## 

## MANAGING MIGRANT WORKERS

## Introduction

A migrant worker is a worker who has come to work in the UK or Ireland within the past five years. Foreign workers have long been used by employers and are a vital labour source for some industries. The recent growth of the European Union has increased the number of people allowed to work in the UK and Ireland. The result has been a significant growth in the numbers of foreign workers.

The UK Border Agency requires employers to check that all prospective workers' are entitled to work in the UK before employing them. There are strict penalties for employing illegal workers. Where you are found to be employing an illegal worker, albeit unwittingly, to avoid penalties you will need to show that you have done all that you could to prevent illegal working. Passports and work permits (where needed) should be checked and copies kept on file. Comprehensive guidance and a checking service can be found on the UK Border Agency website at <http://www.ukba.homeoffice.gov.uk/employers/employersupport/ecs/>

Similarly the Irish government has imposed restrictions on the employment of migrant workers. Workers from the European Economic Area do not require work permits unless they are from the new EU member states of Romania and Bulgaria. Information on the detailed rules currently in force is available from the Department of Enterprise, Trade and Employment. The restrictions are enforced by the Garda National Immigration Bureau.

In health and safety terms one of the important issues to consider when employing migrant workers is their knowledge of the English language. Many can understand English better than they can speak it. This can be a problem in jobs where changing conditions require quick reactions to verbal communications. The inability to understand an instruction or to quickly give an instruction to a colleague could create a high risk to health and safety.

## Legal requirements

Employers have a duty under the Health and Safety at Work Act to provide so far as it is reasonably practicable to do so, all their employees with the appropriate instruction, information and training to enable them to do their jobs without risk of illness or injury.

If foreign workers do not have the language skills to understand the training and instructions given to them, employers will need to make arrangements to provide the information and instruction in a language that they do understand. Where there are significant risks from the job the employer must be certain that the risks and control measures are understood and that Line Managers are able to properly communicate with workers.

## Recognised Control Measures

Assessing the risks from work activities is a legal requirement, but it is also the key to managing the health and safety of migrant workers. The assessment should assess factors in the workplace which could cause harm to employees. It allows an employer to weigh up whether enough precautions have been taken or whether more are needed to prevent harm. Once the risks and those exposed to them have been identified, suitable control measures must be determined and implemented.

## Language Issues

There are concerns that migrant workers, unfamiliar with our native language and the health and safety laws and practices in the UK and Ireland may end up in a more hazardous situation than native workers. They may be involved in high risk work activities without adequate protection or sufficient information, instruction and training or they may completely misunderstand the instructions and training they have been given. In high risk tasks they may themselves put others at risk because they are unable to quickly understand or give essential instruction or direction.

Thorough, but easy-to-understand instruction, information and training is vital if migrant workers are to stay healthy and safe at work. Language has been found to be one of the biggest obstacles affecting migrant workers’ health and safety. English is not normally their first language, and whilst some may speak English they may not really understand the full measure of what they are told. Many can speak English and hold a limited conversation but are unable to read or comprehend what they read. Consequently non-verbal methods of communication such as signs and pictures detailing warnings and hazards can be very useful as they can be interpreted by workers from many countries.

It is essential that migrant workers are properly supervised by people who can understand the workers and who, in return, are understood by the workers.

Information and training can also be presented to non-English speaking workers in their native language through videos and DVDs. Alternatively a translator may be useful to ensure understanding and answer any potential questions posed. An existing bilingual employee may be used to translate simple non-technical information, but for more technical information, an accredited translator is recommended. Some companies have organised language training sessions led by a tutor from a local language college.

Full induction training should be provided to all workers, on commencement of employment which provides relevant information about the risks to which they may be exposed and the precautions they will need to take to avoid those risks. If procedures change or new equipment is purchased, employers must ensure that all workers understand the changes and any safety implications this may have. Employers must make sure workers have received and understood the information, instruction and training they need to work safely and consider how to ensure it is acted upon. Employers also have a duty to ensure workers are adequately supervised and can communicate with their supervisors. All workers should know where and how to raise any concerns about their health and safety and about any emergency arrangements or procedures.

Another issue that may pose a significant risk to migrant workers is unfamiliarity with personal protective equipment. They may need extra training in the use and maintenance of personal protective clothing and equipment.

The competency of each worker must be assessed prior to employment, in terms of literacy, numeracy, physical attributes, general health and relevant work experience, including evidence of qualifications etc. However, it must be remembered that many vocational qualifications achieved abroad are not recognised or valid in the UK or Ireland.

Although tests to assess a migrant applicant’s standard of written and oral English are advisable they must be applied to all candidates regardless of nationality to avoid accusations of discrimination. Moreover, the tests should not go beyond assessing the candidate’s ability to fulfill the job description. Overly onerous tests could again be seen as potentially discriminatory.

In summary measures to protect the health and safety of workers where part of the workforce is made up of migrant workers are likely to include;

* making sure that non-English speakers are not required to work alone and are not allocated to safety critical roles;
* Making sure that migrant workers have the necessary knowledge and skills to competently and safely carry out the work for which they have been employed
* allocating lower hazard, lower risk work to non-English speakers;
* increasing the level of supervision;
* making sure training is understood rather than grasped (training may take longer than for English speakers);
* using pictorial signs throughout the workplace;
* using an existing bilingual worker to translate simple, non-technical information;
* using external translators for important and safety critical written documents to ensure that the intended instructions and messages are not lost in translation; and
* providing English classes for long-term workers.

## Working Patterns

Many migrant workers are often willing to work very long hours. But regularly working long hours can increase the risk of suffering injury or illness. Workers who routinely work long hours are 66% more likely to be hurt or become unwell. Working long hours can also lead to increased levels of stress, resulting in irritability, exhaustion and depression. (see also **Guidance note 5-5 Working Time, Night Work and Shift Working**.)

Where working long hours is a necessity, consider changing work patterns by revising work schedules and creating rota schemes. Flexible working arrangements and job redesign could also be considered. Work cultures and workers’ individual behaviours may also be influential factors and can be altered by implementing training and development programmes to improve time management and delegation.

Similarly, migrant workers may also be undertaking more shift work and consequently suffering from the adverse effects of this pattern of work such as tiredness, irritability, depression and inattentiveness. This could lead to a lack of concentration which could have severe health and safety consequences for the individual. A specific risk assessment should be carried out identifying the problems employees may face as a result of out of hours working.

Labour suppliers – Gangmasters.

If an independent labour provider or agency is used to supply workers, then a thorough evaluation of the company will be required. Insurance details, safety policies and references will all need assessing. Additionally, it may be worthwhile looking at their management system to find out how they assess the workers they supply to companies for work and how they audit the workers once placed in a company. (see also **Guidance note 1-19 Employing Agency and Temporary Staff**.)

Labour suppliers in agriculture, horticulture, forestry, shellfish gathering and the preparation and packing of food and drink are required to be registered with the Gangmaster Licensing Authority. It is illegal for employers in those industries to employ workers through a labour supplier who is not so registered. Further information can be found on the authority’s website [www.gla.gov.uk](http://www.gla.gov.uk). (see also **Guidance note 1-16 Supplying Agency and Temporary Staff**.)

Further advice and guidance on any of the issues associated with managing the health and safety of migrant workers or the advice contained in this guidance note is available from our 24 Hour Advice Service.

* In Great Britain call 0844 892 2772 option 2;
* In Northern Ireland call 0844 892 2786 option 2;
* In the Republic of Ireland call 01 855 5050 option 2; or
* Use the ‘Advice-Request Advice’ tabs in our on-line SafetyWise or BusinessSafe systems.

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