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Department of Education,
Skills and Employment

Seasonal Worker Programme

Approved Employer Guidelines

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Version history

Version	Effective Date	End Date	Change Summary
1.1	18 May 2020	31 August 2021	<ul style="list-style-type: none">• Updated Department name and logo.• Corrected phone number for HTS.• Corrected reference to section number.• Corrected subsection numbering.
1.2	1 September 2021	1 September 2021	<ul style="list-style-type: none">• Updated LMT validity period from six to twelve months.• Updated arrival briefing information.• Updated industry Awards.• Updated references to initial application process to new PALM scheme website.• Updated PLF email.

Glossary

Term	Description
ATO	Australian Taxation Office
Contract manager	Departmental officer responsible for managing participation in the Seasonal Worker Programme of the relevant Approved Employer
Department	Department of Education, Skills and Employment
DFAT	Department of Foreign Affairs and Trade
FWO	Fair Work Ombudsman
Home Affairs	Department of Home Affairs
LSU	Labour Sending Unit (in Participating Countries)
MOU	Memorandum of Understanding
OAIC	Office of the Australian Information Commissioner
PLF	Pacific Labour Facility
PLS	Pacific Labour Scheme (non-seasonal labour program, managed by DFAT)
PPE	Personal protective equipment
SWP	Seasonal Worker Programme
TAS	Temporary Activities Sponsor (see Home Affairs website)
VEVO	Visa Entitlement Verification Online (see Home Affairs website)

1 Purpose and Overview

Relevant Deed clauses

See in particular Clauses 1, 2, 5, and Items A and F1 of Schedule 1 of the Deed.

1.1 Introduction and purpose

These Guidelines are written for Approved Employers participating in the Seasonal Worker Programme (SWP).

They are intended to help You understand and meet Your obligations and responsibilities as an Approved Employer detailed in the Deed of Agreement for the SWP (Deed). These Guidelines form part of the Deed, as specified in clause 2.2 of the Deed, and **must** be complied with.

Australia has signed Memoranda of Understanding (MoU) with each of the 10 participating countries. These MoUs, and the Implementation Arrangements which sit under them, set out responsibilities of the Australian Government and participating countries to mitigate risks and ensure that the objectives of the SWP are met. The Deed and Guidelines reflect requirements of the MoUs and Implementation Arrangements.

Approved Employers **must** adhere to their obligations under the Deed and these Guidelines.

You acknowledge and agree that these Guidelines, do not limit or otherwise affect Your obligations and the Department of Education, Skills, and Employment (the department's) rights under the Deed and otherwise under statute, law or in equity. These Guidelines operate in addition to the Deed. Without limitation, nothing in these Guidelines fetters the department's discretionary rights under the Deed when deciding to take action (or not to take action), or to approve (or not approve) a document, under the Deed. The department is not obliged to exercise its discretion under the Deed for the benefit of You, Your Personnel, Providers or Subcontractors.

These Guidelines will be updated from time to time and will be made available on the [PALM website](https://www.palmscheme.gov.au/employers)¹ and through SWP Online. As required under Item A of Schedule 1 of the Deed, You **must** make Yourself aware of the Guidelines and ensure You comply with these Guidelines in the performance of Your obligations under the Deed.

These Guidelines include hyperlinks to relevant content elsewhere in the Guidelines. These are shown in [underlined blue text](#). To go to a link press 'Ctrl' and then click on the link with the mouse, full links are provided in the footer. Links to relevant websites are also provided and are [hyperlinked](#) for online use and written in full for those using a print copy of these Guidelines.

¹ <https://www.palmscheme.gov.au/employers>

1.2 Definitions and Interpretation

Where relevant, these Guidelines use the same terms as those in the Deed and those terms have the same meaning as set out in the Deed. Defined terms are capitalised.

These Guidelines are to be interpreted in accordance with clause 2 of the Deed.

1.3 Government contact details

The SWP is a whole-of-government program that is led by the department. The department manages the SWP in partnership with other Australian Government agencies.

Department of Foreign Affairs and Trade (DFAT)

If You have a concern with a Participating Country, including a Labour Sending Unit (LSU) or agent, or the Pacific Labour Facility (PLF), please contact Your contract manager in the department. The department can then engage with DFAT to seek their involvement and assistance, if necessary.

Department of Home Affairs (Home Affairs)

- Use Your [ImmiAccount](#)² to sponsor Seasonal Workers for a visa, check the progress of a visa application, and make changes including where You no longer employ a Seasonal Worker You previously sponsored.
- More information on Temporary Activity Sponsorship is available on Home Affairs website.
- To check visa details and conditions for Seasonal Workers use [VEVO](#)³ (Visa Entitlement and Verification Online).
- For all other matters please Email Seasonal.Worker@homeaffairs.gov.au

Fair Work Ombudsman (FWO)

- Email: seasonalworkerprogramme@fwo.gov.au to invite the FWO to attend Arrival Briefings. When the FWO attends Arrivals Briefings, the FWO presents targeted workplace relations information to Seasonal Workers and may distribute other FWO resources and/or collateral.
- You can also email seasonalworkerprogramme@fwo.gov.au for information on workplace entitlements.
- The [FWO website](#)⁴ includes information on pay, awards and conditions and includes a range of tools for employers and employees. The FWO's dedicated SWP webpage contains specific information and resources, including storyboards on a range of workplace topics, translated into a number of Pacific and Timorese languages.

² <https://online.immi.gov.au/lusc/login>

³ <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/overview>

⁴ <https://www.fairwork.gov.au/>

Australian Taxation Office (ATO)

- If You have a query about withholding tax or superannuation payments for Your employees please check the [ATO website](https://www.ato.gov.au/)⁵ or refer to the [superannuation factsheet](#).

1.3.1 Information sharing

The department shares information with other government departments and agencies to manage the SWP. Information sharing is done in accordance with the Deed, the relevant 'Privacy Notification and Consent form', and relevant laws.

1.4 SWP Online

SWP Approved Employers will be managed through SWP Online. SWP Online is the web based IT system through which the department and Approved Employers will transact. It is a requirement that Approved Employers use SWP Online to submit required information to the department, unless there are exceptional circumstances and the department agrees (such as lack of internet connectivity or natural disaster). If SWP Online is unavailable, You may provide the required information by other means in writing to the department.

Templates will be available in [SWP Online](#)⁶ and include the Accommodation Plan, Welfare and Wellbeing Plan, and the Arrival Report and Departure Report.

These Guidelines indicate where information **must** be provided in SWP Online.

1.5 Add-On Skills Training for Seasonal Workers


DFAT, through the PLF, delivers the Add-On Skills Training component of the SWP which allows Seasonal Workers to access basic training including in First Aid, English and IT skills. These skills can help Seasonal Workers while on the job in Australia and when they return to their home country. The Australian Government funds Add-On Skills Training for Seasonal Workers. The training is at no cost to the Seasonal Worker or the Approved Employer.

Under the Deed Approved Employers **must** assist Seasonal Workers to participate in this approved training while in Australia, and allow Seasonal Workers to attend training sessions in accordance with Item F1(h) of Schedule 1 of the Deed.

Depending on the type of training being provided and whether it is specific to the job being undertaken by the Seasonal Worker, this will determine if training is delivered during work hours or outside of work hours. Training related to the work being undertaken by the Seasonal Worker would usually be undertaken during work hours, during paid time.

⁵ <https://www.ato.gov.au/>

⁶ <https://extranet.employment.gov.au/SWPONLINE>



Approved Employers are actively engaged in determining what training might be provided to their Seasonal Workers.

For more information, please also email training@pacificlabourfacility.com.au or phone +61 2 3557 7766.



1.6 SWP Information Line

Approved Employers, Seasonal Workers, community members and others with concerns or questions about the SWP can contact the department through the SWP information line or by email, details are below.

SWP Information Line: 02 6240 5234

After hours – Pacific Labour Facility worker welfare line: 1800 515 131

Email: seasonalworker@employment.gov.au



2 Employing Seasonal Workers

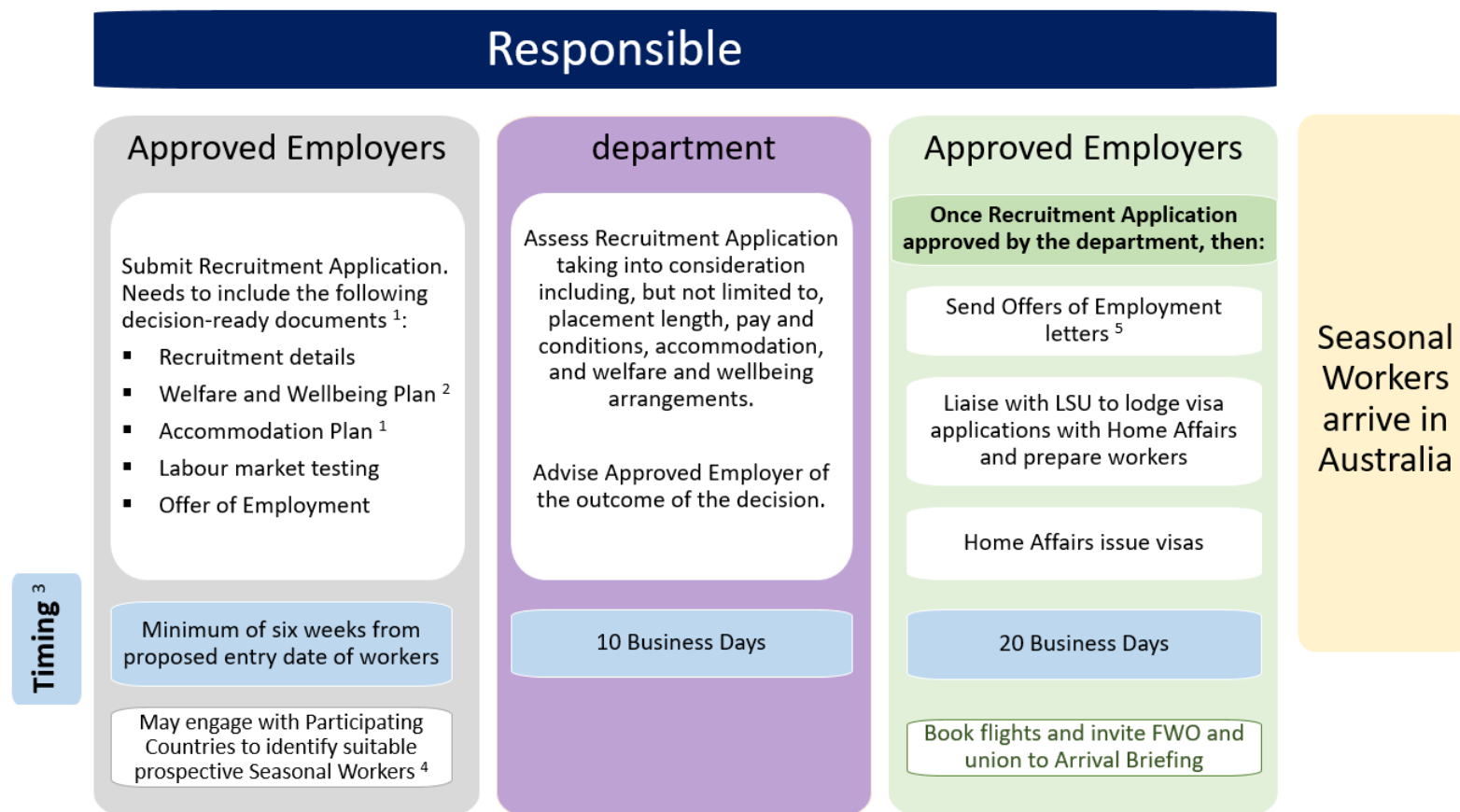
Relevant Deed clauses

See in particular clauses 8, 9, 10, 11 12, 13 and 22 and the Items of Schedule 1 of the Deed.

2.1 Overview of the employment process

To assist in understanding the guidance in this Chapter, the diagram on the following page sets out the general process and timeframes for seeking approval to employ Seasonal Workers under the SWP.

Diagram 1 – Process to employ Seasonal Workers



1. A 'decision-ready' form is one where all of the documents and any attachments required have been submitted and are complete and correct. Timing is based on whether a decision-ready form is received by the department.
2. Lodge if not previously approved or changes made.
3. Timing is indicative only of the average time required at each stage.
4. You must not give prospective Seasonal Workers an Offer of Employment until Your Recruitment Application is approved by the department.
5. You can only employ up to and including the number of Seasonal Workers the department has approved.

2.2 Before You Employ Seasonal Workers

2.2.1 Eligibility to sponsor Seasonal Workers

To sponsor potential Seasonal Workers You **must** be an Approved Employer in the SWP and, as a requirement for being an Approved Employer, hold a Home Affairs' Temporary Activities Sponsorship (TAS). Approved Employers who are labour hire organisations **must** also comply with any relevant labour hire licensing and laws to be eligible to employ Seasonal Workers under the SWP.

As a Temporary Activities Sponsor, You **must** meet all the obligations associated with Your TAS. If You do not comply with these sponsorship obligations, there may be serious consequences in relation to Your ability to continue to sponsor Seasonal Workers. Further information on your TAS obligations can be found on the [Home Affairs website](#)⁷.

You **must** also hold and maintain relevant insurances while you remain an Approved Employer.

Insurance

You **must** hold the insurances specified at clause 22 of the Deed. Insurances help protect Your business and the Seasonal Workers.

You are required to hold certain insurances by law, such as workers' compensation insurance.

It is Your responsibility to ensure that you take out and maintain insurances that are appropriate for Your organisation's circumstances, based on independent advice. This may include additional types of insurance not specified in the Deed.


You **must** keep relevant Records of Your insurances, including certificates of currency, and a copy of the terms, for each insurance policy held by You in accordance with clause 22 of the Deed. The department may require that You provide us with certificates of currency and terms of insurances that You hold in accordance with clause 22 of the Deed.

2.2.2 Approval to employ Seasonal Workers

To offer employment to Seasonal Workers You **must** first submit a Recruitment Application and receive departmental approval in writing of the Recruitment Application. A Recruitment Application includes:

- [Welfare and Wellbeing Plan](#) – required once per Deed, Approved Employer to review annually. You **must** seek approval from the department if changes are proposed to an approved Welfare and Wellbeing Plan.
- [Accommodation Plan](#) – required once per Deed, Approve Employer to review annually. You **must** seek approval from the department if changes are proposed to an approved Accommodation Plan.
- [labour market testing](#)

⁷ <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/existing-sponsors/tas-sponsorship-obligations>

- 
- [recruitment details](#)
 - [Offer of Employment - template](#)

In accordance with Item B3 of Schedule 1 of the Deed, the Recruitment Application must be completed in accordance with the Deed and the below requirements.

These forms are available and lodged through SWP Online.

All forms lodged must be, 'decision-ready', that is, all of the documents and any attachments required are submitted and are complete and correct.

If You fail to submit 'decision-ready' forms this will delay processing of Your application.

You must not offer employment to Seasonal Workers until You have received approval of the relevant Recruitment Application from the department via SWP Online or otherwise in writing, in accordance with Item B5 of Schedule 1 of the Deed.

Further advice is provided below on the sequence for seeking approval to offer employment, lodging visa applications (including health and other checks), and booking flights. You may begin engaging with the relevant partner country LSU to identify and shortlist prospective Seasonal Workers, however, You **must not** promise them employment until Your Recruitment Application is approved.

Proceeding to offer employment to Seasonal Workers without prior approval of the relevant Recruitment Application is in breach of Item B2 of Schedule 1 of the Deed . If Your Recruitment Application is approved the department will advise You via SWP Online or otherwise in writing.

Welfare and Wellbeing Plan


You **must** provide welfare and wellbeing support to Seasonal Workers in accordance with Item F of Schedule 1 of the Deed. The below sets out what **must** be included in the Welfare and Wellbeing Plan for offering employment to Seasonal Workers. [Chapter 3 – Welfare and Wellbeing](#) provides additional information on how to meet your obligations under Item F of Schedule 1 of the Deed.

In accordance with clause 12.4 of the Deed, You **must** submit a Welfare and Wellbeing Plan and receive approval via SWP Online or otherwise in writing from the department in accordance with clause 12.5 of the Deed before any Recruitment Application/s which rely on it can be approved.

The Welfare and Wellbeing Plan outlines the arrangements that You will put in place to manage the welfare and wellbeing of Seasonal Workers You employ. Refer to [Chapter 3 – Welfare and Wellbeing](#) when formulating Your Welfare and Wellbeing Plan.

The Welfare and Wellbeing Plan **must** set out the information specified on the form in SWP Online, including:

- how You will ensure Seasonal Workers have sufficient funds each week to meet reasonable costs of living. Some Approved Employers set a minimum net pay for this purpose (where they do so, they



may temporarily reduce deductions or provide an advance on pay, to be repaid through deductions in future pay periods, with the Seasonal Worker's approval in writing, see [Making changes to an Approved Recruitment](#));

- a 24-hour per day, seven days per week emergency contact number for Seasonal Workers to receive emergency assistance in accordance with Item F1(d) of Schedule 1 of the Deed; and
- how Seasonal Workers will be able to engage in community activities such as sport or religious observance.

Seasonal Workers are often unfamiliar with Australia's roads and driving conditions (such as high speed freeways, and wildlife such as kangaroos). In the [Welfare and Wellbeing Plan](#), You **must** set out how You will ensure Seasonal Workers who are licensed know the road rules and can drive on Australian roads safely. The department has available safe driving posters for Seasonal Workers – these can be requested through Your contract manager.

If You wish to make changes to any aspects of Your approved Welfare and Wellbeing Plan, You **must**, in accordance with clause 12.7 of the Deed, receive prior written approval from the department of the proposed changes through SWP Online or otherwise in writing prior to implementing those changes. This includes where Your circumstances change, such as if you have your recruitment cap lifted and You are able to recruit a larger number of Seasonal Workers. You **must** submit your proposed changes to Your Welfare and Wellbeing Plan through SWP Online.


Accommodation Plan

For each Seasonal Worker You employ, You **must** provide or arrange accommodation in accordance with clause 11 of the Deed, unless the Seasonal Worker arranges their own accommodation in accordance with the Deed.

You **must** obtain prior written approval from the department for the proposed accommodation for Seasonal Workers in accordance with clause 11 of the Deed. When submitting a Recruitment Application You **must** either submit an Accommodation Plan for approval by the department, or indicate where an approved Accommodation Plan is intended to be used for accommodating the Seasonal Workers – this **must** be done through SWP Online. A separate Accommodation Plan is required for each accommodation site that You intend to use to accommodate Seasonal Workers.

You **must** ensure that any accommodation You provide or arrange for Seasonal Workers is safe and secure, and is fit for occupation, and use for each Seasonal Worker employed by You in accordance with clause 11 of the Deed. The accommodation **must** comply with any work health and safety legislation or state and territory government and local government laws and codes that may apply, in accordance with clause 11 of the Deed. It **must** be reasonably priced and be equivalent to what would be expected for Australian workers and **must** be suitable to live in for up to nine months. Further information on the accommodation requirements is provided in the [Chapter 4 – Accommodation](#) below.

Accommodation **must** be provided to Seasonal Workers at cost that is, to be based on the actual cost of providing the accommodation. In the Accommodation Plan You **must** include a breakdown of the



accommodation costs, and retain records to provide to the department upon request. Further information is provided in Chapter 4 – Accommodation under the principle [Costs are Transparent](#). It is understood that in some cases the costs can only be estimated, such as for utilities. In these instances reasonable estimates would be considered to be acceptable.

As part of the Accommodation Plan You **must** include recent photographs of all rooms that will be used to accommodate Seasonal Workers. Photos **must** also demonstrate the setup of furniture required for living arrangements (such as beds, tables, couches, etc.). If You are not able to provide photos for any reason, You **must** seek advice from Your contract manager.

When the department undertakes a monitoring visit it is expected that the accommodation will be consistent with what You specified in the Accommodation Plan and photographs submitted. Should there be discrepancies, or the accommodation does not meet minimum accommodation requirements, further information may be sought or other action taken. Further information on monitoring visits, including the circumstances where they may be conducted, is at section 6.4 [‘monitoring visits’](#)

Once the Accommodation Plan is approved by the department, You will receive a confirmation via SWP Online or otherwise in writing. In certain limited circumstances an Accommodation Plan may be conditionally approved. This may occur where certain information has been requested such as additional photos. Where an Accommodation Plan is conditionally approved You may place workers at the accommodation, but must comply with any conditions or requirements advised to you by the department.


If You wish to make changes to any aspects of the approved Accommodation Plan, You **must**, in accordance with clause 11 of the Deed, submit a variation through SWP Online and receive written approval before you make the changes. If the request is urgently required please refer to section 2.2.4 [Making changes to an Approved Recruitment](#).

Labour market testing

Labour market testing is an important part of the recruitment process. It ensures that Australian job seekers who want to work in sectors covered by the SWP, are given the opportunity of a job before it is offered to a Seasonal Worker under the SWP.

You **must** submit evidence of labour market testing for each Recruitment Application in accordance with Item B3(a) of Schedule 1 of the Deed. You need to do this using the Labour Market Testing Form, which is available through, and must be lodged in, SWP Online.

Seasonal Workers can only be recruited where You have a demonstrated unmet labour need – that is, You have genuinely attempted to employ suitable Australian workers first. An Australian worker is someone who is an Australian citizen, or permanent resident.



For the purpose of the SWP, labour market testing involves:

- placing a job advertisement for seasonal vacancies
- considering Australian applicants who apply for the position (and hiring those who are suitable); and
- providing evidence of this process to the department.

Labour market testing results remain valid for twelve months from the date You take down the posted advertisement (after it has run for a minimum of two weeks). Given this, You should consider the number of workers You need for the specified region or Placements for upcoming Recruitment Applications over the twelve month period prior to undertaking labour market testing.

If You are seeking to make multiple recruitments within a twelve month period for the same type of work in the same region, the labour market testing results remain valid provided the number of Seasonal Workers sought to be recruited under the SWP does not exceed the number of vacancies advertised, less any local workers employed.

For any other recruitments, You will need to submit a new Labour Market Testing Form. A copy of the job advertisement or the text of the advertisement **must** be included with the form. The form **must** be lodged through SWP Online.

The department will assess the Labour Market Testing Form and may seek further information from You if required. If approved, the department will advise You via SWP Online or otherwise in writing.

Labour market testing advertisement requirements

The advertisement:

- **Must** run for a minimum of two weeks;
- **Must** state the number of seasonal vacancies to be filled;
- **Must** state the location of work;
- **Must** state when work will commence and the number of months work will be available;
- **Must** state the type of work available and characteristics and/or skills that are required to do the work;
- **Must** be placed on the department's [JobSearch website](https://jobsearch.gov.au/)⁸ and/or [Harvest Trail website](https://jobsearch.gov.au/harvest)⁹ or phone: 1800 062 332;
- **Must** not request applicants possess skills in the industry (or have skills that Seasonal Workers would not);
- Should provide information about hours of work, pay and conditions and any other relevant information; and
- The advertisement may also be placed elsewhere, including newspapers and online employment sites.

⁸ <https://jobsearch.gov.au/>

⁹ <https://jobsearch.gov.au/harvest>



Recruitment details

You **must** submit recruitment details for **every recruitment** in accordance with Item B2 of Schedule 1 of the Deed. Recruitment details **must** be completed and submitted through SWP Online.

The recruitment details form sets out all aspects of the proposed recruitment and requires You to provide comprehensive information on the following aspects of the recruitment:

- The proposed number of Seasonal Workers You will need (final numbers are to be confirmed following the completion of Your [labour market testing and approval by the department](#));
- The intended recruitment arrangements, including:
 - The proposed arrival and departure dates for the Seasonal Workers
 - Where the Seasonal Workers will work (such as farm location) – either Your Organisation or a Host Organisation (see further advice below)
 - The accommodation for the Seasonal Workers (**must** be an address approved in an approved Accommodation Plan)
 - Transport – see below for further information on [transport arrangements](#); and
 - The contingency plan – to ensure Seasonal Workers have access to a minimum average of 30 hours of work a week, for the duration of the Placement, if the original plan is no longer viable (refer to the [contingency plan](#) section)
- The estimated gross pay and likely deductions for Seasonal Workers
- The Welfare and Wellbeing Support Person/s; and
- Any other information requested by the department.

Placement of Seasonal Workers


In accordance with clause 10.1 of the Deed, for each Seasonal Worker you employ, after the relevant Recruitment Application is approved by the department, You **must** organise Placement for Seasonal Workers at Your Organisation or a Host Organisation, in accordance with these Guidelines, Your Approved Recruitment and Offer of Employment.

In accordance with clause 10.2 of the Deed, You **must** have received prior written approval from the department of either Your Organisation or a proposed Host Organisation prior to Seasonal Workers commencing a Placement. This is to be sought through the Recruitment Application submitted through SWP Online.

If You seek to make any changes to a Placement, You **must** seek the department's approval through SWP Online or otherwise in writing before implementing them in accordance with clause 10.3 of the Deed, see also section 2.2.4 below, [Making changes to an Approved Recruitment](#).

After receiving approval of the Recruitment Application, you will receive further information from the department to assist You in arranging Arrival Briefings and welfare and wellbeing support for the Seasonal Workers.

See here for further guidance on the [Arrival Briefing](#).



If this is **not** Your first recruitment, You **must** ensure all relevant Reports for Your previous recruitments are submitted. Recruitment Applications may not be approved where Reports are outstanding.

Start Dates for Seasonal Workers

When setting out the details for the proposed number of Seasonal Workers and their arrival and departure dates, You should consider time needed for Arrival Briefings and induction arrangements.

The timeframe between the date Seasonal Workers arrive and when they begin work should be kept to a minimum. You need to provide enough time to conduct, at a minimum, the workplace induction, but preferentially also the Arrival Briefing with the Seasonal Workers including assisting to organising banking and shopping, and providing a community orientation before Seasonal Workers commence work.

Transport arrangements

In accordance with Item H1 of Schedule 1 of the Deed, You **must** arrange domestic transport for Seasonal Workers, unless the Seasonal Worker has arranged their own accommodation (per Item H4 of Schedule 1 of the Deed) or an exemption applies under the Deed.


To demonstrate You have done so, the recruitment details form on SWP Online requires You to provide information on the proposed transport You will provide for the Seasonal Workers to travel to and from work, shopping facilities, health facilities, recreation, and their accommodation, and also to and from the airport within Australia in accordance with Item H1 of Schedule 1 of the Deed.

You **must** arrange transport for Seasonal Workers that is appropriate, affordable and of a suitable standard of safety and comfort. All vehicles **must** be roadworthy and registered for the duration of use by the Seasonal Workers. There **must** be sufficient seats and seatbelts (in working order) for every Seasonal Worker travelling in the vehicle.

You are permitted to deduct the cost of transport from Seasonal Workers' wages, unless Seasonal Workers choose to make their own transport arrangements. The cost of transport deducted **must** be reasonable and be based on the actual cost of provision of transport. You **must** provide a breakdown to the department of how costs were calculated for every recruitment, and provide records to the department on request. See the section below for further information below on [deductions](#). It is understood that in some cases the costs can only be estimated. In these instances reasonable estimates would be considered to be acceptable.

The Offer of Employment **must** include information on the cost of the proposed transport.

If a Seasonal Worker has been given additional duties, such as to drive other Seasonal Workers to and from work, You **must** ensure they hold an appropriate licence to drive in Australia. You should contact the FWO to determine whether payments to Seasonal Workers for performing additional duties are required.



Seasonal Workers may choose to arrange their own transportation. Refer to [Chapter 4 - Accommodation](#) for further guidance on where this occurs.

Contingency plan

As part of the recruitment details form You **must** provide a contingency plan for situations such as insufficient work or a natural disaster where you cannot provide the Seasonal Workers with a minimum average of 30 hours of work a week as required under Item D1(c)(i) of Schedule 1 of the Deed (refer also Item C2(d) of Schedule 1 of the Deed).

The contingency plan **must** include specific details including the name of alternative placement(s) the Seasonal Workers could be moved to, rather than general assurances. It **must** also include information on how accommodation and/or transportation will be managed in the event the contingency plan is activated.

You **must** advise the department prior to activating Your contingency plan.

Exceptional circumstances

You **must** contact the department as soon as possible after becoming aware of exceptional circumstances or their likely occurrence (including outside of Business Hours), and no later than within 24 hours.

Exceptional circumstances are where You are unable to enact Your contingency arrangements or Your contingency arrangements may be inadequate such as a large scale natural disaster where crops have been destroyed.

For further information on Things You **must** Notify us of, please see [Chapter 5 – Notifications to the department](#).

The department will work with You to try to find other options for the Seasonal Workers which may include identifying another Approved Employer to place the Seasonal Workers with, subject to that Approved Employer's agreement. Where it is proposed that the workers be moved to another Approved Employer (Alternative Approved Employer), this must be done with agreement and assistance from Home Affairs. If the Alternative Approved Employer agrees, they **must** provide the required information to Home Affairs to confirm that they will take on visa sponsorship for the Seasonal Workers.

The Alternative Approved Employer **must** also submit a template [Offer of Employment](#) to the department for approval and where required, other new Recruitment Application documents such as an Accommodation Plan and/or Welfare and Wellbeing Plan.

Where an Alternative Approved Employer cannot be identified, You **must** organise for the Seasonal Workers to return to their home country. You will be responsible for any costs associated with changing travel arrangements.



Offer of Employment letter (template)

The Offer of Employment letter outlines for potential Seasonal Workers the terms and conditions they will be employed under while working for You. It allows a potential Seasonal Worker to make an informed choice as to whether they wish to accept the Offer of Employment.

Item C of Schedule 1 of the Deed specifies what information the Offer of Employment **must** contain.

There are Offer of Employment templates for each industry that operate under the SWP, and where relevant, there are templates for:

- a Piece Rate arrangement; or
- an hourly rate arrangement.

The Piece Rate Offer of Employment letter includes information on hourly rates to cover situations where You pay Seasonal Workers under both an hourly rate and Piece Rate arrangements. Please note, this **must** not be used to avoid paying overtime provisions, as applicable.

The templates are available from SWP Online and include a weekly deductions table. If you pay Seasonal Workers on a fortnightly basis, a fortnightly deductions table is available.

If You seek to engage Seasonal Workers on a Piece Rate basis, You **must** include a 'Sample Piece Work Agreement' in the Offer of Employment letter. You must ensure that it is compliant with the law. If appropriate, the department will refer concerns relating to rates of pay to the FWO. The FWO can be contacted should you require information or advice on this topic.

Net Financial Benefit

In accordance with Item D1(d) of Schedule 1 of the Deed, You **must** demonstrate to the department that Seasonal Workers will gain a reasonable Net Financial Benefit during their stay. The department will require you to demonstrate this through information in your Offer of Employment letter. If You are unable to demonstrate that the Seasonal Workers will receive a reasonable Net Financial Benefit, Your Recruitment Application will not be approved.

A reasonable Net Financial Benefit will be demonstrated through factors including the proposed hours of work (noting the minimum average of 30 hours of work a week for the duration of employment in Australia), duration of stay, and expected earnings after deductions. Upon the department's request, you **must** provide pay data to confirm that Seasonal Workers are receiving a reasonable Net Financial Benefit during the period of the Seasonal Workers' employment.

2.2.3 Pay and Employment conditions

In accordance with Item D of Schedule 1 of the Deed, Seasonal Workers **must** receive the same pay and employment conditions that an Australian worker would receive for the same work. This means that Seasonal Workers **must** be employed under a Fair Work Instrument in accordance with the *Fair Work Act 2009*. The most common industrial instruments used under the SWP are:

- Modern Awards — awards set out the minimum pay rates and conditions of employment for workers employed in particular industries or occupations. The most common award that applies to SWP is the [Horticulture Award 2020](http://awardviewer.fwo.gov.au/award/show/MA000028)¹⁰; and
- Enterprise Agreements (registered agreements) — this is a document between an employer and one or more of their employees setting out pay and employment conditions. Agreements **must** be approved by and registered with the Fair Work Commission.

When a workplace has an Enterprise Agreement, the Modern Award does not apply. Agreements must be approved by and registered with the Fair Work Commission. More information on Modern Awards, enterprise agreements and requirements in setting Piece Rates can be found on the [FWO website](https://www.fairwork.gov.au/horticulture-showcase)¹¹. The FWO [Horticulture Showcase webpage](https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping/pay-slips)¹² provides information specifically for the Horticulture sector.

Under certain Awards and Enterprise agreements where an employee may be paid a piece work rate, there has to be a separate piece work agreement for each individual employee being paid a Piece Rate. An employer has to be able to determine the output of an individual employee. Piecework rates must be regularly reviewed.

If You are considering paying Piece Rates, the following requirements apply:

- to be paid Piece Rates You and Your employee **must** enter into a written piecework agreement, made without coercion or duress
 - As the employer, You **must** determine the correct Piece Rate and the piecework agreement must set out the Piece Rate. Then use the FWO Piece Rate template if the Horticulture Award 2012 or the Wine Industry Award 2020 applies). The written agreement is incorporated into the [Offer of Employment letter](#). The written piecework agreement **must** be agreed to and signed by the Seasonal Worker and You, as the employer, to take effect
- Any change in the Piece Rate to be paid **must** be agreed in writing by the employee prior to the change occurring; and
- The Piece Rate **must** allow the ‘average competent employee’ to earn at least 15% more per hour than the relevant minimum hourly rate in the Horticulture Award at the time the piecework agreement is entered into. Under the Wine Industry Award, the piecework rate must allow the employee of average capacity to earn at least 20% more per hour than the relevant minimum hourly rate in the Award. Other Fair Work Instruments, including Enterprise Agreements and other Modern Awards, may have different requirements.


Workers **must** be given pay slips in accordance with workplace laws. The pay slips must clearly set out the details per the FWO website. You **must** provide advice to Seasonal Workers on how to correctly read their payslip. Refer to the FWO website for information on [pay slip requirements](https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping/pay-slips)¹³.

¹⁰ <http://awardviewer.fwo.gov.au/award/show/MA000028>

¹¹ www.fairwork.gov.au

¹² <https://www.fairwork.gov.au/horticulture-showcase>

¹³ <https://www.fairwork.gov.au/pay/pay-slips-and-record-keeping/pay-slips>



The pay and deductions **must** be consistent with that agreed by the Seasonal Worker in accepting the Offer of Employment, subsequent written agreement through a revised Offer of Employment or alternative appropriate form, or with any amendment to the relevant Award. You may wish to seek advice from the FWO regarding an appropriate form.

Hours of work and breaks

Under the SWP, all Seasonal Workers **must** be provided with a minimum average of 30 hours of work a week for the duration of their employment in Australia. This means that some weeks Seasonal Workers can work less than 30 hours, but on other weeks they would work more than 30 hours to ensure the minimum average is reached over the entire Placement.

The Offer of Employment letter **must** contain clear information relating to breaks and typical hours of work, noting that the relevant Fair Work Instrument may stipulate specific requirements.

The Offer of Employment letter **must** also outline the expected typical days of work, including what days the Seasonal Worker will have as days off from work. You, as the Approved Employer, **must** provide sufficient information to enable the department, and the Seasonal Worker You wish to employ, to understand that a sufficient number of days off will be provided. This is also important to enable a potential Seasonal Worker to make a decision about whether to accept the work.

2.2.4 Making changes to an Approved Recruitment

The Deed requires at Item B7 of Schedule 1, that if You want to make changes to Your Approved Recruitment, You **must** submit any proposed changes to the department through SWP Online or otherwise in writing for approval prior to making the changes, in accordance with these Guidelines.

Where You want to make changes to Your Approved Recruitment, You **must** submit Your request as far in advance as possible and at least a week in advance of when You propose to implement the changes, unless a shorter time is agreed by the department where exceptional circumstances exist.

Unless stated otherwise, below, You **must** receive prior approval from the department for any change to an Approved Recruitment or Offer of Employment.

Table 1 – Making changes to an Approved Recruitment – prior approval required

Reason for the change	Requirements for the change
Increase the number of Seasonal Workers to be recruited	The change must be supported by valid labour market testing . You must seek prior approval from the department through SWP Online using the recruitment details form.
Change the work location and / or accommodation for Seasonal Workers	Where change and costs were <u>not</u> set out in the Approved Recruitment and associated Offer of Employment.

Reason for the change	Requirements for the change
	<p>You are responsible for paying the full costs of relocating Seasonal Workers from one work location to another where the new work location requires new accommodation arrangements, in accordance with Item E2 of Schedule 1 of the Deed. You must seek prior approval in writing from the department by contacting your contract manager.</p> <p>If the accommodation has not been previously approved by the department, You must submit a new Accommodation Plan and receive written approval (via SWP Online or otherwise in writing) from the department prior to placing Seasonal Workers at the accommodation.</p>
Alter any aspect of Your approved Accommodation Plan	<p>You must seek prior approval from the department using the Accommodation Form in accordance with clause 11.8 of the Deed.</p> <p>If the accommodation has not been previously approved by the department for Your Seasonal Workers, You will need to submit a new Accommodation Plan and have it approved by the department.</p>
Move Seasonal Workers to alternative accommodation where urgently required	<p>In urgent circumstances workers may be moved to alternative accommodation without prior written approval from the department, such as where the approved accommodation has become unsafe.</p> <p>In these circumstances You must contact the department as soon as possible, and otherwise within 24 hours, after You become aware that You need to move Seasonal Workers to alternative accommodation and seek verbal approval prior to moving the Seasonal Workers.</p> <p>Where the Seasonal Workers require immediate relocation such as due to safety risks, You may relocate the Seasonal Workers prior to contacting the department, but must contact the department immediately after relocating the Seasonal Workers.</p> <p>If You are calling outside of business hours, You must call the Pacific Labour Facility after-hours number: 1800 515 131. The PLF will then have an officer from the department contact you urgently to talk through the situation and provide approval to move the workers, if appropriate.</p>

Reason for the change	Requirements for the change
	You must then seek written approval from the department for the accommodation (see above row 'Alter any aspect of your approved Accommodation Plan').
Extend the stay of Seasonal Workers to perform additional work	<p>This must be within the Seasonal Workers' visa stay period (check VEVO¹⁴) and You must seek the Seasonal Workers' written agreement to extend their employment through a revised Offer of Employment, or other appropriate form.</p> <p>If the extension is Your request, You are responsible for paying costs relating to the change such as increased costs to a Seasonal Worker's Return International Airfare. The Seasonal Workers are responsible for any other costs such as additional accommodation costs. You must let the Seasonal Workers know what these costs will be, and their likely additional income, before asking them if they agree to stay.</p> <p>All changes to employment must be agreed in writing by the department prior to seeking agreement from the Seasonal Worker.</p> <p>If you seek to use a form other than a revised Offer of Employment to extend the employment of Seasonal Workers, it is Your responsibility to ensure this meets workplace requirements. You may wish to seek advice from the FWO.</p>
Move Seasonal Workers to another Host Organisation	If not previously approved (under the Approved Recruitment Application) You must seek prior approval from the department to move the workers.
Change the Welfare and Wellbeing Support Person/s	<p>You must seek the prior written approval of the department for a proposed change to the Welfare and Wellbeing Support Person/s approved in Your Approved Recruitment.</p> <p>To do so, You must contact your contract manager.</p>

Table 2: Making changes to an Approved Recruitment – prior departmental approval not required

Reason for Change	Requirements for the change
Change to rates of pay	You must obtain written agreement from the Seasonal Worker prior to the change. You do not need to seek approval from the department prior to making the change, but You must provide

¹⁴ <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/overview>

Reason for Change	Requirements for the change
(this may include from Piece Rate to hourly rate, or vice versa)	evidence of written agreement from the Seasonal Worker if requested by the department.
Change to deductions (other than accommodation)	<p>Includes increasing, decreasing or new deductions from that agreed in the Offer of Employment.</p> <p>Prior to making any change, You must ensure the proposed change is authorised under the Deed and law, has been explained to the Seasonal Worker, does not exceed the cost of the expense, is for the primary benefit of the Seasonal Worker, and will not result in the Seasonal Worker having insufficient net income for reasonable living expenses.</p> <p>You must then seek the Seasonal Worker's agreement in writing (such as through a revised Offer of Employment or other appropriate form) and be clear on the nature, frequency and amount of the deductions. The Seasonal Worker must not be coerced into agreement to a change in deductions.</p> <p>You do not need to seek approval from the department prior to making the change, but You must provide evidence of written agreement from the Seasonal Worker if requested by the department.</p> <p>If the change is to accommodation deductions agreed by the department in Your Accommodation Plan, in accordance with clause 11.7 of the Deed, You must seek the department's prior approval. Section 2.2.2 Accommodation Plan refers.</p> <p>If you seek to use a form other than a revised Offer of Employment to agree a change to deductions, it is Your responsibility to ensure this meets workplace requirements. You may wish to seek advice from the FWO.</p>

Arrival and departure dates

The [Offer of Employment](#) letter template allows for some flexibility around the dates when Seasonal Workers can arrive and depart Australia. However if the arrival or departure dates for Your Seasonal Workers:

- are within two weeks of the dates in the Approved Recruitment You **must** Notify the department through the Arrival Report or Departure Report; or

- vary, or are likely to vary, by more than two weeks beyond the dates approved in Your Approved Recruitment – You are required to seek departmental approval. To do so, You **must** submit a variation to the Approved Recruitment via SWP Online by 5.00 PM (AEST/AEDT) the next Business Day, at the latest, after you become aware the dates have changed.

2.2.5 What to do if Your Approved Recruitment does not proceed?

If Your Approved Recruitment does not proceed, You **must** Notify the department through Your contract manager by 5.00 PM (AEST/AEDT) the next Business Day, at the latest, after you become aware the Approved Recruitment is not proceeding.

2.2.6 Recruitment cap

New Approved Employers will be limited in the number of Seasonal Workers they can have in Australia country at a given point in time; each Approved Employer will be advised of this recruitment cap in accordance with Schedule 2 of the Deed. This is to ensure the Approved Employer is able to meet their obligations under the SWP, and manage Seasonal Workers including providing for their welfare and wellbeing.

If an Approved Employer would like to be able to employ more Seasonal Workers, they may request an increase to their recruitment cap. An increase to a recruitment cap will be determined on a case-by-case basis in consideration of a variety of factors. These factors include the Approved Employer's performance and compliance, financial capacity to meet up-front costs, and whether the appropriate welfare and wellbeing support can be provided.

If You are seeking an increase to Your recruitment cap contact your contract manager who will provide You with the 'Recruitment Cap Review Form'. The form will become available through SWP Online.

A completed 'Recruitment Cap Review Form' **must** be submitted and include:

- a recent signed statement of credit worthiness, stating that the business is financially viable there are no known adverse credit matters affecting the business
- a current statement from a chartered accountant confirming the business is financially sound and is able to meet all outstanding contingent liabilities
- a recent authenticated set of accounts showing a sound financial position; and
- any other documents requested by the department.

2.3 Sourcing Seasonal Workers

You may identify suitable prospective Seasonal Workers ahead of submitting and receiving approval for Your Recruitment Application, however, You **must** not offer employment to a prospective Seasonal Worker until the Recruitment Application has been approved by the department in writing.

Information about each [Participating Country and their contact details](#)¹⁵ is on the PALM scheme website.

2.3.1 Seasonal Worker eligibility

To be eligible to participate in the SWP, a potential Seasonal Worker **must** meet the following eligibility requirements:

- be of good character
- be healthy and fit for the work specified
- be aged over 21 at the time of visa application
- be citizens of the Participating Country and in the Participating Country (at the time of visa application); and
- have a genuine intention to enter Australia for Seasonal Work and return to the Participating Country after their employment ceases.

As shown in [Table 3](#) below, Participating Countries may use one, two or all three of the following recruitment methods to select the Seasonal Workers to come to Australia:

- Work Ready Pool Recruitment
- Agent Recruitment; and
- Direct Recruitment.

Table 3: Available recruitment methods in Participating Countries

Country	Work ready pool	Direct recruitment	Agent recruitment
Fiji	Yes	No	No
Kiribati	Yes	Yes (through work ready pool)	No
Nauru	Yes	No	No
Papua New Guinea	Yes	No	No
Samoa	Yes	Yes	No
Solomon Islands	Yes	No	Yes
Timor-Leste	Yes	No	No
Tonga	Yes	Yes	No
Tuvalu	Yes	No	No
Vanuatu	Yes	Yes	Yes

2.4 Engaging Seasonal Workers

¹⁵ <https://www.palmscheme.gov.au/countries>

2.4.1 Offering employment

Once Your Seasonal Workers have been selected, You **must** personalise the Offer of Employment letter template for each Seasonal Worker being offered employment. You **must** use the Offer of Employment template letter that was submitted in respect of the Approved Recruitment. You must then send the personalised letters to the sending country's LSU to provide to the Seasonal Workers.

To accept the Offer of Employment, Seasonal Workers need to sign the 'Letter of Acceptance of Offer of Employment' that is included as part of the Offer of Employment. The LSU will assist Seasonal Workers to do this and advise You. The LSU will give the Seasonal Workers a copy of their Offer of Employment (letter of acceptance) before they depart for Australia.

Only once You have received confirmation that the Seasonal Workers have accepted the Offer of Employment can You apply for visas for the Seasonal Workers. You **must not** book Return International Airfares until the Seasonal Workers' visas have been granted by Home Affairs.

Seasonal Workers **must** be given written confirmation of the actual cost of their Return International airfare through an updated Offer of Employment, or other appropriate form, less the first \$300 to be paid by You, in accordance with Item E4 of Schedule 1 of the Deed.

2.4.2 Arranging visas

All Seasonal Workers under the SWP **must** apply for and be granted a SWP visa before they are permitted to enter Australia and commence work.

Approved Employers may assist Seasonal Workers with lodging their visa application and the initial costs of Visa Application Charges and other costs associated with their visa such as their immigration medical examinations, in accordance with Items E6 of Schedule 1 of the Deed. These costs can be repaid by the Seasonal Worker through pay [deductions](#), consistent with the Approved Recruitment (in accordance with Items E7 and E8 of Schedule 1 of the Deed).

All Seasonal Worker visa applications must be made online through Home Affairs' ImmiAccount.


The visa for Seasonal Workers is the Temporary Work (International Relations) visa (subclass 403), Seasonal Worker Program stream.

More information about the SWP visa – the Temporary Work (International Relations) visa (subclass 403), Seasonal Worker Program Stream, and the step-by-step requirements can be obtained from the [Home Affairs website](#)¹⁶.

Multi Year Visas

If You are planning to invite Your trusted Seasonal Workers back for future seasons, You can choose to offer to sponsor them for one, two or three seasons. This **must** be specified in the Seasonal Worker's Offer of Employment and their visa application. If granted a multi-year visa, the Seasonal Worker will be

¹⁶ www.homeaffairs.gov.au



able to return for consecutive seasons on the same visa, subject to labour market testing and departmental approval of the relevant Recruitment Application.

Single season visas (1 year visas)

These will be granted as per the intended arrival and departure dates provided in the visa application form. These dates should also match the employment dates stipulated in the Offer of Employment.

Multi-season visas (2 year or 3 year visas)

These will be granted for a 9 month period of stay (per 12 month period); and be valid for up to 3 years from the date of grant to allow the Seasonal Workers to return each year on the same visa.

The Seasonal Worker's visa stay period starts on the day the Seasonal Worker arrives in Australia. Seasonal Workers must depart by the last day of their visa stay period, otherwise their visa will cease and once this occurs they will be in Australia unlawfully. You can use VEVO on the [Home Affairs website](#)¹⁷ to check when a Seasonal Worker's visa stay period ends.

All SWP visa holders **must** abide by the conditions of their visa. The conditions of the visa are included on the Visa Grant Letter sent to the visa applicant and also available in VEVO.

You **must** Notify the department if a Seasonal Worker is in breach of any of their visa conditions in accordance with clause 7.1 of the Deed. For further information see Chapter 5 [Notifications to the department](#).

2.4.3 Booking flights and arranging internal transfers

In accordance with Items E1 and E2 of Schedule 1 of the Deed You **must** organise and pay upfront for the full costs of travel for the Seasonal Workers, including the Return International Airfare and the domestic transport:

- from the Port of Arrival (usually an airport) to the work location or accommodation, and
- from the work location or accommodation to the Port of Departure.

These costs can be recouped over time from Seasonal Workers' wages. You may only recoup any amount over **the first \$300 per Seasonal Worker**. You are responsible for paying the first \$300 per Seasonal Worker, see below section 2.5.3 [Costs that cannot be deducted](#).


You **must** retain records for the flights and domestic transport and provide these in the [Arrival Report](#).

2.4.4 Seasonal Worker Pre-Departure Briefing

The LSU, with support from the PLF, will provide Seasonal Workers with a Pre-Departure Briefing and should also provide Seasonal Workers with the '[Working and Living in Australia Pre-Departure Guidebook](#)'¹⁸ in their language (available on the department's website). The briefing helps Seasonal

¹⁷ <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/overview>

¹⁸ <https://www.employment.gov.au/resources-seasonal-workers>



Workers to understand what to expect in Australia and how to get the most from their participation in the SWP.

In accordance with Item I of Schedule 1 of the Deed, You **must** contribute information and materials that will be relevant to the Seasonal Workers You are employing to be used in the briefing. This information and material is to be provided to the LSU of the relevant country/ies for the Seasonal Workers being employed.

You **must** give information on:

- the local area where they will be living while in Australia
 - including information about the local town, the weather (such as if it will be winter do they need to bring warm clothes or will there be shops they can buy these from cheaply upon arrival), if there is a local church, shops, recreational facilities (such as a local sporting clubs), and any other information that they may need to know about where they will be living
- The type of work they will be doing;
- Where they will be working (the work site); and
- What they can expect in Australia (such as native animals they may come across, or warning not to eat dangerous plants such as wild mushrooms).

2.5 Deductions

You **must** only make deductions from Seasonal Workers' wages for costs which are lawful, are permitted by the Deed, which have been explained to and agreed in writing by the Seasonal Workers and which are for the principal benefit of the Seasonal Workers. You **must** also ensure that the deductions do not result in the Seasonal Workers having insufficient net income for reasonable living expenses. Deductions **must** be 'at cost' – that is, only for the amount incurred by You. It is understood that in some cases the exact costs are not known and can only be estimated. Where these are reasonable estimates the department would consider this to be appropriate.


2.5.1 Costs that can be deducted

In accordance with Items E1, E2 and E5 of Schedule 1 of the Deed, Approved Employers **must** arrange and pay a number of costs upfront for Seasonal Workers. Amounts over \$300 may then be recouped from Seasonal Workers' wages through deductions, where this occurs this **must** be across a reasonable timeframe (refer Items E4 and E7 of Schedule 1 of the Deed).

You must ensure that Seasonal Workers have sufficient income after paying tax and deductions to live on each week and, over the period of their stay in Australia, to derive a reasonable Net Financial Benefit.

You **must** keep Records of the expenses and provide these to the department, or the FWO, on request.

Deductions **must** be set out in the Approved Recruitment and the Offer of Employment.



Among the costs that can be deducted are those associated with moving Seasonal Workers from one work site to another work site where this was set out in the Approved Recruitment and associated Offer of Employment accepted by the Seasonal Workers. Where the move was not set out in the Approved Recruitment and associated Offer of Employment You must pay the full cost of relocating Seasonal Workers. See [making changes to an Approved Recruitment](#) for further details.

In accordance with Item E5 of Schedule 1 of the Deed, You must also assist Seasonal Workers You employ by paying for reasonable initial living expenses on their arrival, before they receive their first pay. This includes reasonable clothing and equipment required to participate in employment. You may also assist Seasonal Workers to purchase clothing required for when they are off work. You may recoup these costs by deductions, agreed in writing by the Seasonal Worker (refer to section 2.2.4 'Making changes to an Approved Recruitment' for further information).

In addition to the deductions agreed by Seasonal Workers in their letter of acceptance, there may be times during the Seasonal Workers' employment where they incur additional expenses that they need help to pay for.

Should a Seasonal Worker ask for help paying an expense, You may agree to pay the cost and recoup this through deductions, subject to workplace laws. Refer to section 2.2.4 [Making changes to an Approved Recruitment](#), if You seek to make changes to deductions for Seasonal Workers.

A Seasonal Worker may withdraw their consent to the deductions and make alternative arrangements to pay the expense back in full. Where this occurs, You **must** immediately cease applying the deductions to the Seasonal Worker's wages.

In the event that a Seasonal Worker has not paid their expenses back in full by the time they are due to depart Australia, You may, with the written agreement of the Seasonal Worker, reduce or withhold their final pay.


2.5.2 Deductions in advance

In certain circumstances it may be appropriate to arrange for Seasonal Workers to pre-pay accommodation or health insurance costs, where this is consistent with workplace laws, including that it is principally for the Seasonal Worker's benefit.

If You wish to make deductions in advance this **must** be agreed by the department under the Recruitment Application, and You **must** explain this clearly in the Offer of Employment letter and be accepted by the Seasonal Worker through the letter of agreement.

As with all deductions, where this is done, the Approved Employer **must** ensure the deductions do not result in the Seasonal Workers having insufficient net income for reasonable living expenses.

You **must**, keep evidence to demonstrate no Seasonal Worker had been charged more in total than they would have been had the cost been spread across the duration of their actual employment. If requested by the department, You **must** provide this evidence.



If the Seasonal Worker returns home early or otherwise does not use the accommodation or health insurance they have paid for, You **must** refund the amount paid for the period not used.

2.5.3 Costs that cannot be deducted

The Deed sets out at Item E9 of Schedule 1, expenses that You **must** not charge Seasonal Workers.

In addition, accordance with Item E4 of Schedule 1 of the Deed, You **must** not deduct the first \$300 of the Return International Airfare and domestic transportation for Seasonal Workers (You **must** pay this).

You **must not** deduct the cost of engaging an agent, or any other recruitment costs, from Seasonal Workers' wages. It is the responsibility of the Approved Employer to cover all recruitment costs, including agent fees (if any).

For the purposes of Item E9(e), deductions in respect of Welfare and Wellbeing costs are only permitted where the Seasonal Worker requires medical or health care in respect of a matter that is not a workplace injury or illness and the Seasonal Worker has requested Your assistance to pay any fee(s), and You and the Seasonal Worker have agreed in writing for the costs to be paid back through deductions.

2.6 Arrival of Seasonal Workers

You **must** ensure that Seasonal Workers have sufficient information and support to reach their accommodation or the Placement site upon arrival in Australia. It may be appropriate, depending on the circumstances, for you to arrange for the Seasonal Workers to be met on arrival in Australia. You **must** provide transport for the Seasonal Workers to travel to their accommodation, unless otherwise agreed with the relevant Seasonal Worker.

2.6.1 Arrival Briefing

One of Your obligations under the Deed as an Approved Employer is to give the Seasonal Workers a face-to-face, in person, briefing when they arrive, in accordance with Item J of the Deed. The Arrival Briefing is to provide the Seasonal Workers with easy to understand information to help them to settle in.

You **must** invite the FWO and the relevant union. In accordance with Item J3 of Schedule 1 of the Deed, You **must** use reasonable endeavours to accommodate their attendance at the arrival Briefing, or at an alternative time within seven Calendar Days of the Seasonal Workers arriving in Australia.

The department has produced a package of information for You to use in the Arrival Briefing.

The Arrival Briefing **must** cover the following, in accordance with Item J2 of Schedule 1 of the Deed, some of which will be in the package of materials from the department, and some which You will need to provide:

- information on the Seasonal Workers' accommodation
- employment arrangements (hours of work and pay)

- payments, deductions and understanding payslips (including tax and superannuation)
- transport arrangements
- advise Seasonal Workers of the importance of keeping certain records of their employment including their Australian tax file number, and to keep these somewhere safe
- how Seasonal Workers can remit home money they earn above what they need for living expenses, such as using [Send Money Pacific](https://www.sendmoneypacific.org)¹⁹ to compare money transfer providers; and
- as part of Your responsibility to ensure the welfare and wellbeing of Seasonal Workers (see Chapter 3 – [Welfare and Wellbeing](#)) information on:
 - shopping and the local area
 - banking
 - access to medical facilities
 - health insurance
 - communicating with home
 - Australian wildlife and plants
 - Australian law and cultural differences; and
 - essential contacts (emergency services - 000, FWO, SWP Information Line, 24/7 Approved Employer contact).

You **must** show the Seasonal Workers where they will be living and explain matters including how the kitchen and laundry appliances and equipment works, the fire evacuation procedure and any rules or processes, including any restrictions on smoking or drinking alcohol, or the day for linen change over.

You **must** explain to Seasonal Workers at the Arrival Briefing what their health insurance covers and what it does not cover.

2.6.2 Workplace induction

In accordance with Item J4 of Schedule 1 of the Deed, You **must** provide Seasonal Workers with a workplace induction. The FWO provides an [Induction checklist](#)²⁰ of the information You will need to cover on their website.


It is not reasonable to assume the Seasonal Workers will be familiar with the equipment You are asking them to use or the tasks You want them to do. The Seasonal Workers may not have a detailed understanding of English so You need to take care in how You explain details, especially when there may be safety issues, section 3.7 '[Communicating effectively](#)' provides further information.

Explain what conduct You want to see, and what their responsibilities are, especially in relation to attendance, punctuality and who to tell if they are sick. Explain that workers' compensation insurance covers them if they suffer a work-related injury or illness.

If there are signs or symbols warning of different hazards, You **must** make sure the Seasonal Workers understand what is meant and what the dangers might be.

¹⁹ <https://www.sendmoneypacific.org>

²⁰ <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/templates>



If Seasonal Workers need to wear personal protective equipment You **must** provide this before they begin work; it is useful to do so at the briefing and explain when they will need to wear it, and why it is necessary. You **must** provide water and encourage Seasonal Workers to stay hydrated (and provide advice on where to refill water). For Seasonal Workers who are working outside, You should provide relevant personal protective equipment (PPE) like sunscreen and hats, and encourage Seasonal Workers to reapply sunscreen regularly.

2.6.3 Arrival Report

For each group of Seasonal Workers who arrive, You **must** submit through SWP Online an Arrival Report within **20 Business Days** of the Seasonal Workers arriving in accordance with clause 8.2(a) of the Deed. The Arrival Report **must** include:

- the dates of arrival for the Seasonal Workers, and if any did not arrive as expected, why
- attached details of the Seasonal Workers' Return International Airfare including the receipt (proof of purchase), itinerary and confirmation of the airline flight details
- attached details of domestic transfer costs
- a pay summary for Seasonal Workers showing their gross and net pay after tax and deductions since they commenced work
- confirmation You have helped the Seasonal Workers with obtaining tax file numbers, and opening bank and superannuation accounts (this **must** be completed within five Business Days of their arrival, in accordance with Item K of Schedule 1 of the Deed); and
- confirmation the Arrival Briefing was delivered and covered all the essential subject matter (set out above in this section).

Where more than one group of Seasonal Workers are arriving within 20 Business Days of each other they can be included in the same Arrival Report provided the Arrival Report is submitted no later than 20 Business Days after the date the first Seasonal Workers arrived.

2.7 Departure of Seasonal Workers

2.7.1 Departure Briefing

A face-to-face, in person, Departure Briefing **must** be provided to Seasonal Workers before they depart to assist them on their return to their home country.

Briefing content

The Departure Briefing **must** cover the following matters (as per Item L3 of Schedule 1 of the Deed).

Record keeping

Seasonal Workers **must** be reminded of the importance of keeping certain records of their employment including their Australian tax file number, and to keep these somewhere safe to quote if they return to Australia to work.



Banking

Advise Seasonal Workers that they can decide to keep their Australian bank account open, and explain what fees may apply if they do so. Some bank accounts also require a minimum balance to stay open.

Provide information on how Seasonal Workers can close their bank account, or keep it open if they want to.

Redirecting mail

If Seasonal Workers have been receiving mail while in Australia, You **must** explain that they can have Australia Post redirect their mail and advise of the cost for doing this. This would be at the Seasonal Worker's expense. Given the cost, Approved Employers may recommend Seasonal Workers set their email address as their primary contact for important documents such as superannuation and banking.

Taxation/Superannuation

Approved Employers **must** provide Seasonal Workers with details of their superannuation, including their superannuation fund name and, if known to the Approved Employer, their member number. Remind Seasonal Workers to keep this record as they will need it to claim their superannuation payments once they are back home and their visa has expired. You **must** also explain to Seasonal Workers how to do this.

For Seasonal Workers on a multi-year visa, You **must** remind them that they will only be able to claim their superannuation once their visa has expired, or is cancelled.

You **must** also provide information on tax arrangements after they depart including that Seasonal Workers cannot lodge a tax return and the amount of tax Seasonal Workers will pay when they claim their superannuation on arrival home, once their visa has expired or is cancelled.


Payments and deductions

You **must** let Seasonal Workers know about their final pay and any deductions. If You want to make a larger deduction on the final pay, including holding back their final pay, to cover any costs that are outstanding, You **must** have agreed this in writing with the Seasonal Worker prior to doing so. Where this is considered, the Seasonal Worker must have sufficient income for any final living expenses they may have for the remainder of their stay in Australia.

Savings

Remind Seasonal Workers of the information provided at the Arrival Briefing on how they can remit home any savings they have in their Australian bank account, such as using [Send Money Pacific](https://www.sendmoneypacific.org)²¹ to compare money transfer providers, or how they may be able to access their account once home where the bank has a branch in their home country. You should remind Seasonal Workers not to go home with large amounts of cash on them as this is not a safe way to remit money and may raise issues at the

²¹ <https://www.sendmoneypacific.org>



border as some countries require travellers to declare and / or not bring in cash over a certain threshold.

Other information

You **must** also provide information to Seasonal Workers at the Departure Briefing about:

- Health insurance – when their insurance ceases and how to make a claim if they have not claimed for a health issue that arose while in Australia
- Transport arrangements – the arrangements You have made for getting Seasonal Workers back home
- Resolving unpaid fines and the consequences of not paying these
- Mobile phones – such as keeping their SIM and phone number if they intend to return, and any costs they may need to pay
- Visa matters – Seasonal Workers may be granted a multi-year visa, where You have offered them a seasonal work placement for consecutive seasons, subject to labour market testing. If You decide not to have a Seasonal Worker on a multi-year visa return for a subsequent season, You must inform Home Affairs as part of your TAS obligations. If a Seasonal Worker on a multi-year visa returns to Australia outside of their seasonal work placement, they will be in breach of their visa conditions and their visa may be cancelled. If Seasonal Workers apply for and are granted another type of visa to enter Australia, such as a visitor visa, this will cease their Seasonal Worker visa; and
- Arrangements for returning next season (if applicable) – including advising them to keep and bring back with them any work wear they bought. However, You **must** not promise work for future seasons as You **must** demonstrate Your labour needs for each recruitment.

2.7.2 Departure Report

For each group of Seasonal Workers who depart, You **must** submit a Departure Report in SWP Online within **10 Business Days** after the Seasonal Workers have left Australia in accordance with clause 8.2(b) of the Deed.

The Departure Report **must** include the following:

- the dates of departure for the Seasonal Workers
- details of any Seasonal Workers who did not leave as expected and why
- pay summary for each of the Seasonal Workers for the entire period of employment
- seasonal Workers' gross and net pay after tax and deductions
- an itemised list of deductions
- superannuation account payments (or contribution obligation if payment pending); and
- confirmation the Seasonal Workers were given a Departure Briefing.

Where more than one group of Seasonal Workers are departing within 10 Business Days of each other they can be included in the same Departure Report provided the Departure Report is submitted no later than 10 Business Days after the date the first Seasonal Worker/s depart.

3 Welfare and wellbeing

Relevant Deed clauses

See in particular Clause 12 and Item F of Schedule 1 of the Deed.

The Deed provides information on the obligations of Approved Employers and what **must** be provided in relation to the welfare and wellbeing support of Seasonal Workers, see clause 12 and Item F of Schedule 1 of the Deed. As advised at section 2.2.2 an approved [Welfare and Wellbeing Plan](#) is valid for the duration of the Deed unless changes are sought to be made.

The Approved Employer is responsible for ensuring that there are adequate arrangements which comply with the Deed in place for the welfare and wellbeing of Seasonal Workers, even where third party Welfare and Wellbeing Providers are engaged. These arrangements must be consistent with the relevant approved Welfare and Wellbeing Plan, the Approved Recruitment and Offers of Employment.

3.1 What is welfare and wellbeing support?

Approved Employers **must** take the time to understand what is involved for their Seasonal Workers, and take any necessary steps to assist them. This means explaining how Australia's banking and tax systems work and ensuring they understand food requirements and the importance of proper nutrition and hydration. It also includes helping Seasonal Workers to visit medical or health care services such as the dentist or the doctor, as appropriate.


Welfare and wellbeing support also includes You making efforts to help Seasonal Workers integrate with Your wider community.

3.2 The Welfare and Wellbeing Support Person

Approved Employers **must** appoint at least one suitable Welfare and Wellbeing Support Person to provide assistance and support to their Seasonal Workers for each Approved Recruitment. The Welfare and Wellbeing Support Person/s must meet the requirements set out in clause 12 of the Deed.

The Welfare and Wellbeing Support Person/s **must** be located within a 300 km radius of each Placement of Your Seasonal Workers so they can respond quickly to any issues in person if and when required in accordance with Item F1 of Schedule 1 of the Deed. Where an Approved Employer has multiple Placements, more than one Welfare and Wellbeing Support Person may be required to ensure they are within 300 km of all of the Placements of Seasonal Workers.

In addition, it is advisable to include more than one Welfare and Wellbeing Support Person for each Approved Recruitment to cover staff leave. You may choose to fulfil this role Yourself or You may appoint someone else, such as the host farmer. If You wish to appoint someone from outside of Your organisation, a Welfare and Wellbeing Provider, You **must** do so in accordance with clause 13 of the Deed. Approved Employers **must** inform the department of the Welfare and Wellbeing Support



Person/s for each Approved Recruitment in accordance with the Deed, through the [recruitment details](#) form in SWP Online.

It is not permissible to appoint a Seasonal Worker as a Welfare and Wellbeing Support Person. Many Approved Employers appoint Seasonal Workers as team leaders. In these circumstances it must be clear that the team leader is separate to the Welfare and Wellbeing Support Person role and they **must not** be used as a substitute for the Welfare and Wellbeing Support Person.

You **must** undertake due diligence to ensure the Welfare and Wellbeing Support Person You appoint is suitable to take on the role and this should include undertaking any background checks that You consider appropriate in accordance with clause 12.2 of the Deed before making the appointment. You **must** also make sure they are aware of their responsibilities, including any escalation process Your organisation may have in the event of a serious issue or critical incident taking place.

In accordance with Item F1(d) of Schedule 1 of the Deed, the Approved Employer **must** ensure they provide the Seasonal Workers with a 24/7 (24 hours a day, seven days a week) emergency contact number and ensure the Seasonal Workers know they can make contact with You or Your personnel in the event of any emergencies outside of business hours.

3.3.1 Face-to-face, in person, discussions

Regular face-to-face, in person, discussions with Seasonal Workers are vital for building trust, establishing rapport and dealing with everyday issues. They help to keep communication channels open and provide opportunities for issues to be identified early and resolved before they escalate. The Welfare and Wellbeing Support Person/s **must** conduct, as a minimum, fortnightly face-to-face, in person, discussions with Seasonal Workers including to check on their progress and ask if they have any concerns. Seasonal Workers may choose whether to attend.

A record of these discussions **must** be kept, such as by noting in a diary or electronic calendar, and provided to the department, upon request. Any issue of concern **must** also be recorded so You and the Welfare and Wellbeing Support Person/s can ensure it has been followed up or resolved. You and the Welfare and Wellbeing Support Person/s **must** take all reasonable steps to address and, where possible, resolve any issues identified as soon as practicable.

For further information refer to the Better Practice Handbook.

3.3 Access to personal banking

Seasonal Workers will require access to a personal bank account where their wages will be paid directly. Within five Business Days of the Seasonal Workers having arrived in Australia, the Approved Employer **must** assist Seasonal Workers to set up or access bank accounts, in accordance with Item K of Schedule 1 of the Deed. Returning Seasonal Workers may already have banking arrangements set up which they wish to continue to use.



3.4 Access to health insurance and care

Seasonal Workers are required under the Temporary Work (International Relations) (subclass 403) visa to hold adequate arrangements for health insurance while they are in Australia. In accordance with clause F1(f) of Schedule 1 of the Deed, Approved Employers **must** ensure that all Seasonal Workers have and maintain these arrangements for health insurance during their period of stay in Australia.

Seasonal Workers do not have access to the Australian healthcare system. It is therefore compulsory for Seasonal Workers to be covered by a health insurance policy that provides for in-patient and out-patient care to the level specified by Home Affairs. To facilitate this, Approved Employers **must** organise health insurance coverage for their Seasonal Workers and assist them to pay for this by taking authorised deductions from the Seasonal Workers' pay.

To cover all contingencies, it is recommended that Approved Employers consider a health insurance policy that includes repatriation cover.

For further information refer to the Home Affairs webpage on 'Adequate health insurance for visa holders'.

3.4.1 Health insurance for absconders

You **must** not cease payments for health insurance for a Seasonal Worker who has absconded until **four weeks** after You have notified the department and Home Affairs that a Seasonal Worker has absconded. This gives the Seasonal Worker the opportunity to return to employment. It also provides protection to both the Seasonal Worker and You in the event that the Seasonal Worker requires medical treatment.

The cost of medical treatment or repatriation may be beyond what Seasonal Workers or their families could afford and there may be an expectation from the Seasonal Worker, their family, or the Australian community that the Approved Employer may cover this cost if health insurance is ceased too soon.


You may arrange for Seasonal Workers to pre-pay the final four weeks of their health insurance cover over the first period of their employment, refer above to section 2.5.2 [Deductions in advance](#).

3.4.2 Workers' Compensation

Seasonal Workers **must** be covered by Your workers' compensation insurance (to meet Your legal obligations as an employer). This does not cover illness or injuries outside of work.

3.4.3 Accessing medical and health care

You **must** be ready to assist Seasonal Workers promptly if they encounter healthcare problems. This includes explaining how Australia's health system works, making them aware of local healthcare providers, helping them access the medical and health care they need and to make claims under health insurance (in accordance with Item F1(e) of Schedule 1 of the Deed). This would include, providing a reasonable level of assistance in the event Seasonal Workers are unable to afford medical or health care and/or any up-front costs.



You should explain to Your Seasonal Workers the importance of seeking health advice early to reduce the likelihood that small problems if not addressed, leading to more serious health issues later.

3.5 Provision of personal protective equipment (PPE)

Approved Employers **must** provide Seasonal Workers with all necessary PPE at work, in accordance with work health and safety laws and clause 9 of the Deed.

Protective clothing or equipment can be generally classified as any device or apparel used to protect against the effects of contamination or physical harm. These may include any of the following broad categories:

- Apparel to cover the face and body (such as sun hats and overalls);
- Items to protect hands and feet (such as. gloves, safety boots);
- Respiratory protection devices (such as dust masks, air-fed or canister respirators);
- Hearing protection devices (such as earmuffs, earplugs);
- Eye safety protection (such as safety glasses, goggles);
- Items to protect the head (such as hard hats); and
- Safety harnesses and other equipment.

You **must not** charge for or deduct a bond from an employee's pay relating to PPE or protective clothing. As such, ownership of any supplied personal protective equipment and protective clothing remains with the employer/Host Organisation. As the Approved Employer, You can require a Seasonal Worker to return the equipment or clothing issued to them at the conclusion of the employment contract.

If You would like advice on Your work health and safety obligations including PPE, You can contact the work health and safety regulator in Your jurisdiction, contact details are available on the [Safe Work Australia website](https://www.safeworkaustralia.gov.au/)²².

3.6 Provision of onsite facilities

Approved Employers are responsible for ensuring that adequate and suitable facilities are provided or accessible to Seasonal Workers at the worksite, ahead of them commencing work and during work hours. Adequate and suitable facilities may include, depending on the circumstances:

- toilets
- washing facilities
- changing and rest areas
- drinking water; and
- eating facilities (including a place to store food).

²² <https://www.safeworkaustralia.gov.au/>



Matters You **must** consider when planning the provision of facilities include the:

- work to be carried out and the associated health risks
- duration and number of different locations
- number of people working at the different locations; and
- distance from other facilities.

3.7 Communicating effectively

Language is the key to connecting and understanding Your Seasonal Workers. You **must** ensure, as far as reasonably practicable, that Seasonal Workers understand and comply with the requirements of the job to achieve the standards that You expect and to be safe.

Providing practical training with Seasonal Workers to demonstrate that they have understood is also a good idea when English language is not the preferred or first language. Information, instructions, training and supervision **must** be provided to Seasonal Workers in a format and language that can be understood by them, in accordance with Item D1(h) of Schedule 1 of the Deed.

3.8 Opportunity for religious and recreational involvement

Seasonal Workers **must** be allowed to move freely outside of their working hours. Approved Employers **must** assist Seasonal Workers to familiarise themselves with their local region and help Seasonal Workers to make contact with community groups so they have access to religious and recreational activities, if they choose.

As an Approved Employer You **must** ensure Your Seasonal Workers have contact details for local community groups, which may include churches, Pacific Islander and Timor-Leste groups or other community fellowships and sporting groups.


3.9 Clothing

The climate in Australia can be challenging, especially for people from the Pacific and Timor-Leste. You **must** ensure that Seasonal Workers have clothing suitable for Australian conditions (refer to section 2.5.1 [Costs that can be deducted](#) for further information).

3.10 Emergency services (Ambulance, Fire, Police)

In accordance with Item F1(c) of Schedule 1 of the Deed, Approved Employers **must** ensure Seasonal Workers understand when they should call emergency services and that they know how to do so if required.

You **must** explain to Seasonal Workers what an emergency situation is and what information Seasonal Workers will need to provide if they call 000. Information on calling 000 should be prominently displayed in workplaces and accommodation in easy to understand language and include the address of the property so this can be communicated to the emergency services.



Seasonal Workers may be unaware of how fires can start in their environment, accommodation or at work and what to do in the event of a fire. Approved Employers **must** provide information to Seasonal Workers about basic fire safety, particularly in bush fire prone zones of Australia.

Emergency event awareness is crucial and all Seasonal Workers should be clear on their surroundings and what to do in an emergency. Where required by relevant laws, emergency escape plans **must** be clearly displayed in the Seasonal Workers' accommodation and at the worksite.

Smoke alarms and detectors **must** meet local building codes and state/territory laws.

3.11 Safety in the community

In their personal time, Seasonal Workers may venture to local beaches, rivers or other areas that can pose potential risks including getting caught in a rip and/or drowning. They need to be made aware of these.

Approved Employers **must** clearly communicate any policies relating to alcohol and drug free accommodation or worksites, or working under the influence of alcohol or drugs. You **must** explain the consequences of any breaches of those policies, as outlined in Your respective employment conditions.

4 Accommodation

Relevant Deed clauses

See in particular clause 11 and Item G of Schedule 1 of the Deed.

Seasonal Worker accommodation is to be provided by Approved Employers in accordance with clause 11 and Item G of Schedule 1 of the Deed and the following principles and requirements. You are responsible for ensuring that You are aware of and comply with all relevant laws.

4.1 Principles

4.1.1 Fair and Good Value

- Renting arrangements and inclusions **must** be fair and provide good value for money for Seasonal Workers.
- Adequate and decent housing should not cost the Seasonal Worker more than a reasonable proportion of their income. Accommodation **must** be provided at cost.
- Rent **must not** be used to offset labour costs.
- Any bond charged to Seasonal Workers **must** be registered with the appropriate authority and Seasonal Workers given information on how the bond will be refunded at the end of their stay.
- A 'bond charge' **must not** be built in to the cost of rent. A 'bond charge' is where an extra cost is added on to the regular accommodation fee to pay for any damage at the end of the tenancy, but is not registered with the appropriate authority.
- When considering value for money, 'like for like' properties in the region will be considered by the department, if possible. In this context 'like for like' means the same number of bedrooms, facilities/amenities and condition of the property.
- Costs correspond to the number of Seasonal Workers renting the property.
- If services are included in the Accommodation costs, such as cleaning or catering, these should be competitive and **must** be provided at cost.

4.1.2 Costs are Transparent

- A monetary breakdown of inclusions of accommodation costs **must** be provided to the department in the Accommodation Plan.
- If the property is commercially provided at an all-inclusive cost (such as by a backpackers hostel where the cost includes both rent and utilities) and a breakdown is not available, the Approved Employer **must** set this out in the Accommodation Plan and indicate what is included in the cost.
- The cost of accommodation **must** be provided to Seasonal Workers in the Offer of Employment with an explanation of what is included in the cost (rent, utilities, cleaning, etc) so that they understand what they are being charged for.

- It is understood that in some cases the costs can only be estimated, such as for utilities. In these instances reasonable estimates would be considered to be acceptable.

4.1.3 Fit for Purpose and in good condition

- Accommodation **must** be fit for immediate occupation and use. This means no building or appliance defects, outstanding maintenance work or health and safety issues.
- Accommodation **must** comply with relevant state, territory and local government rules (such as fire safety).
- Although minor repairs will not preclude use, there **must** be an effective system in place to ensure faults are identified and repaired in a timely manner
- Accommodation **must** be clean, sanitary and tidy at the time of arrival of Seasonal Workers.
- Water supply, including hot water, **must** be available continuously, and be adequate and safe for drinking, cooking, bathing and washing.
- Seasonal Workers **must** be provided with adequate facilities to store food safely, cook and eat while in their accommodation. Kitchen and dining facilities **must** be adequate for the number of Seasonal Workers. Makeshift kitchens are not acceptable. They **must** always be either inside or under cover.
- Unless cleaning is provided as part of the accommodation charge, it is the responsibility of each Seasonal Worker to keep facilities in a clean and sanitary condition. It is the responsibility of the Approved Employer or the accommodation facility, where relevant, to make sure the standards are respected and to provide adequate cleaning, disinfection and pest control when necessary.
- Where Seasonal Workers fail to comply with cleaning instructions and, as a result, cleaning, disinfection and / or pest control is necessary for safe habitation, the Approved Employer may pass these costs on to the Seasonal Workers through deductions, subject to requirements to amending deductions (see [making changes to an Approved Recruitment](#) section). Alternatively, it may be appropriate to retain part or all of any bond paid to cover these costs, subject to relevant laws.
- Accommodation must provide Seasonal Workers with adequate heating, cooling and ventilation, as required and as determined by the local climate.
- Seasonal Workers **must** have adequate laundry facilities for washing and drying their clothes. These facilities **must** be onsite or within reasonable walking distance of the accommodation.
- Accommodation **must** be maintained in a good condition.

4.1.4 Accessible, safe and secure

- The property **must** be lockable and Seasonal Workers **must** have 24 hour access to their accommodation.
- Seasonal Workers' privacy **must** be respected in their living quarters.
- House rules should be reasonable and non-discriminatory. Expectations about the responsibility of Seasonal Workers in using the accommodation provided should be clearly communicated in the house rules.

- Decisions should be made on whether to prohibit alcohol, tobacco, etc. and relevant rules should be clearly communicated to all Seasonal Workers.
- Procedural fairness should be afforded to Seasonal Workers if the house rules are broken.
- Separate sleeping and bathroom facilities **must** be provided for single men and women. This includes lockable doors to bathroom facilities to ensure Seasonal Workers' privacy and safety. A couple may use the same quarters where they are married or in a de-facto relationship.
- Storage **must** be provided for each Seasonal Worker's belongings.
- Separate lockable storage **must** be provided for each Seasonal Worker's valuables such as their passport. Where the Seasonal Worker is accommodated in a single room on their own (or with their spouse or de-facto partner), a lockable bedroom door is acceptable.

4.1.5 Seasonal Workers are able to arrange their own accommodation

- Seasonal Workers may elect to arrange their own accommodation, in which case, Approved Employers cannot make deductions from their wages for accommodation.
- Seasonal Workers may choose to arrange their own accommodation for a variety of reasons including cost, condition of the accommodation, and links to the community.
- If a Seasonal Worker chooses to arrange their own accommodation, the Approved Employer is not responsible for the quality of that accommodation. The Approved Employer does, however, retain the responsibility for providing welfare and wellbeing assistance to the Seasonal Worker.
- Where a Seasonal Worker is considering moving from the accommodation provided by the Approved Employer to their own arranged accommodation, the Approved Employer **must** explain to them that they will be responsible for all costs which may include rent, electricity and other utility costs, transport costs, and other housing related costs.
- Approved Employers may require that Seasonal Workers provide a minimum of two weeks' notice of their intention to move to their own accommodation and transport arrangements. If an Approved Employer seeks to impose this condition on the accommodation and transport this **must** be set out in the Offer of Employment.
- If the Seasonal Worker does not give two weeks' notice, where this is a condition they have agreed to in the Offer of Employment, the Seasonal Worker may be charged for the accommodation and transport provided by the Approved Employer for the two week period even if they have moved out.

4.2 More detailed advice

4.2.1 Bed arrangements

Seasonal Workers are staying in the accommodation for up to nine months. They are expected to undertake manual labour often in variable weather conditions. Therefore, the provision of an adequate number of beds of an appropriate size and level of comfort is essential to provide Seasonal Workers with decent, safe and hygienic conditions to rest and sleep.



Bedroom requirements:

- A separate bed with a base or bedframe, comfortable and clean mattress, pillow and linen for each Seasonal Worker.
- Sleeping areas **must not** be crowded; there should be a reasonable walking space between beds, the exits, and storage.
- The use of bunk beds should be minimised. If used, there **must** be enough clear space between the upper and lower bunks, and the upper bunk and the ceiling.
- Triple bunks are prohibited.
- Window coverings **must** be installed, and in working order, in all sleeping areas to provide privacy.

4.2.2 Bathrooms

There **must** be adequate bathroom facilities (toilets, baths/showers, hand basins) for the number of Seasonal Workers. When in use they **must** provide Seasonal Workers with adequate privacy

Facilities **must** be conveniently located, and wherever possible, attached to the living quarters.

As a minimum, one toilet, hand basin, and shower (or bathtub) **must** be provided for every 10 Seasonal Workers (or part thereof).

Portable toilets **must not** be used, such as port-a-loos. Transportable toilet blocks may be acceptable, such as dongas.

4.2.3 Leisure, social and telecommunication facilities

Collective social and rest spaces **must** be provided.

You **must** provide Seasonal Workers with a means to communicate with their families and the outside world.

A common area **must** provide sufficient comfortable seating for the number of Seasonal Workers being accommodated (i.e. one seat for each Seasonal Worker). Furniture **must** be clean and in good condition.

5 Notifications to the department

Relevant Deed clauses

See in particular Clauses 6, 7, 9.2(e) and 19.2(b) of the Deed.

Approved Employers **must** Notify (advise) the department of a range of matters relating to Approved Employers and Seasonal Workers, in accordance with the Deed and these Guidelines. You **must** ensure that any information provided to the department is true, accurate and complete.

5.1 Incidents

You **must** report incidents (Notify) to the department through SWP Online which involve a Seasonal Worker or incidents that have an impact on Your participation in the SWP, including the circumstances outlined in clauses 6 and 7 of the Deed.

You must also notify other agencies, where relevant, including Home Affairs of matters, consistent with Your TAS obligations, and State/Territory Work Health and Safety authorities.

5.1.1 When You must Notify Us immediately – critical incidents

In accordance with clause 6.2 of the Deed, You **must** inform the department as soon as possible via telephone call (including outside business hours) and submit an incident report (Notice) through SWP Online, and within 24 hours, when you become aware of the death or serious injury or illness of a Seasonal Worker – even if the incident or accident occurred outside of work.

In accordance with clause 6.4(b) of the Deed and without limitation, You **must** inform the department as soon as possible, after becoming aware, via telephone call (including outside business hours) and submit an incident report (Notice) through SWP Online, and within 24 hours, of:

- A serious breach of a visa condition by a Seasonal Worker – such as by breaking the law, in breach of the character requirement for the visa;
- A mass walk out of Seasonal Workers (where several Seasonal Workers leave their employment without approval); or
- Serious concerns for the welfare and wellbeing of Your Seasonal Workers – such as due to a natural disaster.

5.1.2 Incidents You must Notify us of as soon as possible – non-critical incidents

You **must** Notify the department by submitting an incident report through SWP Online as soon as possible, and otherwise no later than 5.00 PM (AEST/AEDT) of the next Business Day, for all other incidents in accordance with clauses 6 and 7 of the Deed, including:

- You are knowingly in breach of, or may be in breach of, any of Your obligations under the Deed – even if the breach was not intended

- Where there is any change in circumstances that may affect Your capacity to meet Your obligations under the Deed,
- (without limiting or otherwise affecting clause 6.1(a) or clause 6.1(b) of the Deed)
 - Of any matter or incident which could affect, or has affected:
 - the welfare of any of Your Seasonal Workers; or
 - the reputation of the SWP, the department or the Australian Government; or
 - Of receiving any notice or other communication from a Provider or a Subcontractor under clauses in Your Provider Arrangements and Subcontracts which are equivalent to clauses 6, 7, or 9 in the Deed (Notifications and Work Health and Safety). You must also provide the department with a copy of the notice or communication You receive.
- Where a Seasonal Worker breaches one or more conditions of their Seasonal Worker visa. Visa conditions can be viewed on Home Affairs [VEVO portal](#)²³. The Approved Employer **must** also notify Home Affairs consistent with TAS requirements
- If You intend to terminate the employment of a Seasonal Worker – it is expected that You will let the department know prior to termination, particularly if the circumstances may be subject to dispute. You must advise the department why You intend to terminate the employment of any Seasonal Workers;
 - You **must** also Notify the department when You have terminated the employment of a Seasonal Worker;
- Where You are unable to pay or fully pay a Seasonal Worker;
- When You are under investigation for, charged with, or found to have breached any Australian laws in connection with the SWP
- Where a Seasonal Worker is under investigation for, charged with, or found to have breached any Australian law (critical incidents must be Notified as per above section 5.1.1);
- Where a Seasonal Worker ceases or intends to cease their employment with You;
- (subject to clause 6.3 in the Deed), any work health and safety incidents involving Seasonal Workers which requires contacting an emergency service, accessing medical and health services, and/or claiming insurance (health or workers' compensation). (Critical incidents, such as those requiring emergency services, **must** be notified as per above [section 5.1.1](#)).
 - You **must** also Notify the department of the outcome of the incident
- Any concerns held by You or expressed to You by Seasonal Workers regarding the wellbeing or welfare of one or more Seasonal Workers – this may be in the workplace or outside of work hours, and could include things such as car accidents or physical altercations
- You have engaged in misleading or deceptive conduct, including if You have provided false or misleading information to the department or any Relevant Agency
- You have delivered a Report or Record to the department that is not true, complete and accurate – even if this may seem like a minor mistake
- You are in breach of the Guidelines.

²³ <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/overview>

5.2 Other Deed Notification requirements

You **must** Notify or otherwise inform the department of any other circumstances required by the department to be Notified from time to time, or as required in accordance with these Guidelines.

Under clause 19.2(b) of the Deed You **must** Notify the department immediately including outside business hours, when You become aware of any of the privacy matters set out in that clause.

The Deed specifically requires that You Notify the department as soon as practicable of matters relating to work health and safety, refer to clause 9.2(e) of the Deed for details. You **must** do this by submitting an incident report through SWP Online.

Notifying the department does not remove the need to report matters to other relevant authorities including emergency services, police, insurance providers, other government departments or agencies such as Home Affairs, or the relevant work health and safety regulator in Your state/territory.

5.3 How to Notify (report)

Table 4 – How to Notify

	Critical Incidents	Other Incidents
When to Notify	As soon as possible, and within 24 hours, including outside business hours.	As soon as possible, but no later than by 5.00 PM (AEST/AEDT) the next Business Day, at the latest.
During business hours (9 AM to 5 PM Monday to Friday AEST/AEDT, excluding holidays observed in the ACT)	<ul style="list-style-type: none">• By calling the SWP information line: (02) 6240 5234• Follow up Your verbal report by submitting an incident report on SWP Online.	<ul style="list-style-type: none">• Submit an incident report on SWP Online.
Outside of business hours	<ul style="list-style-type: none">• By calling the Pacific Labour Facility's worker welfare line: 1800 515 131• Follow up Your verbal report by submitting an incident report on SWP Online.	<ul style="list-style-type: none">• Submit an incident report on SWP Online.



6 SWP Assurance Framework

Relevant Deed clauses

See in particular Clauses 16, 24, 25, 26, 27, and 31 of the Deed.

Assurance is the means through which the department obtains confidence that the SWP structures and processes are designed, implemented and operating as intended and that there are effective and efficient controls in place to manage risks and achieve objectives. Assurance is much more than compliance and is considered and applied throughout the full program lifecycle, from policy development through to delivery and review.

The department has several different assurance approaches. These are detailed in the SWP Program Assurance Framework.

The department recognises that most Approved Employers strive to do the right thing and to meet their Deed obligations. There are, however, instances where Approved Employers do not meet their Deed obligations, whether accidentally or on purpose. In these instances, the SWP Assurance Framework is used to effectively and efficiently resolve matters.

As acknowledged and agreed by Approved Employers in accordance with [Chapter 1.1](#) of these Guidelines, nothing in these Guidelines limits or otherwise affects Your obligations and the department's rights under the Deed and otherwise under statute, law or in equity.

6.1 The SWP Assurance Framework

Key components of the Framework include:

- activities to monitor program delivery, such as Recruitment Application assessment, monitoring visits, complaints management, and the SWP information line
- activities to monitor the welfare and wellbeing of Seasonal Workers, Deed and Guideline compliance, including targeted assurance activities
- activities to test and monitor the effectiveness of risk controls
- the program assurance principles; and
- Approved Employer training, Seasonal Worker briefings, sharing of best practice and lessons learnt, and appropriate remedial action to assist in the successful participation of Approved Employers in the SWP and overall compliance with the Deed and Guidelines.

Diagram 2 – The Program Assurance Framework



AUSTRALIAN GOVERNMENT SEASONAL WORKER PROGRAMME – PROGRAM ASSURANCE FRAMEWORK

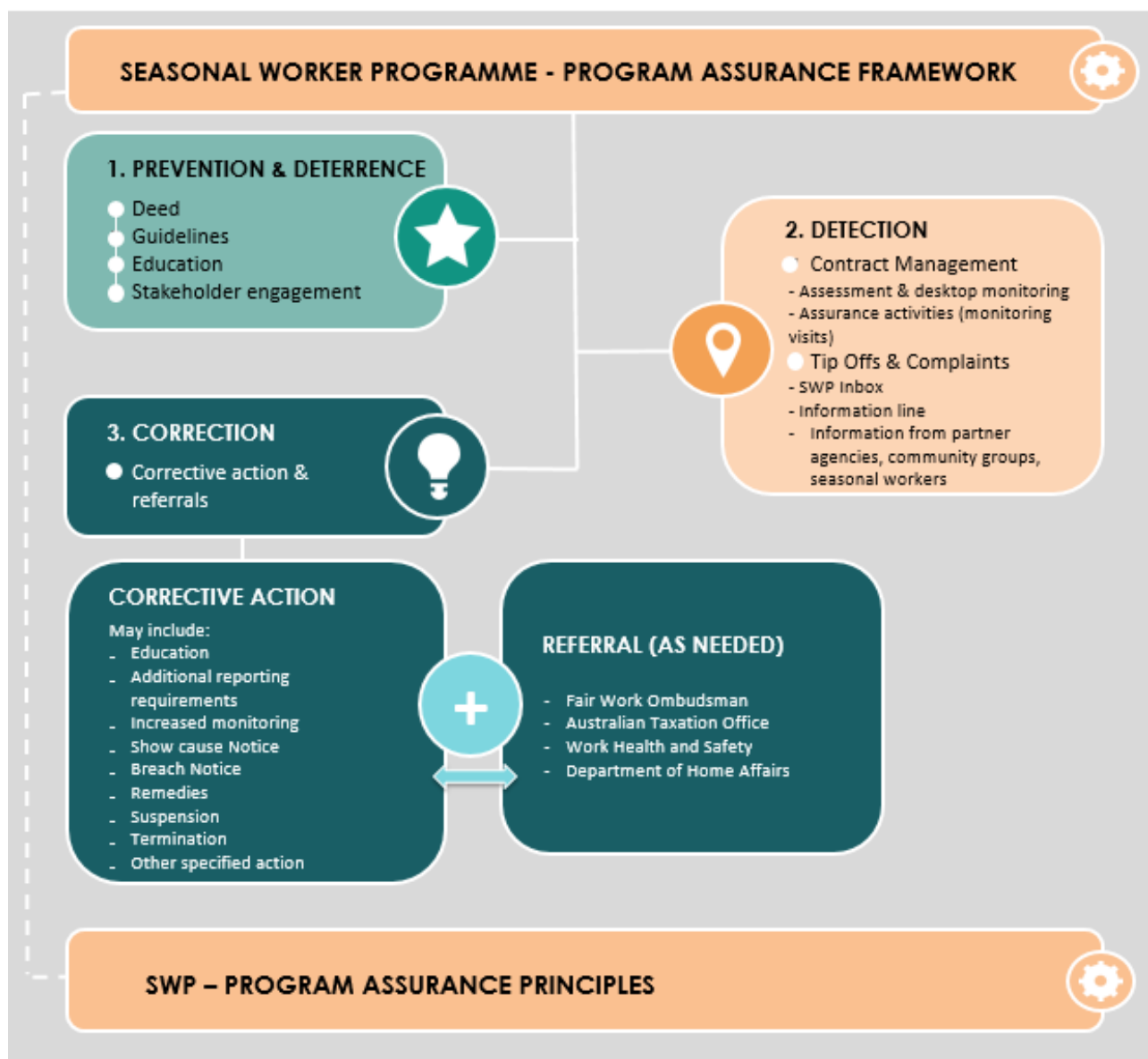
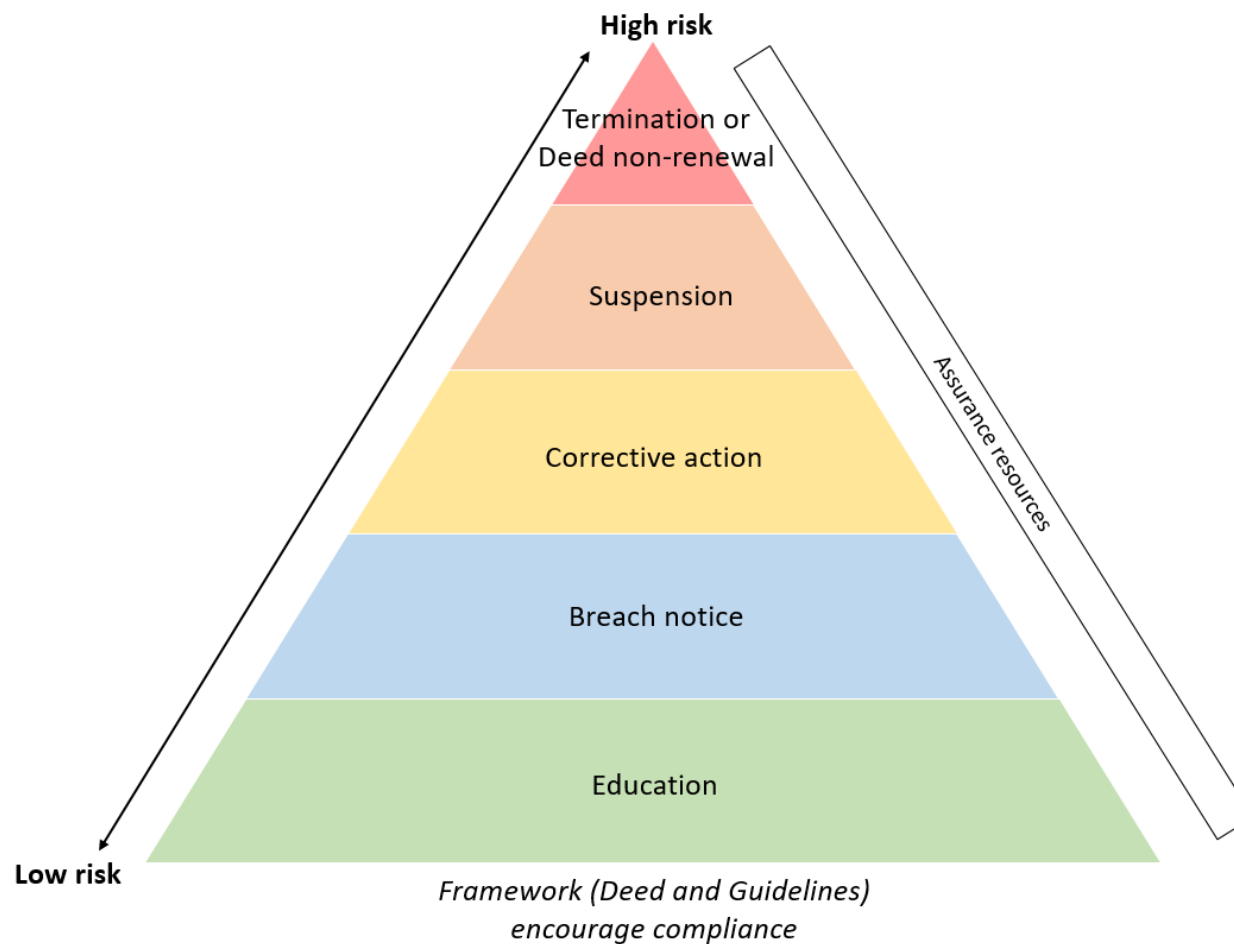


Diagram 3 – Assurance pyramid



- The actions are provided as general examples of actions the department may take under the Deed. They may not be taken sequentially, it depends on the nature, severity and other factors of the matter including the urgency of response.
- A Notice of a Request to Report is not a compliance action, it is a request for further information. It may be issued at any point including at any level in the above but may be issued in association with a breach or as a result of a failure to deliver a Report.


6.1.1 Principles

The department takes a principles based approach to managing program assurance under the SWP.

There are eight principles underpinning the Framework.

Table 5 – The Framework principles

Principles	Explanation and how the department will implement the principle
Transparent and clear	<p>Listen and respond to the concerns of Seasonal Workers when they are in Australia, and other relevant stakeholders (including Approved Employers) and, where possible and appropriate, relay those concerns to the relevant Approved Employer so they can try to resolve the issues raised.</p> <p>The department will support Approved Employers to understand that the intention of the Framework is two-fold, to identify and respond to issues and provide opportunities for continuous improvement.</p> <p>Assurance activities and outcomes are transparent, promoting honest and open communication between stakeholders.</p>
Timeliness	<p>The department will work to resolve matters as efficiently as possible to avoid delays and uncertainty for Approved Employers.</p>
Consistency	<p>The department will apply a consistent approach to all Approved Employers.</p>
Proportionality	<p>The department's response is proportionate to the conduct and the resulting harm or potential harm.</p>
Collaborative	<p>Build relationships with stakeholders and the community based on trust and respect. Work with stakeholders to find solutions to issues – such as workplace, welfare and wellbeing and accommodation issues, and identify opportunities to collaborate.</p> <p>Harness intelligence and insight from a range of sources including other government agencies to inform the department's compliance and assurance activities.</p>
Continuous improvement and cultural change	<p>The department will seek feedback on our processes, policies and practices to improve them.</p> <p>The department encourages Approved Employers to achieve this principle in their participation in the SWP through communicating best practice.</p>




Principles	Explanation and how the department will implement the principle
Referral to appropriate agency/ies and reliance upon these agencies' advice and determinations	<p>The department administers the Deed with Approved Employers. Where another agency is better placed to investigate a matter (i.e. an agency with a specific area of responsibility, such as workplace relations law) the department will refer that matter to the other agency and provide them with all relevant information. Appropriate agencies include:</p> <ul style="list-style-type: none"> • workplace relations matters – FWO • immigration matters – Home Affairs • work health and safety matters – work health and safety regulators in the relevant jurisdiction; and • tax and superannuation matters – ATO. <p>The department may consider determinations/findings made by other agencies, to inform the department's actions.</p>
Procedural fairness	<p>The department will endeavour to give Approved Employers a reasonable opportunity to respond to matters raised before making a decision, where possible and appropriate, unless the matters are not in doubt, not disputed, or where there are significant concerns for the wellbeing or welfare of the Seasonal Workers involved.</p> <p>The decision-maker will act objectively, will not have a personal interest in the outcome of any matter, and will consider relevant information before deciding an outcome.</p>

6.1.2 Framework elements


The Framework is comprised of three elements.

Table 6 – The Framework elements

Element	Explanation
Prevention & Deterrence	<p>The strongest form of assurance is prevention. In recognition that Approved Employers strive to be compliant, the department provides a foundation to support and encourage compliance by implementing preventative controls by way of processes and systems to eliminate or reduce risk.</p> <p>The Prevention and Deterrence element of the Framework details expectations and obligations of both Approved Employers and the department. It aims to support Approved Employers to participate in the SWP effectively and as intended.</p> <p>The department makes compliance easier and creates a shared understanding of expectations and SWP requirements through effective program design. The department also does this through the Deed which includes the Guidelines, Stakeholder Engagement</p>



Element	Explanation
	and Education processes, and implementation of the SWP Online IT system controls with the aim of reducing the likelihood of non-compliance.
Detection	<p>The department undertakes assurance activities to confirm that Approved Employers and other stakeholders are delivering the SWP as intended and, are meeting Deed and Guideline obligations. Assurance activities may address emerging or identified risks and assess the effectiveness of risk controls.</p> <p>The Detection element comprises key contract management activities, Reporting and the use of complaints and tip offs. It forms part of the department's monitoring activities to ensure obligations under the Deed are being met.</p> <p>Monitoring and assessment of key contract activities contributes to the department's understanding of how the SWP is being delivered. This enables the department to ensure Seasonal Workers are protected and that stakeholders, including Approved Employers, understand the Deed requirements and expectations.</p> <p>Assessment activities include, but are not limited to:</p> <ul style="list-style-type: none"> • assessment of core contract documents including Recruitment Applications, Accommodation Plans, and Welfare and Wellbeing Plans • desktop monitoring (identification of trends and anomalies) • reporting by Approved Employers; and • monitoring visits. <p>In addition, complaints and tip offs (including the SWP information line, SWP mailbox, information received from partner agencies, community groups, Seasonal Workers, and interested stakeholders) are also used to inform how the department manages assurance and compliance interventions.</p> <p>A request from the department for the Approved Employer to provide more information (a Notice of a Request to Report) will generally be issued in the first instance to enable the department to ascertain the facts.</p>
Correction	<p>The department's approach ensures consistency in how the department responds and acts when non-compliance and issues are identified.</p> <p>Outcomes or findings from Detection activities can result in some form of corrective action and, in some instances, referral to other relevant authorities.</p> <p>Depending on the nature of the compliance issue, a range of corrective actions may be taken.</p> <p>Which corrective action (or actions) is applied will depend in each circumstance on the nature, severity, and type of compliance issue being managed, including whether the issue</p>



Element	Explanation
	<p>being corrected has occurred on more than one occasion with a particular Approved Employer.</p> <p>Corrective actions are not applied in a linear fashion, such as an Approved Employer may be issued with a Notice of a Request to Report (which is not itself a breach) and a Notice of a Breach of the Deed simultaneously or a Notice of a Breach of the Deed without receiving a Notice of a Request to Report. In certain circumstances, the department may take immediate corrective action, such as where the welfare and wellbeing of Seasonal Workers is at risk.</p>

6.2 Applying the Framework

In applying the Framework, the department endeavours to work with the Approved Employer to manage any interventions or responses to non-compliance. This includes:

- giving consideration to the understanding an Approved Employer demonstrates when issues are raised for resolution and their willingness to engage with the department
- the frequency with which individual issues need to be raised with an Approved Employer; and
- the nature of the issue being raised.

Essentially, the department will apply the Framework to manage individual issues and take into account frequency and proportionality of all issues associated with an Approved Employer over time.

If the department sees a pattern of non-compliance which may indicate a lack of understanding of program requirements, or in some cases may demonstrate wilful non-compliance, this can influence the type of intervention applied.

The department always aims to effectively engage with Approved Employers to resolve issues swiftly and at all times with the goal to ensure Seasonal Workers are protected.

6.3 Reporting concerns to the department

Concerns regarding the SWP can be reported to the department through the SWP information line or by Email, details are at Chapter 1, [SWP information line](#).

Complaints relating to an Approved Employer, host business or other program stakeholder may be received from a wide range of sources including:

- Seasonal Workers
- other Approved Employers
- Participating Country representatives
- family members of Seasonal Workers
- unions
- community members
- community organisations

- accommodation providers; and/or
- Government departments/agencies and authorities.

Where the department receives such a report it will be reviewed and responded to in accordance with the Framework. Where appropriate, the department will advise an Approved Employer when information is received relating to their participation in the SWP.

A report to the department is not always negative. It may be positive feedback, or may provide early advice about concerns the Approved Employer is not aware of. This can provide an opportunity for corrective action to be taken before the situation escalates. You should encourage Seasonal Workers to call the SWP information line if they ever have a concern they do not feel able to speak with their Welfare and Wellbeing Support Officer, team leader or You about.

6.4 Monitoring visits

The Deed, under clause 16, provides the department access to premises to undertake monitoring visits for Approved Recruitments, to confirm that they meet program requirements set out in the Deed and these Guidelines (see clause 16 of the Deed), and are consistent with the Approved Recruitment. In accordance with clause 16.2 of the Deed, the department's access rights may be subject to relevant Notice requirements or procedures, depending on the circumstances.

A risk-based approach is applied to determine which Approved Employers and regions are to be visited.

Monitoring visits generally include:

- face-to-face, in person, discussions with Approved Employers, or personnel in connection with the SWP including the Host Organisation, if relevant, to assess how the Approved Recruitment is progressing, address issues and take the opportunity to discuss relevant program requirements
- inspecting and requesting copies of documents such as pay data and invoices
- face-to-face, in person, discussions with Seasonal Workers, including to confirm the pay and conditions outlined in the Seasonal Workers' Offer of Employment are being met
- an inspection of the Seasonal Workers' accommodation arrangements to check that they match the Accommodation Plan approved by the department; and
- viewing the worksite of Seasonal Workers.

Monitoring visits also enable the department to:

- build relationships and make connections with Approved Employers, Seasonal Workers and members of the community
- educate Approved Employers and Seasonal Workers on aspects of the SWP, including what they can expect and their respective obligations; and
- identify best practice to share with other Approved Employers and our partner agencies responsible for delivering other labour mobility programs, with the agreement of the relevant Approved Employer or Provider.

6.4.1 Access to premises

Generally, two officers from the department will perform the monitoring visit and You **must** provide access, including to Your Personnel, Your (and Your Providers' and Subcontractors') workplaces, sites, equipment, accommodation, and Reports, Records and Material relating to the SWP in accordance with clause 16 of the Deed.


In some cases representatives from other agencies may also attend, such as the FWO. If this occurs the department will endeavour to inform the Approved Employer by Email, where possible.

Table 7 – Notification for announced and unannounced visits

Step	Announced visit	Unannounced visit
Notification	<p>Prior to arranging a scheduled monitoring visit the department will provide reasonable Notice of the intended visit, in accordance with clause 16.2 of the Deed. In most instances this would be at a minimum 48 hours' notice, however generally the department aims to provide 2-5 Business Days' notice.</p> <p>This allows the Approved Employer time to arrange access to Seasonal Workers and accommodation, and to ensure that a representative of the Approved Employer is on-site.</p>	<p>In accordance with clause 16.4 of the Deed, reasonable Notice is not required to be given.</p> <p>However, prior to entry on the day, the department will send a text message and attempt to telephone the Approved Employer and/or Host Organisation to alert them to the monitoring visit.</p> <p>In practice, this may occur at the farm gate or other nearby location shortly before the department enters the relevant premises.</p>

Table 8 – Sequence of monitoring visits *

Step	Description
Arrival on-site	<p>You or the Host Organisation must grant the department's officers access.</p> <p>Departmental officers conducting the monitoring visit will wear suitable clothing and footwear and will identify themselves to the relevant persons.</p> <p>Departmental officers will:</p> <ul style="list-style-type: none">• explain the purpose and objectives of the visit• advise that photos may be taken as part of the process; and• liaise with relevant persons to access any required Material, Records, Reports, premises, workplaces, sites and equipment.



Step	Description
During the visit	<p>During the visit the departmental officers may:</p> <ul style="list-style-type: none"> • inspect Records, Reports and other Material, make copies and remove those copies • Investigate and inspect the performance of Your obligations under the Deed • take notes to ensure a good record is kept of the monitoring visit observations and conversations • take photos, if necessary; and • interview Seasonal Workers and any other relevant persons.
Finalise visit	<p>On finalisation of the monitoring visit, the departmental officers will advise the Approved Employer of the next steps.</p>
After the visit	<p>Following the visit, the department will:</p> <ul style="list-style-type: none"> • analyse the Material collected; • follow up with relevant persons, if required; • advise the Approved Employer of the outcome of the monitoring visit in writing; and • where relevant, inform the Approved Employer in writing where a matter has been referred to another agency.

*The above sets out the general sequence for monitoring visits and unannounced visits, however, in certain circumstances this may vary.

6.4.2 Announced visits


Discussions with the Approved Employer

The following topics are indicative of those discussed when meeting with the Approved Employer, Host Organisation, or representative.

- clarifying any information provided to new Approved Employers when commencing in the SWP
- feedback on the Approved Employer's experiences under the SWP including what is working well and any challenges that they are experiencing
- information provided and discussion on any program requirements of which the Approved Employer is uncertain
- any issues raised by Seasonal Workers such as pay or accommodation; and
- best practice approaches from across the SWP.

Discussions with Seasonal Workers

Discussions with Seasonal Workers and the department will occur without the Approved Employer present, unless not reasonably possible, to encourage the Seasonal Workers to speak freely about their experiences.



Typically discussions with Seasonal Workers will take place in a neutral venue such as the Seasonal Workers' accommodation. Where this is not possible, and the meeting occurs on-site at the workplace, the department will seek to speak with the Seasonal Workers in a discrete area to encourage them to speak openly.

The number of Seasonal Workers the department meets with depends on the number of Seasonal Workers, availability, and if there are concerns that have been raised with the department.

Discussions with Seasonal Workers may be split into smaller groups to encourage greater discussion. Departmental officers will endeavour to limit disruption to work when speaking with Seasonal Workers.

Viewing Accommodation

During the monitoring visit, unless not reasonably possible, officers from the department will inspect the Seasonal Workers' accommodation to check that it aligns with the arrangements approved in the Accommodation Plan. Access would be subject to the agreement of Seasonal Workers residing at the accommodation.

During the inspection the officers will take photographs and notes; you **must** allow them to do this. The department will, where possible and appropriate, raise any concerns with the Approved Employer or their representative, if present, and will follow up any issues in writing. If additional information is needed a Notice of a Request to Report may be issued. If there are serious concerns, the matter will be escalated and may result in the department issuing a Notice of a Breach of the Deed.


6.4.3 Unannounced visits

The sequence for an unannounced monitoring visit is the same as for an announced visit, with the difference being reasonable notice is not given of the visit. However, the department will provide notice prior to entering the property, especially to maintain biosecurity requirements.

Clause 16.4 of the Deed allows for the department to make unannounced monitoring visits for Program Assurance Activities, or where a matter is being investigated which may involve an actual or suspected breach of the law or the Deed. As with announced visits, the department will use its best endeavours to minimise the impact on the workplace.

Without limitation, a range of circumstances may trigger an unannounced visit, including:

- where there are serious concerns regarding the welfare and wellbeing, or immediate safety, of the Seasonal Workers on the Placement
- where a tip-off or complaint of a serious nature has been received by the department
- where information of a serious concern has been received by the department from other agencies; or
- as a routine part of the SWP assurance process for a group of Approved Employers based on industry, region or other characteristic.



Unannounced monitoring visits may include visits to workplaces to meet with Seasonal Workers, visits to accommodation where Seasonal Workers are housed, and may also include visits to Approved Employers' work premises (in relation to the SWP).

Without limiting clause 13 of the Deed, if You place Seasonal Workers with a Host Organisation, You **must** include provisions in Your arrangements with those Host Organisations to:

- allow the department access to the Seasonal Workers without prior announcement; and
- assist the department to conduct the visit and provide information as requested.

You need to make sure the Host Organisation understands and agrees to this (see clause 13 of the Deed).

6.5 Seeking further information – informal requests and formal requests

The department may seek information through informal processes such as over the phone or by Email from Approved Employers.

The department may choose to request information formally and in such cases a Notice of a Request to Report (also known as a Notice to Report) will be issued to the Approved Employer in accordance with clause 8 of the Deed.

A Notice of a Request to Report is a formal procedural process under the Deed and may occur for a range of reasons including where the matter is considered serious, an allegation has been received, to confirm an Approved Employer understands their obligations, or to confirm action has been taken to resolve a breach. This will be consistent with the [assurance framework principles](#) outlined above in table 5.

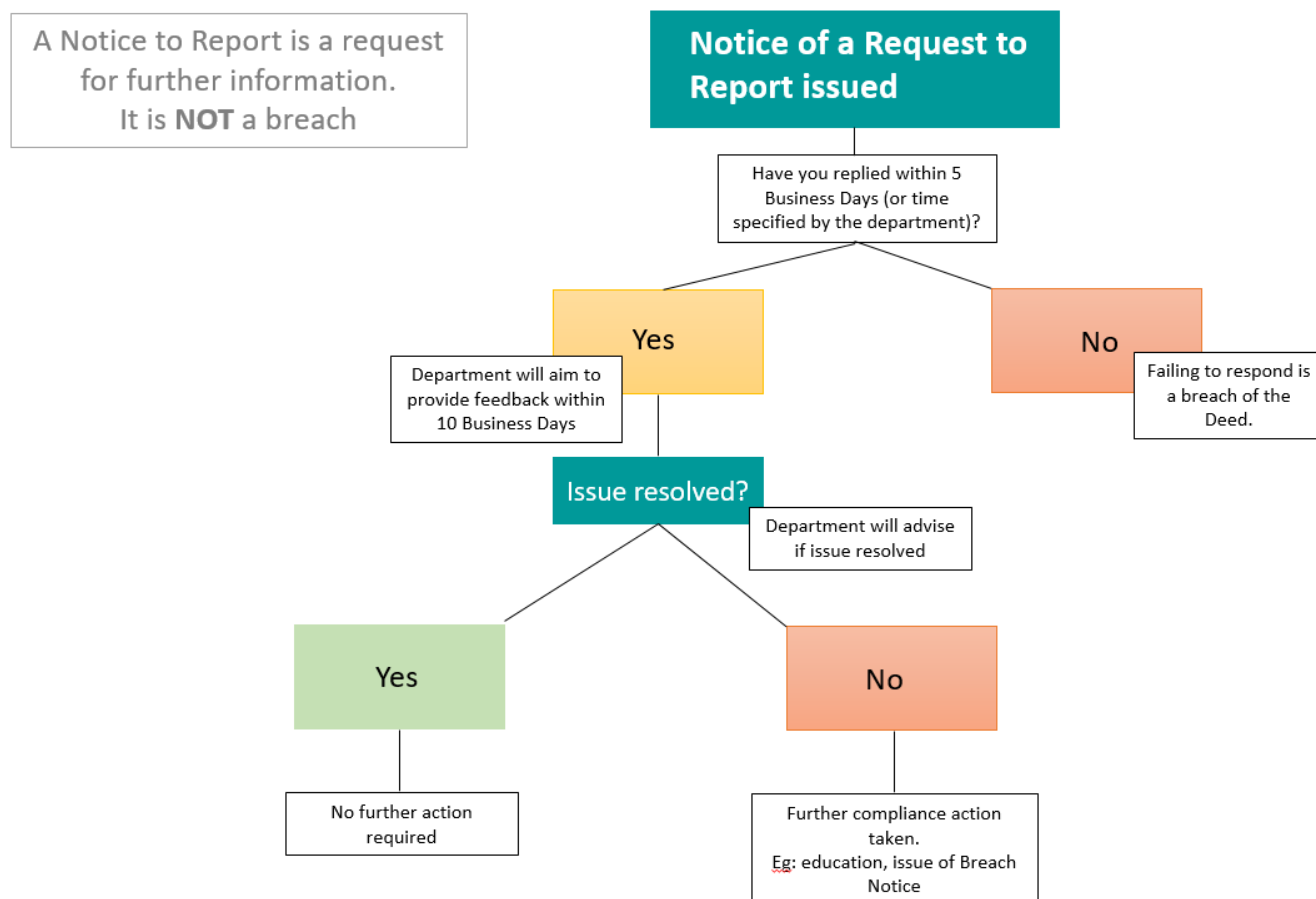
A Notice of a Request to Report is a request for further information, it is **not** a breach itself, however, it may be issued in association with a breach or as a result of a failure to deliver a Report (where such a failure may be a breach of the Deed). A Notice of a Request to Report is a formal request for information under the Deed. It can also be issued to help to clarify a matter.

Where the Approved Employer is able to demonstrate they have complied with their obligations, no further action may be needed and the matter closed. Where the information indicates a breach may have occurred, further information may be sought. Where a breach has been found, further action may be taken by the department.

At all times, You are free to contact your contract manager for further information on the Notice process.

The flow chart below shows the process if an Approved Employer is issued with a Notice of a Request to Report.

Diagram 4 – Flow chart general process where Notice of a Request to Report issued



An Approved Employer response to a Notice of a Request to Report **must** be returned to the department within five Business Days, unless otherwise specified in the Notice. A short notice period, such as five days, would generally only be set where the matter posed urgent concerns. The timeframe for response set out in the Notice of a Request to Report will be determined based on factors including the nature and number of issues under consideration.

If an Approved Employer fails to respond in a satisfactory manner within the timeframe specified, they may be considered in breach of the Deed.

A response may be considered unsatisfactory for a number of reasons, including if the response fails to provide the information requested, or if it is not written in English. If a response is not provided in the time specified this is a breach of the Deed in accordance with clause 24.3(d) of the Deed.

The department will aim to provide feedback to the Approved Employer within ten Business Days of receiving the Approved Employer's response. This may include seeking further information, confirming that the matter is resolved and providing education, or advising that further investigation into the matter is being undertaken by the department.

Any next steps would be taken in accordance with the Deed.



6.6 Referral of matters to other agencies

If information received or obtained by the department, such as through a monitoring visit, relates to an area of responsibility for another agency, the department will refer the matter along with the evidence obtained to the responsible agency, including the following:

- FWO – complaints relating to potential non-compliance with workplace laws, including pay and conditions
- state/territory Work Health and Safety Authority—complaints relating to an unsafe workplace or unsafe work practices
- ATO – complaints relating to tax and superannuation issues
- Home Affairs – potential breaches of the Temporary Activities Sponsorship by an Approved Employer or visa conditions by a Seasonal Worker, or other visa-related complaints; or
- state, territory or Federal police – potential criminal matters.

If a complaint is received by the department and is to be referred to another agency, the department will, where appropriate, advise the person or organisation making the complaint that their complaint has been referred and how they can follow up with that agency. The department will also advise, where appropriate, the Approved Employer of the complaint and how they can contact the agency it has been referred to for further advice, including on their processes for reviewing the matter.

Where investigation (or otherwise) by a responsible agency determines a breach of the laws or requirements that the agency administers has occurred, this will be considered by the department, where appropriate, as part of any review undertaken.

6.7 False and misleading information

Where an Approved Employer has been found to have engaged in misleading or deceptive conduct or omitted to provide true and accurate information to the department, the department will undertake the appropriate corrective measures consistent with the Framework in accordance with clauses 7 and 24 of the Deed.