



House of Commons
Environment, Food and Rural
Affairs Committee

Gangmasters: Government Reply to the Committee's Report

First Special Report

*Ordered by The House of Commons
to be printed 10 December 2003*

HC 122
Published on 17 December 2003
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Environment, Food and Rural Affairs and its associated bodies.

Current membership

Mr Michael Jack (*Conservative, Fylde*) (Chairman)
Ms Candy Atherton (*Labour, Falmouth and Camborne*)
Mr Colin Breed (*Liberal Democrat, South East Cornwall*)
David Burnside (*Ulster Unionist, South Antrim*)
Mr David Curry (*Conservative, Skipton and Ripon*)
Mr David Drew (*Labour, Stroud*)
Patrick Hall (*Labour, Bedford*)
Mr Mark Lazarowicz (*Labour/Co-op, Edinburgh North and Leith*)
Mr David Lepper (*Labour, Brighton Pavilion*)
Mr Austin Mitchell (*Labour, Great Grimsby*)
Diana Organ (*Labour, Forest of Dean*)
Joan Ruddock (*Labour, Lewisham Deptford*)
Mrs Gillian Shephard (*Conservative, South West Norfolk*)
Alan Simpson (*Labour, Nottingham South*)
David Taylor (*Labour, North West Leicestershire*)
Paddy Tipping (*Labour, Sherwood*)
Mr Bill Wiggin (*Conservative, Leominster*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at

www.parliament.uk/parliamentary_committees/environment_food_and_rural_affairs.cfm.

Committee staff

The current staff of the Committee are Gavin Devine (Clerk), Fiona McLean (Second Clerk), Dr Kate Trumper and Jonathan Little (Committee Specialists), Mark Oxborough and Louise Combs (Committee Assistants), Anne Woolhouse (Secretary) and Rebecca Flynn (Intern).

Contacts

All correspondence should be addressed to the Clerk of the Environment, Food and Rural Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3262; the Committee's e-mail address is: efracom@parliament.uk.

FIRST SPECIAL REPORT

The Environment, Food and Rural Affairs Committee reported to the House on *Gangmasters* in its Fourteenth Report of Session 2002–03, published on 18 September 2003 as HC 691. The Government's Reply to the Report was received on 8 December 2003.

When its Report was published on 18 September 2003 the Committee announced that it intended to return to this matter in Spring 2004. At its meeting on 10 December 2003 the Committee reiterated its intention to do so.

Government response

Introduction

1. The Government welcomes the Committee's report, which has raised the profile of the issue of abuses perpetrated by some labour providers. The Government's objective is to reduce significantly such abuses, in order to protect the rights of those employed by labour providers, to prevent revenue fraud, and to enable legitimate labour provider businesses to operate professionally within the law.
2. The Government welcomes the Committee's support for the work it is doing to define and promote best practice by labour providers and has extended this work consistent with the Committee's recommendations (see below under point 11).
3. The Government accepts that some of the individual points made by the Committee on Operation Gangmaster are valid and seeks to respond positively to these. In particular the Government accepts that current lines of Ministerial accountability are not as clear as they could be. From now on the DWP Minister responsible for preventing benefit fraud will take on lead responsibility specifically for Operation Gangmaster. In addition a Gangmaster Coordination Group of senior officials has been established, chaired by a Defra official and reporting to Defra's Food and Farming Minister to ensure proper coordination of both enforcement operations and policy development relevant to agricultural gangmasters (see below under points 8 and 9, and points 16 and 17).
4. However, Government does not consider that the basic approach to enforcement activity which Operation Gangmaster represents is wrong or inadequate. The nature of Operation Gangmaster is that it is intelligence-led. That means that it responds flexibly to information received by a range of enforcement agencies about non-compliance associated with gangmasters. Although gangmasters' origins are in agriculture and horticulture, they now operate across a range of economic sectors. Both gangmasters and workers may be working with fresh produce one week but dealing with furniture removals, construction or sandwich making the following week. Operation Gangmaster pursues enforcement against employers and employees operating in the informal economy where a coordinated interdepartmental response adds value. This is consistent with the approach recommended

by Lord Grabiner in his report on the Informal Economy in March 2000 which the Government accepted.

5. The Government accepts that there is room for improvement, particularly about ensuring compliance with the law. However there are powerful economic incentives pulling in the direction of non-compliance. That is why the Government is working with businesses throughout the food chain to gain a better understanding of the environment in which labour providers operate, and to devise mechanisms to promote good employment practice with the backing of all the businesses concerned.

6. As the Committee acknowledges, these are complex and genuinely cross-cutting issues. There is no single answer to the problems, as the Committee also implicitly acknowledges by the breadth of its recommendations. The Government accepts that this makes proper coordination of the range of food chain policy issues, informal economy enforcement activity and immigration policy issues imperative, and the Government responds positively to the Committee's recommendations in this area (see below under points 16 and 17). But the Government also believes that the ways it is tackling these issues are the right ones, and that the Committee has not put forward any evidence suggesting a need for a fundamental re-appraisal of policy.

Response to the conclusions and recommendations

Recommendation 1

Defra's response to criticism that, by its own acknowledgement it "does not have a sufficiently comprehensive view of the situation", is extremely disappointing. Moreover no Government Department appeared willing to take any responsibility for addressing the difficulties with gangmasters. We recommend that the Government commission a detailed study into the use of casual labour in the agricultural and horticultural industries. This study should not be used as an excuse to delay further any concerted policy action but should be used to inform ongoing policy solutions. It should publish its findings by March 2004.

7. The Government accepts that there is a role for a research project, but believes we need to be clear about what is already known, what is not, and what research might reveal. The original Inter-Departmental Gangmaster Working Party which published its report in 1998 estimated that there were some 2,000 gangmasters operating in agriculture and horticulture. Government officials told the Committee in evidence that this figure is now reckoned to be at the lower end of informed estimates and that the figure could be closer to 3,000, but that there are thought to be approximately 250 big players. We also know from the annual Agricultural Census roughly how many casual workers are employed in agriculture and horticulture (64,000 in June 2002). What we do not know is how many casual workers are employed packing horticultural produce in off-farm packhouses, because these are outside the scope of the agricultural census and the general Labour Force Survey does not separately identify this sub-sector. This is a gap which could usefully be filled by a research project, which could also identify likely trends in demand for such labour (recommendation 14). The Government is actively considering whether funding for such a project can be identified in the short term.

8. The other key issue that the Committee was seeking to get to grips with – how many gangmasters are operating legally and how many illegally - is unlikely to be amenable to answering through commissioned research. This is true not only in relation to agriculture and horticulture. Previous attempts to quantify the extent of illegal working across the economy as a whole have found it extremely difficult to make reliable estimates. The Defra and Ethical Trading Initiative-led project to define and promote gangmaster best practice is intended in part to address this issue. Following the planned trial of the draft code of practice for labour providers it is intended that this should lead to the setting up of an accreditation scheme which would identify (by independent audit) those operating to accepted standards.

9. Defra held a consultation meeting for labour providers supplying agriculture and the fresh produce trade in Peterborough on 9 October which was attended by 34 labour providers representing 24 companies, as well as canvassing views from a wider group of labour provider businesses. As part of that event, Defra commissioned a survey of those businesses. The report of that survey prepared by Dr Jennifer Frances of Cambridge University, while based on too small a sample to enable conclusions to be drawn about numbers of workers supplied by gangmasters/labour providers, offers interesting information about the nature of the labour provider businesses surveyed. Contacts Government officials have had with other labour providers before and since the Peterborough meeting suggest that these results are typical of the more professional labour provider businesses. Copies of Jennifer Frances' report and the survey results are attached for the Committee's information.

10. So the Government does not accept that no Department appears willing to accept any responsibility for addressing the difficulties. Defra accepts lead responsibility and has put in place a project both to provide better information about the extent of good and bad practice in the industry and to generate policy solutions. DWP and Home Office in particular have an important interest in this project and are cooperating actively with it (see Point 11). The Government has no intention of delaying any of this activity pending research.

Recommendations 2 and 3

We are convinced that the dominant position of the supermarkets in relation to their suppliers is a significant contributory factor in creating an environment where illegal activity by gangmasters can take root. Intense price competition and the short timescales between orders from the supermarkets and deliveries to them put great pressure on suppliers who have little opportunity or incentive to check the legality of the labour which helps them meet these orders. Supermarkets go to great lengths to ensure that the labels on their products are accurate, for example, whether they are organic or contain certain products. We believe they should pay equal attention to the conditions under which their produce is harvested and packed, and label it accordingly.

We ask the supermarkets to re-examine their policies in this area bearing in mind their own stated policies on corporate social responsibility. Supermarkets cannot wash their hands of this matter. We urge them to monitor their suppliers more closely, eliminate supply routes which rely on illegal gangmasters, and take action where illegal activity has been identified.

11. These points are directed at supermarkets and are for them to respond to.

12. However, the Government accepts the Committee's analysis that the frequently short timescales from order to delivery mean that casual workforces are often deployed in hours rather than days and that this makes it inherently difficult to carry out full checks on individual workers. One of the advantages of an independently audited accreditation scheme would be that this would make checking easier for labour users. The Government is sympathetic in principle to the issue the Committee raises about providing information to consumers about the conditions under which produce is harvested and packed, while recognising that this would be far from straightforward to implement.

13. The Government agrees that supermarkets' corporate social responsibility policies need to address the use of labour by their suppliers. This is a food chain issue that can only be effectively addressed by all the businesses in the food chain working together. There is some evidence to suggest that labour providers who want to operate legitimately currently face real difficulties in doing so. The key point to come out of both the consultation meeting and the survey results referred to in paragraph 9 above is that many labour provider businesses claim that they set out to operate within the law, but are put in a position where they feel forced to cut corners in order to stay in business because their customers are not prepared to pay a price for labour which reflects the full costs of, e.g. minimum wage, national insurance, sick pay, holiday pay, and compliance with other aspects of employment and health and safety law. The Government would wish all labour providers to operate within the law. The trial of the draft code of practice for labour providers in south Lincolnshire - which both labour users and supermarkets are actively cooperating with - will provide further evidence on this.

Recommendation 4

We recommend that the Department for Trade and Industry revisit the relationship between the supermarkets and their suppliers. The evidence we received during the course of this inquiry suggests that the code of practice recommended by the Competition Commission has failed. We welcome the OFT's review of the code. A more interventionist approach may now need to be considered.

14. The Government has noted the Committee's comments on supermarkets' relations with their suppliers. As the Committee has noted, the Office of Fair Trading is currently reviewing the existing Code of Practice to assess how well it is working and whether or not it needs to be changed. The OFT has gathered evidence from suppliers and supermarkets and is expected to complete its report later this year. The Government does not wish to pre-empt the findings of the review. We will wait for the review to be finished and in the light of the results, decide what changes are possible and necessary.

15. However, the Government would like to clarify that the Code was brought into force following an adverse public interest finding under the Fair Trading Act 1973. The Competition Commission found that there was a complex monopoly situation involving supermarkets with at least an 8% market share and that they carried out certain practices

which adversely affected the competitiveness of some of their suppliers and distorted competition in the supplier market.

16. The Code is aimed at remedying the adverse effects specified in the Commission's report. It is not aimed at remedying adverse effects in the area of employment now identified by the Committee's report.

Recommendations 5 and 7

More needs to be done to promote consumer awareness of the issues related to gang labour and identify those suppliers and supermarkets who subscribe to, and enforce, ethical employment practices. Such a development could have an effect on purchasing decisions in the same way that public demand is now growing for Fairtrade products.

We were concerned to note that of the three supermarkets which responded to our request for details of their policy on gangmaster labour, only one was committed to taking action against suppliers who did not comply with its required employment practices.

17. The Government accepts the logic of the first recommendation but recognises that it would be far from straightforward to implement. The setting up of an accreditation system for gangmasters as envisaged by the current Defra/ETI project would be a necessary starting point for defining ethical employment practices in this context. Once that is off the ground, there will need to be further discussions with retailers and others to consider how that might be extended to encompass information to consumers.

18. In relation to the second recommendation, the Government is encouraged to note that eight major supermarkets are working with us on the gangmaster best practice project and are actively contributing to this work to raise standards in the industry.

Recommendation 6

We welcome the work that the industry has carried out to develop codes of practice on the use of temporary labour. We also recognise the problems faced by those in the industry who are trying to monitor compliance with the codes. While they may have served some purpose in raising awareness of the problems within the industry, we conclude that it is unrealistic to expect the voluntary codes to prevent widespread illegal activity by gangmasters. The industry must be a major part of the solution; it cannot, however, be expected to stamp out illegal activity by gangmasters on its own.

19. The Government welcomes the Committee's acknowledgement of the role that the Fresh Produce Consortium and NFU codes have played in raising awareness of the problems within the industry. The Government agrees with the Committee that it is unrealistic to expect these codes to prevent illegal activity, and that the industry must be a major part of the solution but cannot be expected to stamp out illegal activity on its own.

20. In paragraph 31 of its Report the Committee relates a criticism made during private meetings with gangmasters that the Immigration Service (IS) is not equipped to assist employers to verify documents presented to them by prospective employees.

21. By way of background Section 8 of the Asylum and Immigration Act 1996 is the main control on illegal working from a migration perspective. Employers commit a criminal offence if they employ a person who is 16 or over, who does not have valid and subsisting leave to stay in the UK or whose leave prevents them from taking the employment in question. A statutory defence against prosecution is available to employers. It works by them checking and recording, before employing the person, one of a list of documents set out in secondary legislation. They must be satisfied that the document appears to relate to the person. The defence is forfeited if it can be shown that the employer knew they would be employing someone not entitled to do the job on offer.

22. The Government acknowledges that the level of support available to employers could be improved. The Immigration and Nationality Directorate has an Employers' helpline, available 7 days a week, to which initial enquiries about the validity of documents should be made. The Government will seek to ensure that this service is as effective as possible in providing the appropriate support.

23. Whilst the IS is also equipped to assist employers and many IS offices around the country have established good relationships with them in order to do this, it is not always possible for the IS to respond immediately to requests to verify documents. The IS must seek to maximise its use of resources in order to carry out its wide remit.

24. We do, however, want to encourage employers to be proactive in preventing illegal working and will respond to requests for assistance whenever possible and in a way that data protection requirements allow.

25. We do not accept that the onus on employers, to be satisfied that the document appears to relate to the person presenting it, is a heavy one. They are not expected to be experts in detecting forgeries and provided they can show they have so satisfied themselves, they will have a defence against prosecution. The Government's recent decision to take forward work on a national ID card scheme will be an important factor in helping employers identify legal workers in the future.

Recommendation 8 and 9

We are appalled by the lack of priority given to, and political accountability for, what is supposed to be the Government's co-ordinated response to illegal activity by gangmasters. 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. Nobody could give us a comprehensive picture of what Operation Gangmaster does, how much it has spent and what it has achieved. Far from being a "good example of joint action by several Government agencies" we conclude that Operation Gangmaster remains a woefully inadequate response to the complex enforcement issues arising from the illegal activities of gangmasters.

We accept that Operation Gangmaster has facilitated some joint working between officials of different agencies. However, it appears to us that Operation Gangmaster serves as a convenient reference point for Ministers to give the impression that the

Government is doing far more about dealing with the problems associated with gangmasters than is the case. We recommend that a Defra Minister take overall responsibility for Operation Gangmaster. The Operation should be given clear aims and objectives and it should report regularly on these to the responsible Minister. Defra's annual report should include a section on the Operation's work and achievements. Data should be collected from the different agencies involved enabling a comprehensive record of activities maintained and lessons learned. Operation Gangmaster should have a single budget derived from the budgets of each of the relevant Government agencies and Departments.

26. The Government considers that some of this criticism of Operation Gangmaster is misleading. It is misleading to say that Operation Gangmaster in its current form has been running for five years. It is misleading to imply it is the only attack on the problem from enforcement agencies. It is misleading to say that it has only operated as a reference point without real effect. Hence some of the solutions are also misconceived, in particular the recommendation that Operation Gangmaster should have a centralised budget and staffing supervised by Defra.

27. Started as a MAFF pilot initiative in parts of Lincolnshire and East Anglia focussed on the agriculture sector, Operation Gangmaster was originally intended to be a forum in which interested agencies could discuss areas of mutual concern and exchange information and intelligence - in other words an umbrella organisation. The Government has acknowledged that much of this activity effectively ceased during the 2001 outbreak of foot and mouth disease. Since the Department for Work and Pensions took over coordination of the operation in 2002/03, it has been developed and now plans operations targeted at illegal activity by gangmasters across the country where a coordinated approach can add value. Operation Gangmaster does not seek to subsume compliance activities which are better coordinated by the individual Departments. Currently there are 10 operations active under the Operation Gangmaster umbrella, more than at any time in the past. For obvious reasons, the Government cannot disclose details of operations underway or in the pipeline. The Government is keen to share with the Committee the results of all these operations once they are available, as we did in relation to "Operation Shark" in the memorandum submitted to the Committee. However, where such operations involve prosecutions it can be up to two year after the initial enforcement action before full results are available.

28. The Government notes the committee's comments on Operation Gangmaster. The Operation has indeed facilitated joint working and in that sense has been a qualified success. As noted in the introduction to this response, many of the illegal activities of gangmasters fall within the wider informal economy. The Government approach to tackling the problems associated with the informal economy is driven by a report on the subject, by Lord Grabiner, which was published in March 2000. Operation Gangmaster needs to be viewed within this context and not in isolation.

29. There is a considerable amount of enforcement action by individual agencies in relation to the illegal activities of gangmasters, and indeed in relation to the informal economy generally. In addition to Operation Gangmaster each department conducts routine compliance and enforcement activities impacting upon gangmasters, which contribute to individual PSA targets. For example, in October 2003 the Home Office

Immigration Service conducted its own operation to tackle gangmasters supplying illegal workers to a flower farm in West Sussex. As a result of that operation 45 illegal workers were detected, (nearly all of whom have already been removed from the UK); one person was charged and 4 others have been bailed pending further enquiries. In addition, over £34,000 was seized under the Proceeds of Crime Act as the money had been linked to organised crime. The Government recognises however that clearly defined outcomes for Operation Gangmaster are required. Departments are currently analysing how a target regime encompassing all the main issues involved can be best applied to Operation Gangmaster. Further to this DWP are currently planning an evaluation of Operation Gangmaster.

30. The Government accepts the need to clarify responsibilities more clearly in the area of Gangmaster operations and more widely across the informal economy. As noted in response to Points 16 and 17, a cross-governmental group of officials, chaired by DEFRA, is reporting to the Minister for Food and Farming on co-ordination of all enforcement and policy developments targeted at agricultural gangmasters. Beyond this the government further accepts that Operation Gangmaster requires more direct management. Given that Operation Gangmaster is essentially an enforcement function and given that Defra's enforcement powers and resources relate to one small area – agricultural wages – and given that the problem extends beyond the area of agriculture, it would not be appropriate for a DEFRA Minister to hold responsibility for operations conducted under its banner. As the secretariat function is currently led by DWP it would seem appropriate that a DWP Minister leads specifically on Operation Gangmaster. Individual departmental ministers will continue to be responsible for routine enforcement activity by their agencies in relation to illegal activities of gangmasters. However, all the Departments involved have agreed to consider the scope for stepping up and better targeting such activity. Operation Gangmaster will continue to report to the Informal Economy Steering Group of senior officials. As indicated above, that is the correct context for its work. But the Informal Economy Steering Group will make regular reports on its activities and results to all responsible Ministers and each department will make a detailed report on their part in those activities to their own Minister.

31. We accept that each part of Government will need to ensure that sufficient resources are deployed to meet the risks posed by the gangmaster sector. But a central ring fenced budget could reduce flexibility and significantly hamper Government ability to move resource to meet new risks as they develop.

Recommendation 10

We are not convinced that a statutory registration scheme offers a stand-alone solution to the problem of illegal gangmasters. Certainly, without concerted action to remedy the shortcomings in enforcement that we have highlighted in this Report, a statutory registration scheme, introduced as a single policy response, will solve nothing. It is difficult to imagine that those individuals engaged in the types of illegal activity about which we received evidence would be affected by a statutory registration scheme unless it were rigorously enforced. A statutory registration scheme may prove to be necessary, but it will only be effective if it is introduced as part of a wide range of policy initiatives

designed to confront the difficulties associated with the supply of temporary labour to the agriculture and horticulture industries.

32. The Government notes that the Committee has concluded that a statutory registration scheme on its own would not be a solution to the problems associated with gangmasters, but that such a scheme may prove to be necessary as part of a range of policy responses. This is consistent with the Government's own thinking. The Defra/ETI gangmaster best practice project is intended to lead to the setting up of an independently audited accreditation scheme for gangmasters. This should of itself contribute to driving up standards in the industry. But whether it will be effective in helping to tackle the widespread abuses about which the Committee heard evidence will depend on whether a sufficient 'critical mass' of gangmasters and labour providers are prepared to work with the accreditation scheme to make it realistic for supermarkets to stipulate that their suppliers use only accredited labour. The trial of the draft gangmaster code of practice planned for the next few months will give an initial indication of whether there is such a critical mass. In addition, as indicated above, all relevant Departments are considering the scope for better targeted enforcement. However, the Government recognises that if this voluntary accreditation by the industry with the better targeted enforcement referred to above prove not to be sufficiently effective, we may need to consider the possibility of further legislation or registration.

Recommendation 11

We recommend that the scope of the pilot work that Defra is carrying out with a firm of gangmasters is extended. The enforcement issues cross many different Government Departments; a cross-departmental approach is therefore required. Specifically, we recommend that an official from the Immigration and Nationality Directorate is seconded to work with the Defra official to help develop a good practice blueprint linked to a system of independent verification of individuals' employment and immigration status. Officials from other Government Departments such as the Inland Revenue and the Department for Work and Pensions should also work closely with the project and use its findings to inform policy.

33. The Government welcomes the Committee's support for the Defra/ETI pilot project. The Government agrees that this requires a cross-Departmental approach and the scope of the project has been extended since the Committee took evidence. The Home Office and DWP both sit on the project's steering group, and other interested Department's have been involved in the work through the Gangmaster Coordination Group referred to under points 16 and 17 below. The scope of the project has also been extended by involving a number of the food chain businesses on the steering group directly in the design and planning of a trial of the gangmaster code of practice with a number of labour providers and labour users in south Lincolnshire. Several of the supermarkets are contributing people with experience of food chain audits to help set up and oversee this trial. DWP has seconded an experienced investigation officer with a background in Operation Gangmaster to the ETI for a period of six months to help with this work. The Immigration Service is also hoping to make some expert staff time available to the project over the next few months to help it address the issues associated with immigration documentation.

34. In paragraph 62 of their report the Committee draws attention to difficulties which can occur at the borderline between work covered by the National Minimum Wage and the Agricultural Minimum Wage, given that the minimum rates are different. The Government accepts that this is a genuine issue in relation to packing work, where on-farm packing of produce grown on the holding is covered by the Agricultural Minimum Wage whereas an off-farm packing operation is not. The Government is currently considering plans to modernise the agricultural wages legislation by Regulatory Reform Order and in this context has examined the issue of its scope. However, informal consultation with those most closely affected suggests there is no consensus either to remove on-farm packing activity from the scope of the agricultural wages legislation or to extend its scope beyond the farm gate.

35. As noted in our response to the points raised under Point 6, we believe that the Immigration Service is equipped to assist employers verify documents presented to them by prospective workers. However, we know that it is not always possible for the IS to respond immediately to requests from employers and that therefore the support provided by the Employers' Helpline must be as effective as possible.

36. We also believe that our proposals for changes to the list of documents available for compliance with section 8 of the Asylum and Immigration Act 1996, which have been the subject of public consultation, will give employers greater confidence that they are complying with the law. This is because we have suggested strengthening the list by including only those documents that are generally secure. We intend to issue fully revised guidance to support any changes in the law and are actively considering how to ensure the widest possible distribution for this information.

Recommendation 12

We believe there is a role for Regional Development Agencies and Government Offices in those parts of the country where gang labour is commonly used. We recommend that the pilot project being developed in the West Midlands is monitored and, if successful, should be developed in other parts of the country. We also believe that there is scope for private funding of such projects. The supermarkets told us that they took the problems associated with gang labour very seriously: such initiatives provide them with an opportunity to support projects which would help prevent these problems.

37. The Government agrees with the Committee that the 'Gateway' project it refers to has potential for development and that RDAs and Government Offices in other parts of the country where gang labour is an issue need to be kept informed. To this end a meeting was held for interested RDAs, GOs and local authorities on 6 October at the offices of Wychavon District Council in Pershore, organised by Advantage West Midlands, to exchange information about this and other initiatives relevant to gangmaster activities and migrant workers.

38. The plans underway for a trial of the gangmaster code of practice in south Lincolnshire as part of the Defra/ETI pilot have also highlighted the potential for local authority involvement in the issue. South Holland District Council and Boston District Council are considering appointing a migrant worker liaison officer to work with the trial process to tackle some of the related social issues within local authorities' area of responsibility, e.g.

standards of accommodation housing migrant workers. Part of the purpose of the 6 October meeting referred to above was to spread awareness of this development to other areas.

Recommendation 13

We applaud the work that the Thetford Citizens Advice Bureau has undertaken to support Portuguese workers who are facing exploitation by gangmasters. We recommend that in areas where gang labour is commonly used, local authorities, job centres and advice agencies form local forums to co-ordinate responses to ensure that workers, particularly those from abroad, know their rights. Defra should provide the small amount of funding such projects would require as part of its rural affairs remit.

39. The Government also welcomes the valuable work already being done by Citizens Advice Bureaux, local authorities and others in some areas. Central Government can best contribute to and complement such work through relevant policy initiatives at national level. For example, the planned trial of the gangmaster Code of Practice in south Lincolnshire is being planned in concert with a local authority in that area which plans to take forward a local initiative to address some of the issues that migrant workers pose for local services in parallel. The DTI and FCO, working with colleagues in Portugal, the NACAB, representatives of the Portuguese community, and the TUC have produced leaflets in Portuguese explaining workers' rights, which will be a resource available to local authorities and citizens advice bureaux to use as necessary. The west Midlands RDA is funding the 'Gateway' project referred to in the previous recommendation. The meeting held on 6 October in Pershore referred to above covered a range of issues relevant to local bodies, including implications for primary health care, learning and basic skills, economic development and social cohesion. It is not clear that Defra is necessarily best placed to fund such projects, but does have a role in helping ensure that information about initiatives going on at local and regional level is exchanged.

Recommendation 14

We recognise that the Seasonal Agricultural Workers Scheme (SAWS) provides a useful source of temporary labour for the agriculture industry. Similarly, workers from EU countries who are able to work in the UK help to meet the shortfall between the demand and supply for casual labour in rural areas. This legal source of foreign labour is likely to increase with the accession of the new Member States to the European Union. Nevertheless there appears to be a lack of co-ordination between Government Departments in the management of migrant labour. Earlier in the Report, we recommended that Defra carry out a detailed study into the use of casual labour in the agricultural and horticultural industries. This work should assess the demand for foreign workers and be used to inform decisions about SAWS.

40. The review of the SAWS scheme in 2002 did not identify significant evidence of abuse or exploitation of SAWS workers. Neither do we accept that there is a lack of joined up thinking on Government policy on SAWS. All Government departments with an interest were closely involved in the review and supported its recommendations.

41. In our response to point 1 we said that we are actively considering the requirement for a research project about the employment of seasonal and casual workers. If this research is undertaken then it might be necessary to include SAWS within the scope of the project as SAWS students represent one of the components of the supply of seasonal and casual workers to the agricultural and horticultural industries.

Recommendation 15

If the demand for casual labour in the agricultural and horticultural industries continues to be met by workers from abroad because local people are not attracted by the terms and conditions offered, there may be wider issues for the Government to consider. Defra has a rural affairs remit. In its assessment of the temporary labour market, it should consider the implications for rural services and how these can be best managed. Projects such as the proposed Gateway scheme in the West Midlands could make an important contribution to policy in this area. Defra needs to take a lead on these issues and ensure that it has sufficient information available to enable it to suggest appropriate policy responses, including a review of the current system of work permits.

42. The issue of the impact of migrants on local services is one that is already being considered across Government. Significant numbers of new migrants arriving in an area clearly do have an impact on services, such as schools, the health service and housing, as well as on the demand for specialist skills such as English language teaching and interpretation. This is an urban as much as a rural issue, although problems may start to become apparent more quickly in more sparsely populated rural areas.

43. Defra has been involved in consideration of these issues, in particular the reviews of the various entry routes to the UK for lower skilled migrants (e.g. the Working Holidaymakers Scheme and SAWS) that flowed from the February 2002 Nationality, Asylum and Immigration White Paper. As part of this work the Home Office consulted in summer 2002 on the possibility of other short term entry schemes on the model of SAWS to meet the needs of other sectors. It was as a result of this review that the new sector based schemes for the catering and food processing sectors were introduced earlier this year.

44. We do not plan to fundamentally review work permit arrangements, but are happy to include in current and planned sector specific scheme reviews, consideration of work permit issues.

Recommendations 16 and 17

This is a policy area which would benefit significantly from a cross-departmental approach. Unfortunately, we found no evidence to suggest such an approach has been effectively applied. The Government needs to deal with the issues we have identified if it is to realise its vision of a competitive farming and food industry based on sustainable practices.

We therefore recommend that the Government establish an inter-departmental working group which would report to a Defra Minister of State with overall responsibility for policy on gangmasters. The Minister and inter-departmental group should have a small number of clearly-defined and measurable targets. Defra should

report to us annually on the actions it has taken and the working group's performance against its targets. We believe that the Government must demonstrate that it is taking seriously the problems in the agriculture and horticulture labour markets and has the political will to tackle them; the establishment of such an inter-departmental group would go some way to doing so.

45. The Government agrees that the issues the Committee has raised require a cross-departmental approach, but does not accept that this is not happening. In particular, a number of the policy areas the Committee has commented on are ones that go wider than the farming and food industries. As noted above, this is true of Operation Gangmaster and in relation to managed migration and other migrant labour issues. However, given the wide ranging nature of the different policy issues which are all linked to the agricultural gangmaster system as the Committee has highlighted, the Government accepts the need for better coordination of the various different issues relevant to gangmaster activities.

46. As noted in the response to points 8 and 9 above in relation to enforcement operations, the main forum for coordinating enforcement operations, including Operation Gangmaster, remains the Informal Economy Steering Group. In recognition of the inter-relationship between these enforcement issues and the consideration of policy issues to do with Gangmaster activity in the agriculture sector, the Informal Economy Steering Group invited Defra in July 2003 to convene a Gangmaster Coordination Group.

47. A Gangmaster Coordination Group of senior officials has therefore been established, chaired by a Defra official and reporting to Defra's Food and Farming Minister to ensure proper coordination of both enforcement operations and policy development relevant to agricultural gangmasters. The purpose of the group is to review progress of all relevant activities (e.g. Operation Gangmaster, the gangmaster best practice project) and to report to the Food and Farming Minister at regular intervals.

Conclusion

48. The Government is keen to respond positively to the issues the Committee has raised and already has action in hand on a number of points as described above. We will share the results of ongoing and further work with the Committee as they become available.

Department of Environment, Food and Rural Affairs
on behalf of Home Office, DWP, HM Treasury and DTI
8 December 2003

A Pilot Labour Provision Survey for Agriculture and the Fresh Produce Sector

Survey Report

‘If the government does not even know how many casual workers there are and who they are working for ... The Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, We recommend that the government commission a detailed study into the use of casual labour in the agricultural and horticultural industries’ (Environment, Food and Rural Affairs Committee, Gangmasters, HC 691 para 19, 20).

1 Overview

This report provides background information to show how and why the statistics generated for casual workers in agriculture and the fresh produce sector of the economy are unable to produce an accurate picture of their activities. This report highlights the ways in which it is possible to obtain a sample quota of gangmasters/labour providers from across the UK and obtain more meaningful data about the sector. The pilot questionnaire illustrates and validates the type of questions that should be included in a detailed and statistically significant study of the use of casual labour as recommended by the Environment, Food and Rural Affairs Committee.

This report is in three parts:

- Current data sources

This section looks at the rationale for the Annual Agricultural Census, and explains that we have a mass of data but little understanding about this sector. The result is that the media and interest groups are driving the current debate on agricultural/casual workers not researched evidence.

- A new approach to data gathering

Data gathering within this sector of the economy has to take into account the new ways of working that have been introduced within the food chain over the last fifteen years. This section outlines the current business model for food distribution, and shows how it is possible to gather information from gangmasters and labour providers to illustrate these new forms of work.

- What we need to know and why

This section looks at how the sample gangmaster/labour provider businesses were identified, and provides a commentary on the questions included in the survey and the results from the pilot survey. The survey questionnaire complete with data responses is in Annex A.

2 Current Data Sources

The recognition by the Efra Committee that we do not have information on casual workers in agriculture and horticulture begs the questions:

From which information sources do we gain our understanding of casual workers in this sector?

Why do we not have verifiable evidence on the organisation and role of labour providers and temporary workers in agriculture and the fresh produce sector?

In 2003 the Efra Committee identified our sources of understanding of casual workers in the food chain as based on investigative journalism, interest groups and anecdotal evidence e.g.

Investigative journalism	Interest groups	Anecdotal evidence
Bitter Harvest, 1997	Ethical Trading Initiative	Passed to Efra
Country File May 1997	British Retail Consortium	Committee
Panorama June 2000,	Fresh Produce Consortium	(HC 691 para 8)
Politics Programme 19 June 2003	Transport and General Workers Union	
Farming Today	Government agencies	
The Guardian 17 May, 2003	represented in Operation Gangmaster	

The current enquiries into the activities of this labour market segment is handicapped by an almost complete dearth of independent research-based evidence to drive informed debate and rational policy decisions. The gap in our understanding of labour providers and casual agricultural workers led to the Efra Committee Report, Gangmasters HC 691.¹

The Efra Committee noted that witnesses claimed the problems with temporary workers supplied by labour providers throughout the food chain was ‘getting worse’ (para 8). However, none of the witnesses were able to quantify the problem, or define the variables which constituted the concept of ‘worse’.. Nor was it possible to identify and provide evidence for a previous base line when gang master activities were verifiably ‘less worse’ than today. To date this lack of evidence has led to a complete inability for the issues to be defined or measured.

¹ The ETI has looked at seasonal and foreign labour as a segment of the UK food industry, but the Committee has recognised that there is a need to look at the casual labour market as a whole.

3 Annual Agricultural Census

The problems facing the Committee and interest groups have arisen because the key data source on agricultural workers over the last one hundred and thirty seven years, the Annual Agricultural Census, was not designed as a research tool to monitor agricultural workers. Nor can the current design of this census monitor the transition of ‘agricultural workers’ into the modern food chain. The fact is that Annual Agricultural Census has worked to compound the invisibility of the casual worker. This has led to a complete misunderstanding by labour market analysts and policy makers as to the contribution of casual workers in this sector.

The collection of data on workers was not central to the design of the Annual Agricultural Census in 1866. Its primary purpose was and still is to:

- count farm units;
- enumerate the physical content of the land.

A census designed to count farm units and land content is an inappropriate research tool to understand labour markets. To obtain the right answers the right questions have to be asked and the correct units of analysis applied.

For example prior to 1955 ‘regular part-time’ workers in the Agricultural Census were grouped with ‘seasonal’ or ‘casual workers’, although the three had distinctly different employment patterns and terms of employment. For instance, farmers directly employ most regular part-time workers; casual workers are supplied by contractors or gangmasters. By lumping these three categories together the data collected endorsed the view that the gang-boss in agriculture had died out except for harvest work. Moreover, farmers, not by workers complete the census. Thus the accuracy of the whole section on labour is open to question, and more so than if the section were self-enumerated by workers². Added to which, there is an habitual loss of data on agricultural workers because the Annual Agricultural Census takes place the first week in June.

The Annual Agricultural Census is taken in June because this is the time to count the content of the land, because all the crops have been sown, but not harvested. In June the need for casual labour for fieldwork is at a low point, so the data has supported the view that very little casual labour is required. The census delivers information on crop types and volumes, but not labour requirements. The gathering of agricultural labour statistics remains a by-product of the census not a focal point.

Following the differentiation of ‘seasonal’ and ‘casual workers’ from ‘part-time regular workers’ by the MAFF in 1955, we learned that their numbers have increased, and at a

² For further discussion see MAFF (1968) A Century of Agricultural Statistics, London: HSMO

time (leaving aside family workers) when most other categories of farm labour have contracted³.

The research concerns raised here about the invisibility of casual agricultural workers in the food chain persists. The little evidence we have shows that casualisation of farm based agricultural workers has intensified, and their function has moved from the farm field to packhouse and food processing sites. Data collection on the organisation and numbers of temporary workers in this labour market segment has not been able to keep abreast with these new forms of working. We need to understand the contribution of labour providers and the role of temporary workers throughout the food chain to include processing, transport and retail distribution. However we do have a clear understanding that over seventy percent of all fresh produce sourced or packed in the UK ends up on supermarket shelves.

4 A new approach to gathering data in the food chain

Grocery distribution represents 48 per cent of all retail sales in the UK and accounts for 11 percent of GDP. Four supermarkets, Tesco, Asda Wal-Mart, Sainsbury, and Safeway, control half of the UK's £100bn grocery distribution business. With over seventy percent of all fresh produce distributed via supermarkets, other channels to market for fresh produce such as wholesale markets and independent greengrocers have largely been eradicated.

The organisation of the UK grocery market is unique in the world in its intensification and level of profit. Twelve out of the fifty five product retailers that make it into the world's 1000 most valuable public quoted companies are UK retailers, and five of these top twelve UK retailers are supermarket food retailers⁴. Their world-class position has been achieved by the effective use of information and communication technologies (ICTs) throughout the food chain enabling supplier retailer relationships and eradicating inefficiencies.

To begin to access information on 'how many casual workers there are, and who they are working for' a new approach to gathering data in the food chain has to be adopted. Questions have to be asked that can take into account how temporary labour has to respond to the demands of the technologically enabled food distribution business model.

5 UK Food Distribution Model

The supermarket business model is one of placing food on the shelves of their retail outlets 24 hours a day, seven days a week, 364 days per year. To achieve their world-class position as the most efficient retailers they have to create special relationships with

³ Errington, Andrew, (1985), 'The changing structure of the agricultural and horticultural workforce', *Agricultural Manpower* II (2), 21-8

⁴ Wileman, Andrew, Jary, Michael (1997) *Retail Power Plays: From Trading to Brand Leadership*, London: Macmillan

suppliers throughout the food chain. Supermarket preferred suppliers are able to align their business model to those of their customers, the supermarkets. Suppliers in their turn have to find ways not only to sustain supply '24/7' to supermarkets, but also how to cope with fluctuation in demand at short notice. The popular view is that fluctuation in demand for fresh produce is seasonal, but this is not the case; for example strawberries are available almost all year as their supply is supplemented from sources around the globe and by technologically enhanced extended growing seasons. With this understanding the question arises as to

‘what is the impact on casual labour supplied to producers aligned to the supermarket business model of food distribution?’

6 Hypothesis Testing

Before a hypothesis can be tested statistically it is always stated in the form of a null hypothesis, that is, no relationships between the variables will be found. In this case the null hypothesis would be

‘There is no relationship between the business model for grocery distribution via supermarkets and the organisation of casual agricultural workers in the food chain’.

If we are able to reject the null hypothesis then we have evidence of an alternative hypothesis that a relationship does exist, and this is the hypothesis that we are primarily interested in.

7 Is there a relationship?

Over ten years ago Terry Leahy, currently CEO Tesco but then Produce Director for Tesco, clearly identified in an address to the Institute of Grocery Distribution how an ICT enabled supermarket business model impacts throughout the whole of the food chain

" We have linked our ordering to our electronic point of sale system. And we've linked our ordering system to our suppliers with electronic data interchange. Now when we sell a sandwich for example, the sale is registered by the scanner which automatically speaks to the ordering system, which orders a replacement. This is transmitted to the supplier straight into the supplier's production planning system; automatically calculating the raw ingredients required, the amount to be produced on the next shift, the labour needed, the line capacities, the dispatch and distribution details and so on. Out go the lorries into the distribution centre depots, deliver straight to stores, back on the shelf, back in the trolley and across the scanner within forty eight hours." (Leahy, 1993)

(Over the last ten years this process has been further enabled by ICTs, and production and delivery is in many cases now made within less than 24 hours from 'checkout scanner to checkout scanner').

Although Leahy has identified labour as a variable and illustrated the relationship between supermarkets and suppliers labour we cannot tell if casual labour provided by gangmasters/labour providers is included here.

8 What we need to know and why

Previous work in this area⁵ and evidence given by suppliers to the Competition Commission (2000) show that suppliers have to align their ordering systems to supermarket ordering systems which are based on customer demand at the point of sale. Based on this evidence a view can be taken that finely tuned flexible ordering system will need a highly flexible work force in equal measure. If this is the case suppliers will be dependent on temporary labour provided by gangmasters/labour providers.

On the basis of this assumption 'there is a relationship between the business model for grocery distribution via supermarkets and the organisation of casual agricultural workers in the food chain' supermarkets were asked to name fresh produce suppliers who in turn named their gangmasters/labour providers. The use of this snowball sampling method delivered a sample group of 160 gangmasters/labour provider businesses.

The results from the pilot survey questionnaire are based on the responses of 20 self-selected businesses from the original sample of 160 gangmasters/labour providers. The twenty respondents all attended the labour providers forum held by DEFRA on 9th October 2003 in Peterborough.

This survey is a pilot to test questions aimed at eliciting evidence on the organisation and function of labour providers and casual workers in the modern food chain. The following results show that overall the sample group found the questions valid and the questions delivered meaningful responses. Where totals do not add up to 100% some respondents have not answered the questions.

9 Commentary on the results

Exhibit 1 Family members

The survey began by asking if family members had been gangmasters and how long they had been in business. The question was asked because it is unclear how people learn to be a gangmaster.. How do gangmasters learn how to assess the profit that can be made from people working on a variety of different jobs and how do they learn to negotiate a rate of pay? Management education for gangmaster/labour providers does not exist so where is it learned? Prior interviews had showed that gangmaster businesses are generational.

⁵ Frances, Jennifer and Garnsey Elizabeth (1996) 'Supermarkets and suppliers in the UK: system integration, information and control' *Accounting, Organisation and Society* 21 (6), 591-610

Unfortunately, nearly all respondents overlooked these first two questions, as the question had not been boxed.

Exhibit 2 Use of the term gang labour

The survey results show that the term 'gangmaster' does not best describe their business activity, and the term recruitment agency or labour provider is their preferred term. Businesses with turnovers in excess of £10 million prefer the term recruitment agency.

Exhibit 3 Business turnover

The majority of the survey businesses have a turnover of between £1 to £3M (60%). 10% of the businesses have a turnover of more than £10M and 10% of businesses have a turnover of less than £1m but more than £500k.

Exhibit 5 Where they work and what they do

All the businesses provide labour to packhouses that pack imported goods (100%) and 90% of businesses provide labour to packhouses that pack UK grown produce. 60% provide labour to businesses to work on field crops and 50% provide labour to work with flower businesses. A further 15% provide labour to harvest berry crops and protected crops.. The data from this exhibit allows comparison with data from the Annual Agricultural Census.

It also indicates that packhouse work such as washing, weighing, labelling, and overall adding value to fresh produce creates the greatest demand for temporary labour. Many of these jobs did not exist 20 years ago and this may be a driver of the increase in demand for temporary labour.

Mechanisation of fieldwork has changed jobs in the field but has not removed them. The rise of organics may be stimulating the need for traditional fieldwork such as weeding and hand picking.

Exhibit 6 Food processors

Seventy five per cent of the respondents provide temporary labour to food processors. Types of work identified in the open questions ranged from sandwich making to meat packing, prepared meals to catering or as one respondent commented 'too numerous to mention'. This indicates that temporary labour is not a phenomenon that is required solely for seasonal and harvest work but may be an embedded practice throughout the food chain.

Exhibit 7 Other business sectors

This question confirmed that the use of the 'gang boss' is prevalent across a range of other industries and deserves further investigation.

Exhibit 8 Sub-contracting

Sub-contracting was an issue raised by the Efra Committee. Forty five per cent of the businesses used sub-contracting. The opening comments show that the businesses view sub-contracting as a necessary practice to meet fluctuation in demand, but not necessarily a practice of which they approve.

Exhibits 9 to 11 New ways of working in the food chain

The responses gained from questions asked in exhibits 9 to 11 indicate that gangmasters/labour providers have aligned their business practices to meet the demands of modern forms of food distribution.

90% of the businesses provide labour seven days a week, to cover both day and night shifts and for over 360 days a year (the remaining 10% work a six day week). In contrast to popular belief that casual workers are required for summer harvest the busiest month of the year was identified as December by 90% of the sample; also the busiest month of the year for supermarkets. The idea that work is only generated for labour suppliers during the summer months is challenged by the data in Exhibit 10 where only 50% of businesses named July and August as their busiest period. Likewise in Exhibit 11, 30% of businesses named July and August as their slack period.

The notion of the habitual loss of data from the Annual Agricultural Census on labour is also give endorsement by the data in Exhibit 10 where only a third of businesses named June as their busiest period and in Exhibit 11 where a fifth of businesses named June as their slack period.

Exhibit 12 through to Exhibit 31 Customers and workers

‘If the government does not even know how many casual workers there are and who they are working for ... The Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, ... ‘ HC 691

Exhibits 12 to 31 begin to build a picture of who uses gangmasters/labour providers, which businesses make most use of their services and across which geographical regions, and an indication of how to access the numbers of casual workers in this sector.

In Exhibit 12 the businesses clearly identified packhouses as their most important customers (85%). Food processors and growers were chosen by 60% and 50% respectively as areas most important to their business. Farmers defined as arable and livestock were most important to 30% of the businesses.

Exhibit 13 showed that gangmasters/labour providers deliver casual workers to businesses in nine out of the eleven RDA regions in the UK. Fifteen percent of the businesses worked across three regions and another fifteen percent worked across two regions. The information provided here indicates that casual labour is a national

phenomenon throughout the UK food chain, not a local East of England practice as previously thought.

Exhibit 19



Exhibit 19 the maximum number of casual workers at any one time shows 25% supply between 100 to 199 casual workers, 40% supply between 200 to 499 casual workers, 15% supply between 400 to 599 casual workers and 15% supply between 600 to 1000+ casual workers.

Exhibit 20 shows the minimum number of casual workers at any one time supplied by the businesses. 40% supply less than 99 casual workers, 20% supply 100 to 199 casual, workers and 30% supply 200 to 400 casual workers.

Exhibit 20



For 60% of the sample businesses fluctuation in labour provided to customers in the food chain is between 60 and 80 per cent.

This pilot questionnaire showed that 100% of the businesses provided transport for workers and 40% provided accommodation for workers and this ranged from 15 to 1000 workers.

Exhibit 24 notice given by customers for extra workers by sectors, showed respondent's experience of notice for extra workers ranged from three months to one hour. The most cited experience was given as one day for all customer types.

Exhibit 25 notice given by customers when workers no longer needed, showed respondents' experience of notice given when workers were no longer required ranged from none to three months the most cited experiences were same day, 12 hours and 1 day

85% of the respondents felt that the notice given to them by their customers in both cases was not reasonable and this position was supported by comments in the open question:

“We have a responsibility to these people to provide them with work- factories think we put them away in a toy box until they are required again.”

“Our customers don't actually realise that you are interfering people's livelihoods.”

“They think you can react at any time of the year and they don't realise that when they are busy so is everyone.”

The gangmasters/labour providers experience of 'unreasonable notice' matches the experiences of suppliers who in their evidence to the Competition Commission (2000)

complained of similar treatment regarding the notice given to supply product to customers.

Exhibit 28 shows that gangmasters/labour providers employ foreign workers throughout the UK with the most cited nationalities being Portuguese and Lithuanian.

Exhibit 31 illustrates the perceptions among gangmasters/labour providers on the unwillingness of local people to work in the agricultural and food processing sector. Overall, the view taken is that the low pay and low image of the sector deters local people.⁶

10 A scenario for testing

A scenario that can be developed from the pilot study (to be verified by a statistical sample) is that gangmasters/labour providers operate across the UK and within all areas of the food chain (possible exception food retailing). On average they have a work force of around 400 people; their workforce will most likely include British, Portuguese and Lithuanians. The gangmaster/ labour provider will transport the workers from workplace to workplace to meet customer needs 24 hours a day 7 day a week 364 days a year. On average the customer will give 24 hours notice for labour, but will lay off labour without any notice. The gangmaster/ labour provider will take responsibility for retrieving the labour from the customers' premises to transport them home, or to other places of employment. The gangmaster will meet transport and administration costs and aim to make a profit. The gangmaster/labour provider will do this by charging his customers a fee, which is calculated to be around thirty per cent of the earnings of the labour supplied. This means the customer pays the gangmaster/labour provider the value of the labour + an extra thirty percent e.g. if the cost in wages of a gang is £10000 the gangmaster will receive £13000 from the customer to pay the labour, cover costs and make a profit.

With a statistically meaningful example it would be possible to:

look for correlations between business turnover(exh.3), work categories (exh.5), subcontracting (exh.8) and numbers of employees (exh.19,20). This would provide an understanding of which categories of work make the greatest use of sub-contractors currently identified as an area of abuse and mal-practice.

identify pay rates to employees and margin taken by the labour provider to identify efficient practices. (Divide the number of employees into the business

⁶ My previous work with gangmasters indicates that gang work in the fields (potato picking, lettuce planting etc.) was predominantly women's work and was organised to fit in with women's household responsibilities i.e. a working day was 7.30 am to 3.00pm. In the mid to late 1970s changes in the model of food distribution led to part-time jobs becoming available in supermarkets, and at the same time jobs in packhouses increased. It is thought that retail work with more 'family friendly' working arrangements attracted women workers away from gang work. Likewise some packhouses run a 7.30am to 3,00pm shift for direct employees, the gap left by the women has been filled by migrant male labour devoid of family responsibility willing to work extended shifts required by packhouses and other food processors as casual workers. UK males have probably always seen gang work and casual work in food processing as the employment of last resort. See Exhibit

turnover. For the pilot this works out at around £12K to £14K per employee which if the minimum wage is deducted leaves around 30% margin)

separate out where casual workers are used in activities clearly classified to agriculture and where casual workers are used in the food chain

create a benchmark to see in the future if the use of casual labour increases or decreases across the UK

ascertain whether or not the use of casual labour is a response to the modern food distribution business model

identify gangmaster/ labour provider businesses that are able to most efficiently manage fluctuations in demand for labour with or without the use of sub-contractors

verify to what extent gangmasters/labour providers supply casual labour day and night, seven days a week throughout the year to food chain businesses

identify whether gangmasters are part of an urban or rural based economy or both

assess the importance of gangmasters/labour providers to the rural economy

assess the significance of transport provision to workers based in remote location

assess the significance of accommodation provision to workers based in remote location

assess the economic contribution of gangmasters/ labour providers and casual workers to the efficiency of the modern food chain system

assess the difficulties for the business by heavy reliance on employing foreign nationals

Defra and the University of Cambridge would like to thank all the gangmasters/labour providers who attended the Labour Providers Forum in Peterborough 9th October 2003 and who gave up the time to complete the survey questionnaire..

Dr. Jennifer Frances

Institute for Manufacturing

University of Cambridge

UNIVERSITY OF CAMBRIDGE

Labour Provision Survey for Agriculture and Fresh Produce Sector

THE RESULTS

The sample

The results are based on data provided by twenty businesses that attend the Labour Providers Forum on 9th October 2003 and completed the survey questionnaire.

Overview of the results

- The survey results show that the term 'gangmaster' does not best describe your business activity and the term recruitment agency or labour provider is your preferred term.
- The majority of the survey businesses have a turnover of between £1 to £3M (60%). 10% of the businesses have a turnover of more than £10M and 10% of business have turnover of less than £1m
- All the businesses provide labour to packhouses that pack imported goods (100%)
- 90% of businesses provide labour to packhouses that pack UK grown produce.
- 60% provide labour to businesses to work on crops in the fields.
- 50% provide labour to work with flower businesses.
- Food processors are supplied with labour by 75% of the sample businesses.
- 90% of the businesses provide labour seven days a week, to cover both day and night-shifts and for over 360 days a year.
- The busiest month of the year for 90% of the businesses is December.
- Packhouses are the most important customers for 85% of businesses.
- Food processors are the most important customers for 65%of businesses.
- Growers are the most important customers for 50% of businesses.
- The sample businesses operate across nine out of the eleven geographical regions (see exhibit13). None of the sample provides labour to Wales or the North East.
- The total number of temporary workers supplied at peak periods by the 20 sample business is 7000.
- 100% of the sample businesses provide transport for workers.
- 40% of the sample a provided accommodation.
- Notice given by customers when increasing or decreasing an order is around 'on the day' to '24hrs' for the majority of labour providers.
- 85% of businesses thought the notice given by customers was not reasonable.

Many thanks for taking part in this survey. I hope that you find the results interesting and useful.

If you have any queries please do not hesitate to get in touch with Jennifer Frances.

Company Details:

Twenty delegates completed the questionnaire on the day and all provided their name, company name and contact details

Section 1: Background Information

Exhibit 1 Family members

Yes No

5% 95%

Was your mother/father in the same business?

0% 100%

Were your grandparents in the same business?

Exhibit 2 Use of the term gangmaster

0% 100%

Does the term gangmaster best describe your business activity?

Exhibit 3 Preferred term

Recruitment Agency	25%	Employment Provider/Supplier	10%
Labour Provider	25%	Labour Supplier/ Personnel Supplier	5%
No comment	20%	Agricultural Labour Suppliers	5%
Employment Agency	10%		

Exhibit 4 Business Turnover

£0 - 250k	0%	£3 - £5m	10%
£251 - £500k	0%	£5 - £7m	0%
£501 - £999k	10%	£7 - £9m	5%
£1 - £3m	60%	£10m+	10%
		No response	5%

Section 2: Your Business

In this section we would like to know to which of the following work categories you supply temporary labour. Please circle any that apply to your business.

11 Exhibit 5 Agricultural

	Yes	No
Work in packhouse that pack imported produce	100%	0%
Work in packhouse that pack UK grown produce	90%	10%
Harvesting of tree fruit	25%	75%
Flowers	50%	50%
Harvesting of berry fruits	15%	85%
Harvesting of field crop such as celery, onions and potatoes	60%	40%
Protected crop growers that produce crop such as tomatoes	15%	85%
Other, please list- Xmas trees and willow tree production, ornamental plants		

Exhibit 6 Food Processors

	Yes	No
Do you supply temporary labour to food processors?	75%	25%
If ✓, please list types of foods, e.g. frozen vegetables, sandwich makers, canning, mixed salad packs....		

- vegetables
- poultry
- pork abattoirs
- salad packing
- Canning
- Sandwiches
- meat packing,
- fruit fillings
- prepared meals
- fresh fruit salads

- too numerous to mention
- catering supplies
- confectionery
- prepared microwave meals
- all disciplines

Exhibit 7 Other Business Sectors

Please list e.g. distribution

- distribution
 - engineering
 - admin/secretarial
 - manufacturing
 - driving
 - warehouses
 - logistics
 - window fabrication
 - horticultural warehousing
 - electronics
 - agricultural engineering
-

12 Exhibit 8 Sub-Contracting

	Yes	No
Do you operate as a sub-contractor?	20%	80%
Do you use sub-contractors?	45%	55%

What are your views on sub-contracting?

- Needs legislation
- Essential part of the business
- Used for harvesting at peak times and for jobs our own staff don't want to do
- Don't like using them but violent fluctuations demand it
- Don't like doing it but sometimes the unreal demands of clients warrants this
- A necessary practice to cover peaks and troughs of all the businesses in which we are involved
- It fills a requirement
- Helpful
- Need a proper signed agreement and policy on what is expected backed up by regular audits – try not to use where possible
- Our customers do not agree with sub-contracting
- Unreliable

Shift Patterns

In this question we would like to know about the supply of labour over a weekly period. Taking your business as a whole, which best describes your weekly pattern of labour supply.

13 Exhibit 9 Days of the week worked:

	Yes	No
Monday to Friday only	0%	100%
Monday to Friday plus Saturday	10%	0%
7 days a week	90%	10%

Exhibit 10 Shifts Supplied to:

	Yes	No
Dayshift	100%	0%
Nightshift	90%	10%
How many days a year do you supply labour?	100% All Year (Over 350 days)	

14 Seasonal Variation

Taking your business as a whole, which is your busiest period of the year? Please circle the appropriate month/s.

Exhibit 11 Busiest period of the year for labour providers

December	90%
July	50%
August	50%
January	35%
June	35%
November	35%

Taking your business as a whole, which is your slack period of the year? Please circle the appropriate month/s.

Exhibit 11 Slack period of the year for labour providers

January	50%
July	30%
August	30%
June	20%

Section 3: Your Customers

Thinking about the following areas which are most important to your business?

Exhibit 12 Areas which are most important to your business

Growers (horticulture)	50%
Packhouses	85%
Farmers (arable, livestock)	30%
Food Processors	60%
Other, please specify	

Please give your reasons for your chosen category/s

- The majority of business is in this area
- Wherever the work is
- Best paid and hours and regular work

15 Regional Supply

Referring to the attached map, in which geographical areas of the country do you supply labour?

Please circle the number that corresponds to the area on the map.

Exhibit 13 Geographical areas of the country supplied with labour

1. North West	10%	7. South East	30%
2. North East	None	8. South West	10%
3. Yorkshire and Humber	5%	9. London	5%
4. East Midlands	30%	10. Scotland	5%
5. East of England	40%	11. Wales	None

6. West Midlands	10%		
------------------	-----	--	--

16 Customer Relations

In your view what makes a good customer? E.g. prompt payment

Exhibit 14 The good customer

- A company that is prepared to listen to our view and understand the nature of our business
- They need to pay rates in accordance with the minimum wages restrictions and deductions and profit which seems to be a dirty word.
- Prompt payment – proactive – consistency
- Management production strategy and HR personnel strategy
- Realistic rates of pay including commission
- Prompt payment
- Large demand for labour
- Good rates of pay
- Prompt payment
- Good environment for the staff work in
- Prompt payment
- A customer who wants to build up a long term relationship
- Forward planning communication
- Realistic ideas about labour supply
- Easy to communicate with
- One that wishes to operate to an acceptable code of conduct
- One who builds a better working relationship and understands the recruitment industry
- Long term contracts
- Prompt payment discussion of any problems
- Proper, prompt payment
- Good facilities for staff
- Honest
- Understanding the industry needs
- Regular supply of work
- Good communication
- Regular payer hones
- At least 10 hours overtime per person per week
- Working in partnership and planning together
- Understanding and prepared to work together – open
-

- Someone who plans their production well
- A customer who gives you good feedback on staff

In your view what makes a bad customer? E.g. late payment

Exhibit 15 The bad customer

- Bad rates of pay, including commission
- Late payment
- Late payment
- Undercutting
- Late payment
- Always trying to cut the cost
- Late payment
- No regular increases in line with legislation
- Late payment not understanding the industry needs
- Poor attitude towards agency
- A client that dictates an unreasonably low charge rate and jumps from supplier to supplier because they are getting poor staff
- Non communication about their staffing requirements
- Unethical trading
- Delayed payment
- Outdoor work/ field work in that you have to select certain staff who are able to do the work outside
- High expectations of a fluctuating workforce
- Low payers
- Late payer
- People abuser
- Someone who makes unreasonable requests
- No planning
- Will not listen to agency problems
- Inability to listen
- Builds debtors

For which types of work is there an increase in demand for your services?

Exhibit 16 Types of work is there an increase in demand for your services

- Packing of luxury products
- Packhouses
- Unskilled/semi skilled. Those disciplines that commonly British don't want to do
- Any manual work type
- Packing line operations
- Demand has actually remained constant although there are factors which have altered the actual reasons for demand. There is a general

- Industrial
 - Packhouse
 - Nursery work
 - Demand for good outdoor farm workers (harvesting)
 - Difficult to say in present economic climate
 - Poultry industry
 - Packhouse
- For which types of work is there a decline in demand for your services?

Exhibit 17 Types of work is there a decline in demand for your services

- Land workers
- Agricultural due to student workers from former Eastern Block countries
- Field work
- Farms
- Catering to hospitality especially in low pay jobs
- Where Saws students are employed (50 peoples jobs lost)
- All – supermarket packhouses
- Avoiding contracts where the staff are cold wet and very manual (we prefer contracts which are inside on packing lines with very little physical lifting)
- Smaller farms – generally because there are not that many left
- None

17 Section 4: Your Workers

In this section we would like to know about casual employee numbers and the issues faced by labour providers (gangmasters) in employing a fluctuating workforce.

How do you recruit casual workers? (E.g. ads in local paper, job centre, contacts abroad, word of mouth....)

Exhibit 18

The top three preferred ways to recruit workers was by word of mouth, local newspapers and through contacts abroad.

What is your maximum number of casual workers at any one time?

Exhibit 19 maximum number of casual workers at any one time

25% supply between 100 to 199 casual workers

40% supply between 200 to 399 casual workers

15% supply between 400 to 599 casual workers

15% supply between 600 to 1000 casual workers

What is your minimum number of casual workers at any one time?

Exhibit 20 minimum number of casual workers at any one time

40% supply less than 99 casual workers

20% supply 100 to 199 casual workers

30% supply 200 to 400 casual workers

For 60% of the sample businesses fluctuation in labour provided to customers in the food chain is between 60 and 80 per cent

Do you provide accommodation for your workers?

Exhibit 21 provision of accommodation

40 % of respondents provide accommodation for workers

If yes, for how many?

Exhibit 22

Accommodation was provided by the respondent businesses and ranged from 15 to 1000 + persons.

Do you provide transport for your workers?

Exhibit 23 Transport provision

100% of the respondent businesses provided transport

When extra workers are needed how much notice are you given on average by customers in each of the following sectors?

Exhibit 24 Notice given by customers for extra workers by sectors

Respondent's experience of notice for extra workers ranged from three months to one hour. The most cited experience was given as one day for all customers.

Exhibit 25 Notice given by customers when workers no longer needed

When workers are no longer needed how much notice are you given by customers in each of the following sectors?

Respondents' experience of notice given when workers were no longer required ranged from none to three months the most cited experiences were same day, 12 hours and 1 day

Exhibit 26

Do you think the notice given is reasonable? (please circle)

15% of the respondent business agreed that the notice they were given was reasonable

Exhibit 27

If no, why not?

- It's not reasonable because of the timescales and logistics incurred
- If longer notice is given a follow up job can quite often be found without a gap in employment
- No time to place the workers in another job
- No not always – depends on requirements
- But this is the industry and it's always changing
- Because we are dealing with customers whose orders increase/decrease on a daily basis - the situation won't alter
- Yes and No - we understand it is very difficult for our customers
- We have a responsibility to these people to provide them with work- factories think we put them away in a toy box until they are required again
- Our customers don't actually realise that you are interfering with some people's livelihoods
- Problems to relocate people and to find other jobs
- No time to deal with large increases
- They think you can react at any time of the year and they don't realise that when they are busy so is everyone

Looking at the map, please circle the region where you do most of your business. (please only circle ONE area only. Thinking of this one region which you have specified on the previous page: Please list which nationalities you have employed in the last 12 months.

Exhibit 28 Nationalities you have employed in the last 12 months in the region where you do most of your business

1. North West Australian/ Bulgarian /British /Lithuanian /Namibian /New Zealand /Polish /Portuguese /S.African /Slovene Ukrainian	7. South East Afghan /Africans /British /Bulgarian/Dutch Estonia /French /German /Ghanaian /Greek Indian /Iraqi /Latvian /Lithuanian /Nigerian Pakistani/Polish /Portuguese/Russians S.African /Spanish/ Ukraine
2. North East	8. South West
3. Yorkshire and Humber	9. London
4. East Midlands Albanian/ British /Indian /Iraqi /Kosivan Lithuanian /Pakistani/ Portuguese West Indian	10. Scotland

5. East of England Australian /British /Chinese /French Iraqi /Italian /Kurdish/ Lithuanian Namibian/ New Zealand/ Polish Portuguese /Russian /S.African Spanish /Swedish /Ukrainian	11. Wales
6. West Midlands British/ EU national / Kurdish /Punjabi Yemeni	

Which nationality makes up the largest percentage of your workforce?

Exhibit 29 The nationality which makes up the largest percentage of your workforce

- Portuguese cited 6 times
- British cited 3 times
- Afghan / African / Indian / Lithuanian / Pakistani / Punjabi / Russians / S.. African each cited once

Which is the largest group of non-British nationals in your workforce?

Exhibit 30 the largest group of non-British nationals in your workforce

- Portuguese cited 9 times
- Afghan / African / Bulgarian / Indian / Kurdish / Latvia /Lithuanian / Pakistani / Punjabi Russians,
S. African each cited once

It has been said that local people are not willing to work in the agricultural and food processing sector. Is this your experience and if so, can you explain why this is the case?

Exhibit 31 Perceptions that local people are not willing to work in the agricultural and food processing sector

- unemployment
- Unemployed people not willing to carry out low skill jobs for low money
- Yes will not work for minimum wage
- This is the case – and it's mainly because of the wages and the unpredictability of the work
- Rates of pay/rates of pay/rates of pay
- The pay is not enough but most of our staff are local

I agree low rates of pay compared to other sectors boring and repetitive working conditions cold wet dirty

- Correct – low unemployment –poor work ethic prefer to sit on benefits than do agricultural or factory work
- Yes there is no good reason for local people not to work in this industry
- Low unemployment
- Local people can chose more pleasant jobs
- Not known
- Yes, due to the nature of the work and the low pay rates
- Local people do not choose to work the hours mostly at minimum rates in a chilled packhouse environment
- Lazy
- Low wages not getting paid to cover all living expenses
- Yes, not worth going to work for national minimum wage when they get more on benefits
- That they can get more money on benefits e.g. house job seekers allowance
- Only very few people work in food production they feel that this type of work is below them

The Forum

Why have you attended today and what would you like to see happen as a result of this event?

Exhibit 32 Reasons for attendance

- To understand and gain knowledge
- To find out what the Government is trying to do with labour providers
- To hear other views from those working in the industry sectors of which we have no direct experience
- To listen to what is being said and the thoughts of the government and to add some views I had over certain issues

Exhibit 33 What would you like to see happen as a result of this event?

- Establish a process for a way forward – unity /networking
- Interested in taking movement forward, removing unscrupulous traders, achieving recognition for service provided
- I like to see the pressure off us and more on the labour users
- A code of operation to comply with
- There must be a code of practice for everyone to follow and that every agency has to be audited every 12 months and given a certificate to carry on for the next year by a government appointed person. NO Cert! NO TRADING!
- I believe that we need a voice instead of continually being betrayed as criminals some where on the scale of drug dealers and paedophiles. I am all for accountability by employers as well as agencies – they should be accountable
- I would like to see a Government body set up using the skills of the people present to implement a code of practice and police the code. This body will Have powers to close business down for illegal practices
- Our business is totally governed by the minimum wage and fixed base rate to charge our customers would be ideal but the Government will not go down this road. Therefore more input from the supermarkets to allow the labour providers sufficient funds to work legally. This I think will come. We want to view our problems in the industry and legitimate employment agencies are being pushed out of the market by illegal /operating illegally – employment agencies, not paying minimum wages NI, working time directive i.e. ever increasing costs
- I would like to keep abreast
- A need for better regulation

- of sector developments
- I would like to see standard procedures, legalised minimum commission and by HM Government to enforce
 - Direct payment of VAT from labour user (farmer/packhouse) to the treasury
 - A standard rate of charge to include minimum wage and National Insurance industry pay and transport costs but profit should be left out of the equation and negotiated between the supplier and the user
 - More commitment from customer and their customers.
 - Some structure put in place for agricultural labour suppliers to get rid of the cowboys to see everybody operating on a level playing field legitimately and with high standards to decrease bad press

Finally, please identify the top three issues that are facing your business today.

Exhibit 33 top three issues facing the businesses

- | | | |
|--|--|--|
| • Lack of quality labour | • prices | • costs |
| • margins | • red tape | • cowboys |
| • Illegal immigrants | • Paperwork | • Agencies not operating legitimately |
| • Companies not being able to pay proper rates | • Getting paid enough to operate legally | • Supermarkets working closer with the whole chain |
| • Health and safety | • Staff shortages | • No assistance (positive) from government bodies |
| • Competing against impossibly low charge rates from other employers | • Under cutting by non-legal organisations | • Resources to deal with more administration e.g. paperwork audits etc |
| • SAWS – student competition | • Identify illegal workers | • Being under cut by illegal operators |
| • Margins | • Increased paperwork – | • Increasing cost of |

- | | | |
|--|--|--|
| | and hence costs to meet increasingly complex compliance | overheads mostly unable to recover by matching increase in bill rates |
| <ul style="list-style-type: none"> • Continual – seemingly unhindered growth by unscrupulous labour providers | <ul style="list-style-type: none"> • Immigration | <ul style="list-style-type: none"> • Rising costs NI, Diesel insurance |
| <ul style="list-style-type: none"> • Bad publicity and image | <ul style="list-style-type: none"> • Finding reliable workers | <ul style="list-style-type: none"> • Getting the clients to pay enough to cover all costs |
| <ul style="list-style-type: none"> • Insurance’s and licences | <ul style="list-style-type: none"> • Illegal immigrants | <ul style="list-style-type: none"> • Illegal workers |
| <ul style="list-style-type: none"> • Illegal gangmasters | <ul style="list-style-type: none"> • Organised crime | <ul style="list-style-type: none"> • Unscrupulous agencies using illegal labour not paying vat PAYE |
| <ul style="list-style-type: none"> • Clients cost cutting – pressure from supermarkets | <ul style="list-style-type: none"> • Non regulation of the industry | <ul style="list-style-type: none"> • Low rates |
| <ul style="list-style-type: none"> • Pressure on profit margins | <ul style="list-style-type: none"> • Lack of candidates/workers | <ul style="list-style-type: none"> • Client understanding of issues we have |

This is the first time that your business sector as a whole has been asked for your opinion, so thank you for taking the time to complete this questionnaire.