many different areas of guidance from immigration processes to employment law. As such, it is critically important to provide a central and reliable

information site for workers, employers and other stakeholders.⁶ (Specifically, IOM's response to question 22 would be "fairly difficult").

IOM has been involved in various stakeholder groups focusing on the Seasonal Workers Scheme, including the recently formed Taskforce. While there has been an improvement in the engagement from government, for example, with Defra acting as an observer to the Taskforce, the extent of engagement from government with stakeholders is still very limited, which is concerning given the ongoing challenges with the scheme. For example, there is no dedicated government-initiated forum on the scheme to convene and consult stakeholders and provide them with essential updates about the scheme. Further details about challenges stakeholders have experienced with engaging government on the Seasonal Worker Scheme are set out in the Independent Chief Inspector of Borders and Immigration (ICIBI) 2022 [inspection of the immigration system as it relates to the agricultural sector](#) (see pages 5-6 and 35-40).

3. Safeguarding the welfare of workers – relates to questions 51 and 52

The previous sections have noted several key issues affecting worker welfare, such as workers bearing the costs of migration, the lack of a guaranteed duration of employment, transfer challenges and sub-optimal tax and national insurance arrangements.

In addition, IOM's engagement with workers in the framework of the Central Asia projects has highlighted some additional safeguarding / welfare issues for workers, as noted below:

- Racism and discrimination - during conversations with Tajik workers on a farm visit, some disclosed that they had experienced or observed incidences of racism and discrimination by some supervisors. For example, monkey chants being made at the Central Asian workers.
- Performance / picking targets – during conversations with Central Asian and Latin American workers, some described performance and picking targets that they considered to be unachievable or unfair. For example, some workers described targets being set against the speed of the fastest workers who had several months or years of experience which were very difficult for new workers to achieve. Other workers described achieving the target number of kilos to pick only to be told the next day that the target had increased by 5kgs, continuing until the target had doubled. Workers described experiencing high levels of stress and frustration, feeling like they were in a continuous endurance test.

A. Complaints process – question 53

IOM understands that if a worker has a grievance, they first report this to the farm they are working on. They are also then able to report an issue to the scheme operator who recruited them, although

⁶ Question 22 in the questionnaire provides multiple choice options, IOM's selection for this question would be "fairly difficult" for the reasons outlined here.

the way in which this happens is unclear (for example, how easy it is to complain, if the issue can be reported in different languages and with support of cultural mediators) and the procedures for resolving and responding to complaints are also unclear (such as how they are investigated, timelines, and how responses are given).

Some of the workers IOM spoke to in the context of the Central Asian projects said that in times of need, including when complaints had been made, they felt there was lack of support and communication from their Operator.

Indeed, the Defra surveys of returnee workers shows an increasing proportion of workers reporting that it was not easy to complain – in 2019, 20% of workers said it was not easy to file a complaint, in 2020 this had increased to 39%, and in 2021, to 40%. Among workers who did file a complaint, 41% felt their complaint was followed up in 2019 and 2020, rising slightly to 44% in 2021. What this indicates is that for the first three years of the Seasonal Worker visa, over 50% of workers who made a complaint felt that it hadn't been followed up.

It is also important to note that there is likely to be significant underreporting of complaints by seasonal workers for a number of different reasons.⁷ Firstly, the workers may not understand or feel confident enough to use reporting channels due to language barriers or other cultural issues, or because they fear that making a complaint might impact their employment. Furthermore, as noted above, workers have invested significant sums of money to get to the UK, often entering into debt, and need to earn as much money as possible as quickly as possible. As such, they may feel that making a complaint about an issue they are facing to be against their interests of maximising their earnings in the short duration of time they are in the UK.

B. Monitoring and inspection regime

Monitoring and inspections are an important mechanism through which Operator compliance requirements can be checked and potential worker welfare issues can be detected, without relying on workers making complaints. The Independent Chief Inspector of Borders and Immigration (ICIBI) 2022 [inspection of the immigration system as it relates to the agricultural sector](#) identified a number of issues with Home Office visits, including late or no feedback being provided to the operators, no investigations of allegation and no meaningful follow up action (see pages 5-6 and 43-50). Furthermore, it is important to note that the way in which such visits are conducted are key to ensuring workers can disclose challenges they are facing. In cases where inspectors are ununiformed, do not speak the language or understand the culture of a workers, and represent an immigration authority, workers may not feel sufficient trust or confidence to discuss the issues they are facing.

In IOM's experience, inspection processes and outcomes can greatly benefit from formal collaboration with trusted third parties, including civil society and migrant worker support organisations. Collaboration or cooperation mechanisms with these groups are a valuable way to build confidence and trust and can result in useful information for inspections. Support can also be provided by international organisations, such as IOM, with capacity-building training activities or assistance from

⁷ See the section entitled "Reasons for non-reporting and reluctance to engage authorities" (page 14) in the [IOM IRIS Handbook Chapter 3: Strengthening the Effectiveness of Inspectorates](#).

cultural mediators. An example of this is the IOM Italy programme of cultural mediation support to the National Labour Inspectorate, which uses cultural mediators during labour inspections to mitigate and reduce language and cultural barriers and consolidate mutual trust between migrant workers and labour inspectors.⁸

4. Future of the scheme – relates to question 54.

The current scheme is guaranteed until 2024. From IOM’s perspective this represents an important opportunity to review the scheme design, consult with key stakeholders, including workers, to then strengthen and redesign the scheme to ensure it is fair and meets the needs of everyone involved: migrant workers, employers, recruiters and countries of origin and destination. IOM would like to support this process, leveraging our global experience with ethical recruitment of migrant workers, as well as our knowledge of the UK scheme.

Closing questions

Below are IOM’s responses to the closing questions in the ‘*responding as a representative organisation*’ questionnaire.

62. Would you be happy for us to quote anonymously from your response to this CfE?

- Yes

63. Would you be happy for us to name your organisation in the published report?

- Yes

64. Would you be happy for us or Revealing Reality, who are independent research contractors appointed by the MAC, to recontact you in the next 12 months to invite you to take part in follow-up research regarding similar issues covered in this questionnaire?

- Yes

And would you be willing for us to contact you if we needed to clarify or supplement responses you have given in this questionnaire?

- Yes

66. Would you like to be invited to any future stakeholder events the MAC may hold?

- Yes

⁸ Ibid – see pages

September 2023