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# THE IMPACT OF THE NEW UK IMMIGRATION SYSTEM ON HUMAN TRAFFICKING INTO THE UK

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## Introduction

**This paper highlights the heightened risk of human trafficking the new immigration system creates.**

On 19 February 2020, The Home Secretary, the Rt Hon Priti Patel MP issued the [UK's Points-Based Immigration System Policy Statement](#), setting out the Government's plans to end free movement of EU citizens. The Statement asserted that the new immigration system from 1 January 2021 will: "*assert full control over who comes to this country*" and "*reduce overall levels of migration*".

The new Points Based System will enable employers granted [licensed sponsor](#) status to recruit unlimited numbers of eligible workers from any country into any qualifying UK job requiring the equivalent of one relevant A Level. Currently, there are over 31,000 Tier 2 (General) licensed sponsor employers and this number will increase significantly under the new Points Based Immigration System. It is to be seen how effectively the Home Office can monitor such a large group of employers in the proper application of the scheme rules.



[Analysis](#) by the Home Office Chief Scientific Adviser in November 2014 estimates that between 10,000 and 13,000 potential victims are held in slavery in the UK. In 2017 the UK National Crime Agency [called this](#) the "tip of the iceberg" and that the true numbers are likely to be substantially higher – in the tens of thousands – as many victims are unable or reluctant to report to authorities or may not be recognised as victims of modern slavery even if they do report. In 2020 the Centre for Social Justice has [concluded](#) that "there could be at least 100,000 victims in the UK, with the actual number likely to be even greater."

The government has promised a system "[which protects individuals from exploitation by criminal traffickers and unscrupulous employers.](#)"

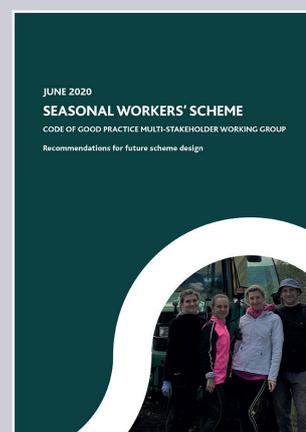
However, the September 2020 [Public Accounts Committee report on Immigration Enforcement](#) headlines that, "*The Home Office is unprepared for the challenges the UK's exit from the EU presents to its immigration enforcement operations. In evidence to the Committee in mid-July it could provide no evidence that it had even begun discussions with the EU partners it relies on to support its international operations, including the return of foreign national offenders and illegal migrants.*"

On releasing this report, Meg Hillier MP, Chair of the Public Accounts Committee, said: "*The Home Office has frighteningly little grasp of the impact of its activities in managing immigration. It shows no inclination to learn from its numerous mistakes across a swathe of immigration activities – even when it fully accepts that it has made serious errors.*"

**This paper explains how the immigration system opens up the potential for human trafficking and exploitation of individuals on a massive scale globally, orchestrated by organised crime gangs, criminals, scammers, profiteers and unscrupulous employers.**

# Overview of the key UK Immigration Routes from January 2021

<p><b>VISITORS</b></p>	<p>EU citizens and non-visa nationals will not require a visa to enter the country when visiting. All migrants looking to enter the UK to work will need to apply for permission in advance. Anyone who comes to the UK as a visitor will not be able to apply for a visa to work once in the country.</p> <p>The UK does not operate a biometric border entry and exit system. Home Secretary Priti Patel in <a href="#">The Telegraph</a> described the limited data UK's Border Force has on people travelling to the UK from the European Union as a grave terrorist risk for the country.</p>
<p><b>LOWER SKILLED WORKERS</b></p>	<p>Government policy is that there will not be an immigration route specifically for those who do not meet the skills or salary threshold for the skilled worker route.</p>
<p><b>TIER 5 (TEMPORARY WORKER)</b></p>	<p>For workers to work in temporary roles with an organisation in the UK.</p> <p>Tier 5 has been used for the Seasonal Workers' Pilot in edible horticulture.</p> <p>The 'Seasonal Workers' Scheme Code of Good Practice Multi-Stakeholder Working Group' has provided <a href="#">recommendations</a> to ensure that good work practices and protection of workers is designed into any future scheme.</p>
<p><b>TIER 5 (YOUTH MOBILITY SCHEME)</b></p>	<p>Allows young people, aged between 18 and 30, to travel to the UK to work as a cultural exchange to promote the UK overseas and to encourage trade and tourism.</p>
<p><b>TIER 2 (GENERAL)</b></p>	<p>For skilled workers who meet the requirements of the new Points Based System. To recruit these workers, employers will need to be approved by the Home Office as a <a href="#">sponsor</a>.</p> <p>Applicants will need to be able to speak English and have a job offer from an approved sponsor at RQF 3 skill level or above in a role that pays at least the minimum salary threshold</p>
<p><b>TIER 4 GRADUATE IMMIGRATION</b></p>	<p>Students with a valid Tier 4 visa and graduates who have completed a degree in the UK from summer 2021 will be able to work, or look for work, in the UK at any skill level for up to 2 years.</p>



## Immigration and Visa Costs under the new system

The Border, Immigration and Citizenship System including asylum and enforcement costs currently costs the Government £2.8 billion a year to run and £2.3 billion a year is raised through visa and passport fees.

Income generation through fees and charges will continue to underpin the future system, contributing significantly towards funding. These charges comprise of sponsor fees, various visa costs as detailed at the UK's Points-Based Immigration System Annex A, and the Immigration Health Surcharge payable by applicants (with some exceptions) as part of their immigration application and for each year of the visa.

**When taking into account all visa costs, sponsorship costs, and additional immigration charges outlined in the new system, companies will face a bill of nearly £10,000 in order to hire a skilled worker on a five year visa as follows:**

Skilled worker visa	£1,408
Certificate of sponsorship	£199
Immigration Health Surcharge (£624/year)	£3,120
Immigration Skills Charge (£1,000/year)	£5,000
<b>Total costs</b>	<b>£9,727</b>

The proposed cost of the Points Based System will be one of the most expensive of any country globally. Analysis by Fragomen LLP identifies that the total costs for a skilled worker in a family of five under the UK system are over £21,000. This is nearly four times as expensive as the United States, over twelve times as expensive as Canada, and nearly eighteen times as expensive as Germany.

Applicants are also faced with a range of often unreported additional processing charges to obtain a visa, which vary by country. This is managed by TLSContact "the Commercial Partner of UK Visas and Immigration, part of the UK government. We provide services to customers applying for UK visas."

**An example from the Ukraine demonstrates these supplementary visa processing costs:**

Charge	Cost
Earlier Appointment	80-100 EUR
Mail passport after visa is issued back to the applicant	8 EUR(Kiev) / 20 EUR (Other Regions)
Support to upload documents	28 EUR
Walk in appointments	80 EUR
Prime Time appointment	113 EUR
Form filling assistance	45 EUR
Online Payment assistance	5 EUR

# How the new Immigration System will impact on Human Trafficking in the UK

The Government has promised an immigration system “which protects individuals from exploitation by criminal traffickers and unscrupulous employers.”

However, as yet, there are no measures reported by the Government that seek to achieve this. On the contrary, the new system puts vulnerable individuals at greater risk and plays into the hands of organised crime gangs, traffickers, modern day slave masters and exploitative employers. Here is why:

## 1. The new immigration system puts EU nationals at greater risk of human trafficking.

EU citizens and non-visa nationals will not require a visa to enter the country when visiting. Anyone who comes to the UK as a visitor will not be able to apply for a visa to work once in the country.

However, there is no effective border exit system as the Chief Inspector of Borders and Immigration has identified as reported here [“No UK border exit records for 600,000 people, says watchdog”](#).

### This creates the perfect conditions for traffickers to control their victims:

- ▶ There is no general immigration route for lower skilled workers
- ▶ There is an ongoing high demand for the highest risk individuals (non-English speaking, unskilled, lower educated etc.) in highest risk sectors (waste, hospitality, manufacturing, warehousing, agriculture etc.) in roles (low paying, irregular, unpleasant, physical, seasonal, hidden) least likely to be filled by resident workers.
- ▶ There is high unemployment amongst vulnerable individuals in their home countries
- ▶ There is uncontrolled entry and exit of EU workers with no records held by the UK authorities
- ▶ There are no employment protection rights in UK for such undocumented workers
- ▶ There is the use of threat of reporting of “illegal” status of EU nationals to control victims

*As highlighted in the article, [New immigration proposals are a gangmasters' paradise](#) “My Hungarian mate Ferenc sees a bright future for gangmasters under our new ugly immigration laws...So you can stay in the UK for six months but you're not allowed to work. That's really going to stop low-paid illegal work in the unregulated economy! Arrive in March/April, stay until the end of the harvest/peak tourism period/best time of year for construction work, or until whoever is profiting from your labour allows you to go. They might as well call it the Gangmasters' Charter.”*

The removal of an immigration route for lower skilled workers drives recruitment channels ‘underground’. Employers needing to fill low skilled roles at minimum wage will turn to criminal, exploitative and negligent recruiters supplying workers without the legal right to work using fake or fraudulent ID documents.

Traffickers can bring EU nationals in as visitors, make them work in unregulated economies whilst legally in the country as visitors, and through fake/imposter passport networks, those workers are then supplied into legitimate businesses through imposter registration or switching.

# How the new Immigration System will impact on Human Trafficking in the UK

## 2. There are no effective measures to protect undocumented workers from modern slavery and broader labour exploitation.

The September 2020 [Public Accounts Committee report on Immigration Enforcement](#) headlines that “Despite years of public and political debate and concern, the Department still does not know the size of the illegal population in the UK. It does not know what harm the illegal population causes. It does not know how many people come to the UK legally and do not renew their visa, or how many deliberately come illegally. The Home Office has not estimated the illegal population in the UK since 2005.”

Statistics on undocumented individuals working illegally in the UK are hard to find. London School of Economics research put the number of illegal workers in the UK at the end of 2007 at 618,000, with a range of 417,000-863,000. A June 2017 Civitas report, [The Politics of Fantasy](#), authored by a previous Deputy CEO of the UK Borders Agency and Director General of Immigration Enforcement estimates that 150,000 additional illegal migrants enter the UK each year.

At the end of December 2018, there were 1,784 people held in the [detention estate](#). In 2018, 25,487 individuals left the detention estate, of which 44% were returned from the UK to another country. The numbers of undocumented workers seeking to create a future in the UK therefore increases greatly each year – by best available estimates at around  $((150,000 - (44\% \times 25,487)) = c140,000$ .

Due to the employment law principle of [illegality](#) in the UK, undocumented workers have virtually no employment protection rights and are therefore one of the most vulnerable groups to exploitation and modern slavery. This lack of basic rights is different to many countries where all individuals regardless of status have minimum rights such as to be paid the minimum wage for all hours worked.

The June 2020 [Labour behind the Label report](#) on conditions in Leicester’s factories identifies that, “Those without the right to stay in the U.K or work were sometimes reportedly earning only £1 per hour.” The immigration system and UK enforcement contains no policy to address this.

**Labour Behind the Label has received reports that workers in Leicester's garment factories have been told to come into work – even when they showed symptoms of COVID-19 – otherwise they would lose their jobs**

### To work and earn a living undocumented individuals in the UK must either:

- ▶ obtain high quality false identity documents from criminal gangs to work in regular employment
- ▶ work in the informal economy
- ▶ work for “[businesses or bosses who are willing to break the law \(as it is illegal to employ someone undocumented\). They are therefore highly vulnerable to abuse.](#)”

Asylum Seekers are not allowed to work in the UK. They can only apply for permission to fill a shortage vacancy if they have been waiting for over 12 months for an initial decision on their asylum claim. [Lift the Ban](#) is a multi-stakeholder campaign to give people seeking asylum the right to work. Attempts were made during the passage of the Immigration Bill 2015-16 to relax these restrictions, but they did not have Government support and were [unsuccessful](#).

# How the new Immigration System will impact on Human Trafficking in the UK

## 3. The rules regarding charging of recruitment fees and associated costs to applicants under the new immigration system are inadequate and put workers at heightened risk of debt bondage.

- ▶ The International Labour Organisation published its [Definition of Recruitment Fees and Related Costs](#) in 2019.
- ▶ The Institute for Human Rights and Business (IHRB) has developed the [Employer Pays Principle](#) which requires that “no worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.”
- ▶ The [Responsible Recruitment Toolkit](#) annually updates its [Guide to Eliminating Worker Paid Recruitment Fees and Related Costs \(Third Edition\)](#).
- ▶ Know the Chain’s leading conclusion in its [Progress and Gaps in the Fight Against Forced Labor](#) report was “To positively impact workers’ lives, it is imperative for all companies to improve their efforts on responsible recruitment practices...”.



The UK government has agreed common [Principles for Tackling Modern Slavery in Supply Chains](#) with the U.S., Canada, Australia and New Zealand which includes:

*“Governments should advance responsible recruitment practices...including by implementing policies that incentivize and support responsible practices, and by supporting initiatives such as the “Employer Pays Principle”.*

The UK government is a signatory to the [Global Compact for Safe, Orderly and Regular Migration](#) in which Objective 6 c) states

*“Improve regulations on public and private recruitment agencies, in order to align them with international guidelines and best practices, prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers in order to prevent debt bondage, exploitation and forced labour, including by establishing mandatory, enforceable mechanisms for effective regulation and monitoring of the recruitment industry”.*

In light of the above government commitments, on 4th May 2019 the ALP wrote to the Home Office Modern Slavery Unit to ask if the UK government planned to adopt the same interpretation of recruitment fees as contained in the ILO Governing Body [Definition of Recruitment Fees and Related Costs](#). The Home Office Modern Slavery Unit has yet to respond.

Under UK employment law there is no general provision which prevents employers from charging recruitment fees and related costs to those they recruit.

Under the Employment Agencies Act 1973 [section 6](#), employment agencies cannot, “request or directly or indirectly receive any fee from any person for providing services (whether by the provision of information or otherwise) for the purpose of finding him employment or seeking to find him employment”. However, the legislation is out of date and inadequately drafted - “fee” is not defined - leading to evasion, circumlocution and lack of enforcement.

# How the new Immigration System will impact on Human Trafficking in the UK

In the supply of labour to agriculture, paragraph 38.12 of the [Tier 5 \(Temporary Worker\) Seasonal Worker Sponsorship Guidance](#) states that “[the sponsor] must not place any additional charges on participating migrants, beyond the costs of administrating the scheme.” The “costs of administrating the scheme” are not defined.

## The Gangmasters and Labour Abuse Authority Licensing critical Standard 7.1 “Fees and providing additional services” requires that:

- ▶ A licence holder must not charge a fee to a worker for any work finding services.
- ▶ A licence holder must not make providing work finding services conditional on the worker:
  - ▷ using other services or hiring or purchasing goods provided by the licence holder or any person connected to them, or
  - ▷ giving or not withdrawing consent to disclosing information about that worker other than what is required for the work finding services.

The GLAA has produced [GLA Brief 38 - Job Finding Fees and Providing Additional Services](#) which provides further detail regarding how it will apply Licensing Standard 7.1.



**Gangmasters &  
Labour Abuse Authority**

On 4th May 2019 the ALP wrote to the GLAA to request with regards to the Seasonal Workers' Pilot, whether certain costs were paid by workers would be regarded as in breach of Licensing Standard 7.1. Following interventions by the Home Office and extensive chasing the GLAA provided an explicit decision on 4th March 2020 as follows:

**Cost 1. Visa Cost** – where paid for by a worker is not in breach of GLAA Licensing Standard 7.1. Reason given - The worker has to get a visa to come to the UK. This is not a requirement, or a fee levied by the scheme operator, or recruiter. It must only be at the rate set by the Home Office.

**Cost 2. Visa Processing costs** set by the Home Office and charged via TLS - where paid for by a worker are not a breach of GLAA Licensing Standard 7.1. Reason given - These are not fees levied by the scheme operator/recruiter. They are agreed and set by the Home Office, and charged via TLS, which is not a labour provider. So, 7.1 does NOT apply.

### Cost 3. Travel costs

- a. Where the worker makes their own travel arrangements - with a travel company or flight company and are not paying anything to the scheme operator. This is not a breach of standard 7.1.
- b. Where the scheme operator offers travel arrangements, but these are optional - This is not a breach of standard 7.1. However, if the charges appeared uneconomic this might question the scheme operator's approach.
- c. Where the scheme operator offers travel arrangements, but these are compulsory - this is a breach of standard 7.1. The problem is the compulsion and potentially not the rate as this could present a value for money option. If the latter applied, whilst it would be pointed out they should be optional, a proportionate approach to the non-compliance would need to be considered.

The GLAA confirmed that, “In all travel cases, optional is critical. Also, if the scheme operator became an intermediary in any process and charged any form of arrangement fee this would breach 7.1.”

On 5th March 2020, the Modern Slavery Unit was requested to confirm whether any steps are being taken to address the contradiction between the commitments the government has made to prohibit recruiters and employers from charging or shifting recruitment fees or related costs to migrant workers and current government policy as expressed above which allows this. The Modern Slavery Unit has yet to respond.

# How the new Immigration System will impact on Human Trafficking in the UK

## 4. The Points Based System has both omissions and conditions which will increase current and create new opportunities for worker exploitation, debt bondage and human trafficking.

The government promises a scheme “which protects individuals from exploitation by criminal traffickers and unscrupulous employers.” However, the scheme will have the opposite effect as it provides a host of new opportunities for exploitation, debt bondage and trafficking. These include:

<b>Online Recruitment Scammers</b>	<p>One such scam is to steal logos and names from genuine sponsor websites and require an up-front fee from individuals to provide recruitment services but never deliver on these. Once a payment is made, a false but convincing story unfolds as to how the recruitment process is progressing with increasing payments required along the way until the in debt individual cannot or will not pay anymore. The scammer then disappears or fails to respond. All is done without the sponsor’s knowledge.</p> <p>An alternative scam is the promise of a job to start immediately and the requirement of personal information for a pre-employment credit check, such as birthdate, driver’s licence, Social Security and bank account numbers. The scammers steal identities, empty bank accounts and more, leaving victims and their families in debt and destitute.</p>
<b>The Sponsor Lock-In Model</b>	<p>Under the Tier 2 (General) immigration route, Home Office licensed sponsor employers can recruit workers at a new entrant rate 30% below the ‘going rate’ which would generally need to be paid to a UK resident worker.</p> <p>Additionally, these employers can require all recruitment fees and costs incurred to be paid back by the recruited migrants through legally drafted contractual / clawback clauses and monthly salary deduction repayments.</p> <p>The recruited migrant is therefore unable to leave the employment or move to another employer as s/he owes substantial sums which are a legal debt to the employer and need to be repaid.</p>
<b>Migration Factories</b>	<p>There will be thousands of “Migration Factories” established throughout the world whose purpose will be to support individuals within that village, town, city to obtain a job and permanent resident status in the UK under the Tier 2 (General) immigration route. These will range from legitimate businesses offering a professional service to sham recruitment fraudsters, to profiteering exploiters and those operated by organised criminal gangs and networks.</p> <p>At the legitimate end, businesses will offer those migrants seeking work in the UK services covering coaching, CV preparation, letter writing, connection and advocacy with UK sponsors, immigration paperwork support, pre-departure orientation, travel arrangements and all associated recruitment services. A comprehensive description of recruitment services is contained in the <a href="#"><u>ILO Definition of Recruitment Fees and Related Costs</u></a>.</p> <p>Unscrupulous operators, for a price, will support individuals with a full set of services including faking English language tests, provide forged qualification certificates, assist with fraudulent CV histories, arrange travel etc.</p>

# How the new Immigration System will impact on Human Trafficking in the UK

<b>The Collusion Model</b>	<p>This involves collusion between an unscrupulous licensed sponsor employer in the UK and an unscrupulous overseas recruitment agent. Between them they extract as much money from the recruited migrant in the form of up front payment or debt. Bribes or 'fees' will be paid to directors i.e. with the companies' collusion or to managers i.e. without the companies' knowledge by the overseas agent. Once in the UK the job may be genuine or sham.</p> <p>The extent of this will depend on how effectively the Home Office can monitor the tens of thousands of Tier 2 (General) licensed sponsor employers. This remains to be seen.</p>
<b>Organised Criminal Gangs and Networks</b>	<p>The Tier 2 (General) immigration route opens up new opportunities for exploitative gangs across the globe to drive people into forced labour in their own countries and in the UK. The Tier 2 immigration route to work in the UK opens up a lure to entrap individuals in all countries throughout the world where such an opportunity never previously existed.</p> <p>The gangs may operate informally and undetectably, or may operate openly as, or in collusion with, an employment agency in the sending country. They will employ the standard models of entrapment, identifying and recruiting vulnerable individuals and selling them the dream of a better future with financial security living and working in the UK. They then quickly manage the individuals and their family into crippling financial indebtedness from which it is impossible to escape. The indebtedness continues and grows as the recruited migrant must pay back the debts incurred under the threat of and actual violence against the worker's closest family. The Tier 2 immigration opportunity may or may not actually exist.</p> <p>Organised state, criminal and terrorist cartels and networks will have deep and hidden connections within some UK employers with Home Office approved sponsor status. The new Tier 2 (General) immigration route may be used by such organisations to allow any individual from almost any country to obtain permanent resident status within the UK.</p>



## Conclusion

The UK's future immigration system opens up a range of new opportunities for human traffickers to exploit vulnerable EU nationals and for criminals and profiteers globally to abuse individuals on a massive scale.

The Government has promised an immigration system “*which protects individuals from exploitation by criminal traffickers and unscrupulous employers*”.

However, the Public Accounts Committee confirms that “The Home Office is unprepared for the challenges the UK's exit from the EU presents to its immigration enforcement operations.

### There is much for the Home Office to do, not least:

- ▶ A coherent national strategy on people living or working in the UK without permission
- ▶ Core employment and remediation rights for undocumented workers
- ▶ Providing refugees and asylum seekers with the legal right to work
- ▶ Comprehensive and enforceable legislation to prohibit recruiters and employers from charging or shifting recruitment fees or related costs to workers and jobseekers
- ▶ Effective management of points based system sponsors with appropriate powers to bar and penalise unscrupulous employers
- ▶ A detailed understanding by the National Crime Agency, Director of Labour Market Enforcement and Gangmasters and Labour Abuse Authority of the additional risks imposed by the new immigration policy with appropriate resources to prevent such risks and remedy breaches

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**Modern Slavery** - Stronger Together, a multi-stakeholder collaborative initiative supporting organisations to tackle modern slavery within their businesses and supply chains.

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