

Nowhere to turn- CAB evidence on the exploitation of migrant workers

Summary

Citizens Advice Bureaux (CABx) help people with almost 600,000 employment problems a year. Many workers seek our help because they have not been fairly treated at work, often their minimum legal rights to paid holidays, sick leave and maximum working hours are being flouted. CABx have reported many such cases where the workers involved are migrants, often from other EU member states, working in care homes, cleaning jobs, hotels and restaurants as well as in agriculture and food processing. These migrant workers are the most vulnerable to exploitation. Brought to the UK in the expectation of fair pay and working conditions, their dreams become nightmares. They fear to complain in case of dismissal and simply have nowhere to turn for protection. As the Government itself recognises, this amounts to “a modern-day slave trade, exploiting migrant workers and undercutting UK employees”.

Citizens Advice believes that all workers in the UK, including migrant workers, now need better protection from employers who break the law. A proper enforcement regime is needed – the UK is the only EU member state without an independent body for workers to turn to for protection.

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Introduction

The Government states that, since 1997, it has “worked hard to achieve a better deal for all working people” by establishing “a framework of decent workplace standards”.¹ This ‘framework’ has

¹ *Know your rights: employment relations information for workers*, DTI, 2003.

“given people at work essential rights – rights to a National Minimum Wage, rights to trade union recognition, rights for part-time workers, [and] rights to paid holiday.”

Undoubtedly, millions of workers in the UK are now benefiting from these and other new employment rights - such as the right to apply for more flexible, family friendly working arrangements - and indeed from the Government’s enhancement of long established rights, such as those to maternity leave and pay.

However, hundreds of thousands – quite possibly millions – of the most vulnerable and low paid workers in the UK economy have yet to benefit from this strategy. For these workers, many of them performing unglamorous but essential tasks, the Government’s vision of a labour market underpinned by an “infrastructure of decency and fairness” remains exactly that – a vision. And, as later chapters of this report seek to demonstrate, for some it is nothing less than a nightmare.

But it is not only workers who are losing out. Good employers lose out if their competitiveness is undercut by the bad, and the power of the market place can easily lead to a rapid downward spiral of wages, conditions, and workplace safety. This is especially true when the workers concerned are *migrants* – as the tragic death of 19 cockle-pickers in Morecambe Bay in February 2004 so dramatically illustrated.

The reason for this is simple: no arm of Government has been given overall responsibility for enforcing the employment rights introduced or enhanced since 1997. As a result, the UK remains the only EU country without an enforcement body charged with ensuring that employers comply with their legal obligations. In practice, ignorant, unscrupulous or criminally exploitative employers – of whom there are evidently far too many – can deny workers their legal rights with near impunity.

As the social commentator Polly Toynbee has put it, in the UK there is simply “no place for the exploited to turn”.²

The enforcement of employment rights in the UK

In the absence of such an enforcement body, the only legal remedy available to workers denied one or more of their workplace rights is the making of a claim to an Employment Tribunal. But the process is dauntingly legalistic and adversarial, the cost of legal

² *The Guardian*, 11 February 2004.

representation prohibitive – there is no ‘legal aid’ – and the likely value of any resultant compensation relatively small.

More to the point, for many workers the protection supposedly offered by the Employment Tribunal system is rendered meaningless by the fear of being victimised or dismissed for making a claim to a Tribunal, or even just for raising the matter with one’s employer. Although a worker dismissed for such reasons can make a Tribunal claim for unfair dismissal, if he or she is low paid then the amount of compensation awarded – assuming the claim is successful – is likely to be just a few hundred pounds. And such a sum would represent scant compensation for the loss of their job – especially if their age, skills, disability, family responsibilities or immigration status limits their chances of finding suitable alternative employment.

In this context, migrant workers are not only most likely to be non-unionised, but are most unlikely to resort to the Employment Tribunal system to enforce their workplace rights. Many speak little if any English, have little if any knowledge of their workplace rights, and have little if any awareness of how to go about seeking legal advice and/or asserting their legal rights. As a result, they are extremely vulnerable to exploitation by unscrupulous or criminally exploitative employers. And this is especially true of those migrants who are, or who believe themselves to be, working illegally.

The one exception to this situation is the right to the National Minimum Wage (NMW). The introduction of the NMW in 1999 was accompanied by the establishment of an enforcement agency within the Inland Revenue. The agency operates a national NMW Helpline, investigates complaints (including anonymous complaints) from both individual workers and third parties, and conducts unannounced, on-site inspections of selected employers “about whom no complaints have been made to check that they are meeting their obligations under the minimum wage”.

The Government has stated that it established this *pro-active* enforcement regime for the NMW because it did not want workers “to have to rely on taking action against their employer themselves, as intimidation or fear of losing their job could prevent a worker from making a complaint [to an Employment Tribunal]”.³ And, despite its very limited brief and resources, there is consensus that the Inland Revenue enforcement agency has “a good record of pro-active enforcement on behalf of vulnerable people”.⁴

³ *National Minimum Wage Annual Report*, DTI/Inland Revenue, September 2003.

⁴ *Workers’ rights and wrongs: the case for a new approach to employment rights and support for workers*, IPPR, September 2001.

A key feature of such a pro-active approach to the enforcement of workplace rights is that it can tackle non-compliance that affects more than one individual. For, where an employer is deliberately or inadvertently denying statutory rights, it is extremely unlikely that only one person is affected and only one right being breached. But perhaps the most important lesson that can be drawn from the work of the NMW enforcement agency since 1999 is that, because much non-compliance by employers is inadvertent, or at least not deliberately exploitative, the mere intervention of the agency is in most cases sufficient to achieve full and willing compliance.

Citizens Advice has consistently argued that this pro-active enforcement approach should be both intensified and extended to other basic workplace rights, including some of the 'work-life balance' rights introduced or enhanced since 1997. Equipped with equivalent powers of investigation and enforcement as the NMW enforcement agency, a Fair Employment Commission could work to maximise employer compliance, eliminate the exploitation and intimidation of the most vulnerable workers, and reduce the potential workload of the Employment Tribunal system.

At the same time, the Commission could work to educate both workers and employers about those rights for which enforcement – whether by the Commission itself or through the Employment Tribunal system – is not so appropriate. For example, changing attitudes to child-care responsibilities and 'flexible' working depends far more on increasing awareness of the productivity and other benefits of such 'work-life balance' policies, and ultimately on changing workplace culture, than it does on actual enforcement.

Migrant workers: the most vulnerable of all

This report sets out the evidence from the advice work of Citizens Advice Bureaux (CABx) relating to employers' exploitation of the most vulnerable of all – migrant workers. The UK needs migrant workers to "help fill skill gaps and the 550,000 vacancies in our labour market", especially in the hospitality, cleaning, agriculture, food processing, care home and construction sectors, where there are severe labour shortages.⁵ Indeed the Government's contention that "effectively managed legal migration is vital to Britain's economic and social interests" is now widely accepted.⁶ Migrant workers not only contribute more in taxes than they 'cost' in taking

⁵ The Rt Hon David Blunkett MP, Home Secretary, quoted in Home Office news release 069/2004, 23 February 2004.

⁶ The Rt Hon David Blunkett MP, Home Secretary, in a speech delivered on 12 November 2003 (Home Office news release 309/2003).

up public services, but “provide the muscle that moves the economy”.⁷

More than 200,000 migrant workers, mostly highly skilled professionals, enter the UK every year on work permits or via sector-based schemes for hospitality, manufacturing and seasonal agricultural workers. But continuing restrictions on the inward migration of *low skilled* workers, together with the incessant downward pressure on commodity prices exerted by the major retailers, has resulted in ever greater numbers of employers in labour-intensive, low-wage sectors of the economy resorting to the employment of both legal and illegal migrants.

Sometimes such employment is direct, but more often than not it is through sub-contracts with one or more employment agencies or, in the agriculture, food processing and cleaning sectors especially, gangmasters. Many of these agencies and gangmasters are all too ready to engage in poor and illegal employment practices – indeed, some are clearly run as criminal enterprises. The activities of such unscrupulous ‘middle men’ can soon lead to a downward spiral of wages, conditions and workplace safety, with even good employers facing irresistible pressure to ‘cut corners’ and ‘ask no questions’ in order to make a profit.

In September 2003, an inquiry by the Environment, Food & Rural Affairs Committee of MPs concluded that, in the agriculture sector alone, “a significant number of gangmasters are involved in illegal activity including the non-payment of taxes; the employment of illegal workers from abroad, who are often housed in appalling conditions; and the flouting of employment legislation”. The Committee further concluded that “the dominant position of the supermarkets in relation to their suppliers is a significant contributory factor in creating an environment where [such] illegal activity can take root”, and described the action taken by government to date to be “woefully inadequate”.⁸

In our written submission to the Committee’s inquiry, we noted that the evidence from CABx relating to the exploitation of migrant workers by gangmasters and employment agencies is not confined to the agriculture sector. CABx report very similar problems arising from the activities of gangmasters in the hospitality and cleaning sectors, especially in relation to motorway service stations, in the food processing sector, and in a variety of small-scale manufacturing industries. Indeed, there is evidence that many

⁷ Andrew Simms, “The new serfs”, *New Statesman*, 16 February 2004.

⁸ *Gangmasters*, Fourteenth Report of Session 2002-03, House of Commons Environment, Food & Rural Affairs Committee, HC 691.

gangmasters operate in more than one sector, with workers being transferred between a variety of low-skilled jobs.

Moreover, CABx report very similar problems arising from the activities of employment agencies – as opposed to gangmasters, although the distinction is in many cases a narrow one – in all of these sectors and in others such as the care home sector. From this advice work, a number of common themes emerge:

- The misleading recruitment of workers in their own country on false promises of good pay, conditions, and housing (with the latter provided by the agency or gangmaster);
- The arrangement of, and payment for, travel to (and usually from) the UK by the agency or gangmaster;
- A reality of extremely long hours, low gross rates of pay and substandard accommodation;
- The making of excessive deductions from pay in respect of accommodation, transport between the accommodation and place(s) of work, utilities (such as gas and/or electricity), and repayment of the cost of travel to the UK;
- An almost invariable failure to provide a contract of employment and/or proper pay slips, and denial of other basic employment rights (such as those to paid holiday, maternity leave and pay, and Statutory Sick Pay);
- Considerable uncertainty and confusion about who is actually the worker's employer, and a frequent failure to ensure that the worker has a National Insurance number, with the apparent non-payment (by the employer) of tax and National Insurance contributions; and
- The summary dismissal, and immediate eviction from any associated accommodation, of workers who assert their legal rights or otherwise 'rock the boat'.

This lamentable situation is in no one's interest. But without the means for effective enforcement of workplace rights, it can only continue and, indeed, is likely to worsen. It is time to move to a modern, pro-active system of enforcing basic standards at work that targets, and seeks to eliminate, rogue employers.

The following chapter of this report sets out some of the evidence submitted to Citizens Advice since 1 January 2003 in relation to the

apparent exploitation of migrant workers – both legal and illegal – in the care home, cleaning, hospitality, agriculture and food processing sectors.

The care home sector

Due to a chronic shortage of suitably qualified workers willing to work for the low wages on offer by care homes, the sector has been a major user of migrant workers for many years now, during which CABx have reported many cases of exploitation. From this extensive advice work, a number of common themes emerge:

- The recruitment of qualified nurses and other care workers in their own country and their legal entry to the UK, on a valid work permit arranged by the employer or an employment agency, usually with the promise of an opportunity to acquire UK nursing or other professional qualifications;
- A reality in which both pay and the grade of work turn out to be lower than promised at the time of recruitment; and
- The retention (by the employer) of the worker's passport in order to deter dissent and facilitate intimidation.

The majority of the workers concerned are female, usually qualified as nurses in their own country and seeking to obtain highly-prized UK nursing qualifications through six-months' work as an Adaption Nurse. However, upon arrival in the UK, the majority of those who seek help from CABx find themselves put to work as care assistants, largely undertaking relatively menial tasks such as cleaning, and on a salary significantly below that promised at the time of recruitment (and cited on their work permit).

Tynedale CAB in Northumberland reports being approached in March 2003 by a young Indian woman who had been recruited in Bombay to work in a local care home for 12 months. Although her contract specified working hours of "up to 48 hours" per week, in practice she regularly worked 54 hours per week and sometimes 66 hours per week, for no extra pay. The client was "desperately unhappy".

A Macedonian man who sought advice from Farnham CAB in Surrey in June 2003 had entered the UK on a work permit to work as a nurse at a local care home, on an annual salary of £17,000. However, upon arrival in the UK he had been required to sign a new contract, to work as a care assistant on an annual salary of just £10,000. According to the client, the same had happened to a number of his colleagues at the care home.

Camberley CAB in Surrey reports being approached by a Phillipino nurse working at a local care home. The work permit on which she had entered the UK to take up the job cited an annual salary equating to an hourly rate of £7.69 per hour, but since arriving in the UK ten months previously she had been paid only £5.50 per hour.

A further common theme of such cases is the extreme reluctance of the workers concerned to take any action against their employer, for fear of losing their job and thus jeopardising their work permit.

North Wiltshire CAB reports the case of a South African woman who had entered the UK on a two-year work permit to work as a care assistant in a local care home. In practice, she was mostly required to do menial work such as cleaning, and had also been told by the owner of the home that she would not qualify for paid holiday until she had been working for 12 months. In its report to Citizens Advice, the bureau notes "the client is very unhappy at work but feels powerless to do anything because of the risk that she may be sacked if she does".

Two Phillipino women who sought advice from King's Lynn & District CAB in Norfolk in October 2003 had entered the UK on two-year work permits to work as care assistants in a local care home. In practice, they were required to work 80 hours per week, including 40 hours in a second care home not listed on the work permits, for a total of £75 per week plus accommodation in one of the care homes.

The clients received no paid holiday, and on several occasions had been ordered out of bed in the middle of the night to undertake domestic tasks for the owner. In its report to Citizens Advice, the bureau notes that the clients were "angry and distressed that they can be exploited like this ... but are too afraid to do anything as they are sending money back home to pay for their children's education" and so did not want to risk being dismissed.

The cleaning sector

The cleaning sector has long been the subject of reports from CABx about the exploitation by contract cleaning companies of both indigenous and migrant workers, but a relatively recent phenomenon is the recruitment abroad of migrant workers by employment agencies and gangmasters to work as cleaners (and sometimes also as kitchen staff) in motorway service stations.

Northampton CAB reports being approached by a Portuguese man who had been recruited in Portugal to work as a cleaner at motorway service stations. For providing the client with accommodation – a share of a room in a house – his employer deducted £200 from his monthly wages of £600. The client had received no contract of employment, no pay slips and, as far as he was aware, no National Insurance number.

A Portuguese man who sought advice from Winchester CAB in Hampshire had been brought to the UK to work as a cleaner and kitchen assistant in motorway service stations. He had now been told that he had to relocate to Northampton or “accept dismissal”. In its report to Citizens Advice, the bureau notes that this client is just one of many Portuguese clients, brought to the UK to work as cleaners and/or kitchen staff in motorway service stations who have approached the bureau about their poor working conditions and/or detrimental treatment by their employers.

As in other sectors, these agencies and gangmasters often provide such workers with tied accommodation, with the attendant risk of a problem at work leading to the worker becoming homeless. For example:

Petersfield CAB in Hampshire reports being approached in May 2003 by a Portuguese man who had been brought to the UK by a London-based contract cleaning company to work as a cleaner in a local hotel, where he had also been provided with accommodation. Earlier that day the client had developed severe back pain and, after taking a taxi to a local GP, who had advised him to rest for one week and issued him with a medical certificate. However, upon returning to the hotel his supervisor had told him that, if he couldn't work, then he had to leave the accommodation immediately.

One seemingly common exploitative practice in this sector is the recruitment, as part-time cleaners, of foreign students at UK universities and colleges, who are then simply not paid for the work undertaken. Having been led to understand that their wages would be paid in arrears, some students work for weeks or even months before finally realising that they have been conned, and resigning.

Oxford CAB reports being approached in July 2003 by three post-graduate students – two of them Chinese, the other Korean - who had all been employed as part-time cleaners by a local contract cleaning company. All three clients had been

told that they would be paid fortnightly, at a rate of £6.00 per hour (with double pay on Sundays and bank holidays). However, despite having worked for the company for one, three and three months respectively, none of the clients had received any pay. In its report to Citizens Advice, the bureau notes that "it seems the company promises the wages, then uses delaying tactics to avoid paying any monies, and waits for the students to resign".

Similarly, a Swedish man of Somali origin who sought advice from Bristol CAB in August 2003 had worked full-time as a cleaner for a local contract cleaning company for two months without receiving any pay. And two Korean students who sought advice from Eastbourne CAB in June 2003 had worked as part-time cleaners for a local contract cleaning company for nine weeks without receiving any pay.

The Home Office Immigration & Nationality Directorate (IND) has confirmed to Citizens Advice that foreign students on courses lasting more than six months are legally able to work for up to 20 hours per week during term time, even though the Immigration Service stamp in their passport may state that they are prohibited from working. As Eastbourne CAB concludes in its report to Citizens Advice, "[cleaning] firms such as this appear to think that they can get away without paying wages because of this lack of clarity about foreign students' right to work whilst in the UK".

The hospitality sector

As with the cleaning sector, the hospitality sector – that is, hotels, bars, restaurants etc – has long been the subject of reports from CABx about the exploitation of both indigenous and migrant workers. However, in recent years, the extremely low rates of pay in the sector have led to a severe labour shortage, which has largely been met by the recruitment of migrant workers.

A Spanish woman and her husband who sought advice from Bicester CAB in Oxfordshire in March 2003 had been recruited in Spain, by an employment agency, to work at a local hotel. Despite having worked at the hotel for six months, they had received no contract of employment and no pay slips, and were being paid less than the National Minimum Wage.

Bristol CAB reports being approached in August 2003 by a Thai man who had entered the UK on a five-year work permit some two years previously to work as a chef in a local Thai restaurant. Although the client's work permit cited an annual

salary of £11,000, he was being paid only £150 for a 60-hour week (equating to £9,000 per year and just £2.50 per hour – i.e. £1.70 less than the then National Minimum Wage of £4.20 per hour). The client had received only two weeks' paid holiday per year (two weeks less than the statutory minimum), and had also received no Statutory Sick Pay in respect of a recent two-week period of (certificated) illness.

A Ukrainian man and woman who sought advice from Holborn CAB in London in May 2003 had both been working at the local branch of a national restaurant chain for the past four years. During this time, they had received no paid holiday.

Newark & District CAB in Nottinghamshire reports being approached in September 2003 by a Portuguese man who had been working as manager of a local fish-and-chips shop for the past seven months. The client had received no contract of employment, pay slips or paid holiday, and was being paid £200 for a 60-hour week (i.e. some £1.20 per hour less than the then National Minimum Wage). The client was unwilling to take any action for fear of losing his job.

A young Spanish woman who sought advice from Sevenoaks CAB in Kent in November 2003 had been informed by her employer – a local hotel – that she would not qualify for paid holiday until she had worked for six months. It appeared to the CAB that the client was also being paid less than the National Minimum Wage.

The agriculture sector

Most of the CAB evidence on problems experienced by migrant workers in the agriculture and horticulture sectors has come from CABx in East Anglia, where the local economies are dominated by these industries. This evidence indicates that these gangmasters present as 'employment agencies' who bring migrant workers to the UK, typically on a six-month contract with accommodation (of some kind) provided and with travel to (and usually from) the UK also arranged and paid for by the agency.⁹

In these sectors, employment issues such as pay and terms and conditions are strongly interconnected with housing issues, due to the fact that, in most cases, the worker's accommodation is provided by the agency (or gangmaster). Much of this accommodation is of extremely poor quality, yet substantial

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Much of this evidence was set out in our submission to the inquiry into gangmasters by the Environment, Food and Rural Affairs Committee in 2003.

deductions are made from (already low) wages to cover accommodation costs, and also to cover transport costs. And, when a problem arises with the job, the worker also risks losing his or her accommodation, usually at extremely short notice. Although the tenancy agreements that CABx have seen suggest that some workers actually have assured shorthold tenancies, and should therefore be entitled to at least two months' notice, the vast majority have no copy of the tenancy agreement, and no rent book.

Bolton CAB in Lincolnshire and King's Lynn CAB in Norfolk, for example, both report dealing with a steady stream of clients – almost exclusively Portuguese – brought to the UK by employment agencies (or gangmasters) to work on local farms. From this advice work, a number of common themes emerge:

- low gross rates of pay, with 'take home' pay reduced – sometimes to negligible amounts – by excessive deductions for accommodation, transport between the accommodation and place(s) of work, and other costs (such as utilities or reclamation of the cost of travel to the UK);
- a failure to provide a contract of employment and proper pay slips, and denial of other basic employment rights;
- a failure to ensure that the worker has a National Insurance number, and the apparent non-payment (by the employer) of tax and National Insurance contributions;
- considerable uncertainty and confusion about who is actually the worker's employer;
- low quality and usually overcrowded accommodation;
- a general lack of understanding on the part of the worker of his or her legal rights and entitlements, often including a lack of understanding of his or her immigration status in the UK;
- the summary dismissal, and immediate eviction from the associated accommodation, of workers who complain or seek to assert their legal rights.

Bolton CAB further notes that "many of our clients cannot speak English [and] this lack of the local language is used by employers to take advantage of their workers". It concludes that "the vulnerability of foreign workers in our area is causing untold hardship". For example:

The CAB reports being approached in November 2003 by a young Portuguese man and his 17-year-old, heavily pregnant wife. The couple had been brought to the UK by an employment agency to work on local farms and had been provided with accommodation consisting of one double bedroom in a house shared with up to 17 other Portuguese workers. The couple had no tenancy agreement and, after deductions from the husband's wages of £90 per week for the accommodation, and £11 per week for transport, the couple were left with just £6 per week on which to live. In its report to Citizens Advice, the CAB describes the couple as "penniless, short of food, and living on charitable handouts".

Similarly, in February 2003 Felixstowe CAB in Suffolk reported being approached by a steady stream of Portuguese workers, mostly men, brought to the UK by an Ipswich-based employment agency: "when they get here they are housed in two separate buildings, up to four in a room, for which they pay £75 per week each. They are also charged travel costs for them to be taken to wherever they are to work. They are being paid at or above the National Minimum Wage but after deductions have been made for the accommodation and transport they are left with very little for food and other necessities."

However, such problems are by no means confined to East Anglia. There is also extensive evidence from CABx of similar problems faced by migrant agricultural workers in the South East, the Midlands, the South West, Wales, and Northern Ireland. For example:

Chichester & District CAB in West Sussex reports being approached in August 2003 by a Portuguese man who had been brought to the UK by an employment agency to work at a local horticultural firm. The client was expected to work 10 hours per day, seven days per week, and had been provided with a shared room in a former convent for which £45 per week was deducted from his wages. A further £18 per week was deducted for provision of an evening meal of "poor quality", over £3 per week for electricity and £1.14 per week for 'administration'. A notice displayed at the place of work warned that workers faced immediate dismissal if they complained about their terms and conditions to "outside organisations".

The client first approached the CAB after not being given any work for a week as 'punishment' for taking one day off sick.

Despite the warning notice at his workplace, the client was determined to make a complaint to the employer. He returned to the CAB the following day, having been summarily dismissed. In its report to Citizens Advice, the CAB concludes that "firms like this should be more effectively policed".

A young Spanish man who sought advice from Carmarthen CAB in Wales had been brought to the UK by an employment agency to work on local farms and provided with accommodation. He had never received any pay slips, and after querying deductions made from his wages and had been summarily dismissed and told to leave his accommodation immediately.

Wychavon CAB in Worcestershire reports being approached in August 2003 by a Ukrainian man who had entered the UK under the seasonal agricultural workers' scheme to work on a local farm. He had been led to believe that he would be paid £4.50 per hour, but in reality he received just £20 per day for a 10-12 hour day.

A Zimbabwean man who sought advice from Haywards Heath CAB in West Sussex in June 2003 had been employed by a national food produce company on various local farms for the past 15 months. He had never received a contract of employment, and was unsure of the terms of his employment. He had been provided with accommodation consisting of a caravan, which had no electricity or running water. Along with fellow workers, the client was expected to work seven days per week, and he had not had a single day off in the previous three months. He approached the CAB after being given one week's notice of the termination of his employment, which would also leave him homeless.

The food processing sector

As in the agriculture sector, in the food processing sector employment issues are strongly interconnected with housing issues, due to the fact that, in most cases, the worker's accommodation is provided by the agency (or gangmaster). Again, much of this accommodation is of extremely poor quality, yet substantial deductions are made from (already low) wages to cover rent, and also to cover transport to and from the accommodation to the place(s) of work.

Bognor Regis CAB in West Sussex reports being approached by a Portuguese man who had been recruited in Portugal to

work 50 hours per week in a local salad packing plant. The client's accommodation, provided by his employer, consisted of a small room shared with two other co-workers. However, since arriving in the UK, the client had generally worked only two days per week. He had recently attempted to raise this with his employer, only to be immediately dismissed and told to leave his accommodation. In its report to Citizens Advice, the bureau notes that "increasing numbers of EU citizens are arriving in the UK and being exploited by unscrupulous employers who prey on such workers' language difficulties and lack of knowledge of employment and housing laws".

Kerrier CAB in Cornwall reports being approached in June 2003 by a group of 13 Portuguese men and women who had been brought to the UK two months previously, by an employment agency, to work in a local bacon processing plant for six months. All 13 now wished to return to Portugal, having been grossly misled by the agency about their pay, terms and conditions, and tied accommodation, but they had no money and their tickets for a return flight to Portugal in October were non-transferrable. The agency had been deducting £40 per week from each client's wages for their accommodation – a caravan – and a further £12 per week for transport. The latter consisted of a single Ford Fiesta, provided by the agency, in which the entire group had to shuttle themselves from their caravan to the processing plant.

As in other sectors, a common theme to emerge from such cases is the extreme reluctance of workers to challenge their employer about their pay, terms and conditions or accommodation, for fear of losing their job.

Telford & Wrekin CAB in the West Midlands reports being approached by a Portuguese man working as a meat packer in a local meat processing plant. The client had recently suffered an injury requiring hospitalisation, and had been unable to work since that time. Since stopping work, the client had received no wages or Statutory Sick Pay, and the CAB also established that his previous wages were below the National Minimum Wage. However, as he hoped to return to work after recovering from his injury, he did not wish to take any action against his employer in case for fear of losing the job.

An Indian man who approached Bridgend CAB in Wales had entered the UK on a work permit to work as a manager in a local food processing plant. Although too nervous about

jeopardising his work permit to talk about his personal situation, the client described to the CAB how Indian workers are recruited to come to the UK, with the promise of good working conditions and housing, but are then required to work many more hours, and for less pay, than promised. The client further stated that such workers are "too frightened to stand up for themselves".

And, again, in all too many cases this fear has proved to be entirely justified. For example:

A Portuguese woman who sought advice from King's Lynn & District CAB in Norfolk in June 2003 had, together with her husband, been brought to the UK some eight months previously, by an employment agency, to work in a local yoghurt factory. Since arriving in the UK, both the client and her husband had regularly been required to work 12 hours per day. A few weeks before approaching the CAB, the client had realised that she was pregnant, and so had asked to work fewer hours. She was then moved, within the factory, to a job lifting heavy wooden pallets, but when she had protested about this she had been summarily dismissed, and the employment agency had then told her to leave her accommodation within three days.

Conclusions and recommendations

Despite the growing body of evidence of the exploitation – especially by rogue employers – of migrant workers in the UK, and its own recognition that this amounts to “a modern-day slave trade, exploiting migrant workers and undercutting UK employees”, the Government’s response to date has to date been somewhat limited, and has focussed almost exclusively on the operation of gangmasters in the agriculture sector.¹⁰

In 1997, the Government established an Interdepartmental Working Party on Gangmasters, tasked with considering what action could be taken to control the (illegal) activities of gangmasters. In a report published in June 1998, the Working Party recommended the piloting of co-ordinated action by the various government departments involved.¹¹ This led, later that year, to the launch of Operation Gangmaster in Lincolnshire and East Anglia. The Government has stated that this “good example of joint action by several Government agencies” is now being rolled out to other parts of the UK.

However, the results of Operation Gangmaster to date appear to be negligible. In September 2003, in its report on gangmasters, the Environment, Food and Rural Affairs Committee of MPs noted that “Operation Gangmaster appears to be little more than an umbrella term for a few local enforcement operations in which the various agencies have exchanged information. Five years after it was established Operation Gangmaster has had no significant resources allocated to it, has no targets and no Minister to take overall responsibility for its activities”. The Committee concluded that Operation Gangmaster “remains a woefully inadequate response to the complex enforcement issues arising from the illegal activities of gangmasters” in the agriculture sector.

In late 2003, following the publication of the report on gangmasters by the Environment, Food and Rural Affairs Committee of MPs, including evidence from CABx in East Anglia of particular problems relating to the seemingly widespread exploitation by local gangmasters of migrant workers from Portugal, the Department of Trade & Industry (DTI) produced a leaflet, in Portuguese, aimed at informing Portuguese migrant workers of their employment rights in

¹⁰ The Rt Hon David Blunkett MP, Home Secretary, quoted in Home Office news release 069/2004, 23 February 2004.

¹¹ These include: the Employment Agency Standards Inspectorate of the Department of Trade & Industry (DTI); the Inland Revenue; the Benefits Agency of the Department for Work & Pensions (DWP); Customs & Excise; the Inspectorate of the Health & Safety Executive (HSE); the Immigration & Nationality Directorate of the Home Office; and the Department for the Environment, Food and Rural Affairs (Defra).

the UK. The leaflet has since been widely distributed in both Portugal and the UK. Citizens Advice has warmly welcomed this initiative, but we note that there is a need for such information to be available in a wide range of languages used by migrant workers.

At the time of writing, a Private Members Bill on the licensing of gangmasters, prepared by Jim Sheridan MP with the support of the Transport & General Workers Union, is under consideration in Parliament. The Bill would create a system for the registration and licensing of gangmasters (specifically those carrying out work for and supplying labour in the agriculture, shell fishing, and food processing sectors), would make it illegal for gangmasters to operate without a license, and would make it illegal to use the services of an unlicensed gangmaster.

Again, Citizens Advice supports this initiative. However, the Bill's proposed licensing scheme would not address the arguably more widespread problems associated with employment agencies that fall outside the Bill's narrow definition of a 'gangmaster'. Past experience shows that such narrowly-focussed licensing schemes can easily be sidestepped by rogue employers and agencies. And, in the absence of a single enforcement body, there are doubts as to how such a licensing scheme would be enforced. The Government has argued, in its evidence to the inquiry by the Environment, Food and Rural Affairs Committee of MPs, that such licensing schemes are not effective, and the Committee itself was "not convinced that a statutory registration scheme offers a stand-alone solution to the problems of illegal gangmasters".

Citizens Advice believes that none of the above initiatives offers an effective solution to the widespread exploitation of vulnerable workers by employers and employment agencies. We believe that the task of eliminating such exploitation requires a serious and committed response by Government.

In our view, nothing less than the creation of a single enforcement body, with similar powers of investigation and enforcement to the existing National Minimum Wage (NMW) enforcement agency but with a much wider brief, will do.

The creation of such a body – or Fair Employment Commission – would be a substantial undertaking, and a major challenge for government. To be effective, it would need to be properly resourced, and the necessary funding is unlikely to be found within one departmental budget. But the potential prize – for workers, employers, trade unions and government alike – is great: making

the current good practice of some employers the standard practice of all, and eliminating the exploitation of the vulnerable.

Workers would benefit from enhanced access to their statutory rights, and from a better 'work-life balance'. Employers would benefit from the creation of a more level playing field, without risk of being unfairly undercut by a less scrupulous competitor, and from the availability of more practical business support services. There would be no new 'red tape', and good employers would have nothing to fear.

The trade union movement would benefit from the creation of a culture of *enforceable* rights, within which trade union recognition is more likely to flourish. The Government would benefit from the resultant reduction in the potential burden on the Employment Tribunal system. And all would benefit from the productivity gains and other economic and social benefits that could be expected to flow from better employment relations.

All this would be a substantial, long-term undertaking. We recommend that, as a first step, the Government establishes a cross-departmental Task Force on Fair Employment, led by a senior minister and charged with overseeing consultation with both workers' and employers' organisations on the role, functions and structure of a Fair Employment Commission.