

Briefing for the Small Business Trade Association Forum

Migrant workers: (1) making sure non-English speakers get the health and safety information they need; and (2) using workers supplied by agencies

1. Health and safety information for non-English speakers

Publications and future work in this area

HSE already provides some of its leaflets for **workers** in other languages (see <http://www.hse.gov.uk/languages/index.htm>), and can provide others where there is a demonstrable need, and a means of getting the information to the workers. Our proposed Language Standard aims to provide core information in Urdu, Bengali, Chinese, Gujarati, Panjabi and Polish.

For small business **owners and managers**, leaflets are also available in a range of languages. The proposed Language Standard will make Urdu, Bengali and Chinese the priority for any further translation of our core guidance.

The Construction Confederation has already produced guidance on managing the health and safety needs of non-English speaking construction workers (see 'Managing the health and safety of non-English speaking personnel on construction sites', Construction Confederation May 2002).

We are proposing to work with the Engineering Employers Federation during 2006/07 to provide fuller guidance on the practicalities of delivering information and instruction to non-English speaking migrant workers. We would welcome examples of good practice, and discussion of particular problem areas, from SBTAF members and contacts: please contact Jeremy Bevan (tel: 02476 698360; e-mail jeremy.bevan@hse.gov.uk)

What the law says

Health and safety information and instruction needs to be 'comprehensible' (this is the word used a number of times in the Management of Health and Safety at Work Regulations 1999). This means they should be given in a language the worker understands, **which does not have to be English**. If information and instruction did have to be given in English, employers would have the difficult task of trying to decide, at a job interview, whether prospective employees had good enough English to be employed, regardless of other skills that made them suitable workers.

How to make sure information and instruction in languages other than English are given properly

Giving information and instruction in other languages needs to be done carefully. Bear in mind that speakers may not be literate, even in their own language. Suitable means of providing information and instruction include:

- Using an existing worker, who already has a good knowledge of both the workplace and the information/instruction that new workers need to be given, to interpret or translate. If you do this, you need to make sure the existing worker clearly understands what you want him/her to get across, and sticks to it. Be prepared to assist the translator/interpreter in answering any questions the new worker may have;
- If you are in an area of the country where there are lots of migrant workers, there may be a community group from the worker's country of origin who could assist with translation or interpretation. The disadvantage of this is that the association probably won't be familiar with your workplace, so some familiarisation may be necessary first;
- Use audio tapes or videos, especially if workers cannot read;
- Use internationally-understood pictorial signs where possible;
- If you do have to deliver material in English, use training materials that are as simple as possible, including visuals. Deliver the material slowly, and allow time for questions – they can be a valuable indicator of how much sense people are making of what they are being told;
- Consider English-language courses for longer-term workers.

Checking understanding – the importance of supervision

Once you've given new migrant workers information and instruction, along with any necessary practical training, you still need to check that employees have understood properly what they've been told. As with any other information and instruction, this is best done by observation, and you may need to ensure closer supervision of non-English speakers to begin with. Ideally, pair a newly-trained non-English speaker with a more experienced worker who speaks the same language; and if you can't do that, make sure supervisors stay alert to possible needs for further or re-training using other methods if need be.

2. Workers supplied by agencies who may be Gangmasters

Current and proposed future HSE work in this area

HSE has recently produced guidance for employers and labour providers, setting out as far as is possible their respective responsibilities in what can be a confusing area (see <http://www.businesslink.gov.uk/agencyworkers>). The fundamental principle to observe is co-operation between all parties involved, to make sure all relevant health and safety information is exchanged and clearly understood **before the worker's placement starts**.

We recognise that the guidance isn't definitive, and are working on case studies to supplement it, highlighting areas we know employers find particularly difficult (such as who pays for the provision of PPE for agency workers who may only be with the company for a short time).

HSE and EASI are involved in a project in the West Midlands (the Joint Workplace Enforcement Pilot) that is trying to detect and deter the

employment of undocumented or so-called 'illegal' migrant workers. We know that some of these are workers who have been employed through agencies/gangmasters, and the project will be taking a closer look in the near future at what agencies are doing to meet all their legal obligations in this area, including those set by the Home Office for worker registration (this applies to EU 'Accession State' nationals only) or employment on 'permit'-type schemes.

What the law says

HSE/Local Authorities, the Gangmaster Licensing Authority (GLA), and the DTI's Employment Agency Standards Inspectorate (EASI) have overlapping responsibilities in this area.

Under the Gangmaster Licensing Act 2004, the GLA licenses only those gangmasters supplying labour to the agricultural produce, food processing and shellfish harvesting sectors. Licence conditions include those for health and safety. HSE is represented on the Board of the GLA, and advises about these conditions where necessary.

It's not illegal for gangmasters to operate in other employment sectors. Both the EASI and HSE/LAs have a role (across all sectors) in ensuring that information about competence, qualifications needed for the work, health surveillance requirements and risk assessments/control measures are properly communicated between the agency (gangmaster), the labour user and the worker. Relevant regulations are the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (enforced by EASI) and the Management of Health and Safety Regulations 1999, especially regulations 12 and 15 (enforced by HSE/LAs).

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