



House of Commons

Environment, Food and Rural
Affairs Committee

Gangmasters (follow up)

Eighth Report of Session 2003–2004



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(follow up)**

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*Report, together with formal minutes, oral and
written evidence*

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Environment, Food and Rural Affairs Committee

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Summary

We have returned to the subject of gangmasters following our previous, highly critical, report published in September 2004.

The response of the Government to our previous report has not been sufficiently urgent. In particular, it has failed to conduct research into the nature and extent of the problem of illegal gangmasters. Without such research it cannot possibly say whether its policies and actions have been successful. Ministers did not seize upon our previous report and tackle the problem with urgency until a Private Member's Bill was introduced in the House of Commons, and until the tragedy of Morecambe Bay. In short, policy in this area has been driven by outside events.

There is, though, evidence of successful enforcement operations on the ground. We commend those involved. But we urge the Government to ensure that enforcement is better co-ordinated.

The structures put in place to ensure co-ordination in policy-making and in directing enforcement activity are muddled. It is not clear who in Government is responsible for the issue, leading to confusion and delay in, for example, sending a Minister to Morecambe Bay after the incident there. We recommend that the structures be streamlined, and that a single Minister is put in charge.

Finally, we support the Gangmasters (Licensing) Bill. But the Bill is not a panacea. Greater urgency and effort across Government is required, together with the Bill, to ensure that illegality and exploitation by many gangmasters is curtailed.

1 Introduction

Our first report

1. In March 2003 we announced that we would undertake an inquiry into the illegal activities of some gangmasters providing labour to the agricultural and horticultural industries.¹ Our inquiry was prompted in part by longstanding concerns about illegality in the sector, and by anecdotal evidence that abuses were increasing. We took oral evidence on the subject in May and June 2003, and published our report in September 2003.²

2. Our findings were stark. We expressed our disappointment that the Government had no clear understanding of the gangmaster sector, let alone of the scale and scope of illegal activity. We concluded that the Government had failed to confront the problems of the industry. Enforcement of existing legislation was “perfunctory and uncoordinated”.³ We observed that there was insufficient political priority given to dealing with the issue, and that inadequate resources had been allocated to it. We also concluded that relationships between supermarkets and their suppliers were significant contributory factors to the problem.

3. We made a number of recommendations for change. In particular we called on supermarkets to ensure that they did all they could to address the issue, and welcomed the review by the Office of Fair Trading of the Code of Practice between supermarkets and their suppliers.⁴ Our principal recommendations to the Government were that it:

- Commission a detailed study, to be published by March 2004, of the use of casual labour in the agricultural and horticultural industries;
- Appoint a Defra Minister to take overall responsibility for Operation Gangmaster, allocate a single budget to it, and collect information about its work; and
- Set up an inter-departmental working group reporting to a Defra Minister to address the problem of illegal activity by agricultural gangmasters in particular.⁵

The Government response

4. The Government replied to our report on 8 December 2003.⁶ It accepted many of the points we made. In response to our principal recommendations, the Government:

- Accepted that there was need for further research, although it argued that this was best directed to finding out how many casual workers are employed in off-farm packhouses, packing horticultural products;

¹ Press Notice, 17 March 2003

² *Gangmasters*, Fourteenth Report of Session 2002-03, HC 691

³ HC (2002-03) 691, Summary

⁴ HC (2002-03) 691, paras.25 ff

⁵ HC (2002-03) 691, paras.20, 47 and 78.

⁶ *Gangmasters: Government Reply to the Committee’s Report*, First Special Report of Session 2003-04, HC122

- Agreed that a single Minister should take responsibility for Operation Gangmaster, but that this should be a Department for Work and Pensions Minister, and noted that an ‘evaluation’ of Operation Gangmaster was planned; and
- Set up a Gangmaster Coordination Group, chaired by a Defra official and answering to a Defra Minister, to ensure “proper coordination of both enforcement operations and policy development relevant to agricultural gangmasters”.⁷

Subsequent developments

The Gangmasters (Licensing) Bill

5. On 7 January 2004 Jim Sheridan MP introduced the Gangmasters (Licensing) Bill in the House of Commons.⁸ The Bill as presented, which was taken on from work carried out by the Transport and General Workers’ Union, required gangmasters to obtain a licence, which is subject to certain conditions, and to be entered on a public register. It also created offences of acting as, or engaging the services of, an unlicensed gangmaster.⁹ The Bill was given a second reading on 27 February 2004.

Main provisions of the Gangmasters (Licensing) Bill (as printed prior to Second Reading):

- (1) to define the meaning of "gangmaster";
- (2) to require gangmasters to obtain a licence and be entered onto a public register;
- (3) to make it a criminal offence for a gangmaster to engage in licensable conduct without a licence or to breach the conditions of the licence, and, for this purpose to make it compulsory conditions of each licence that:
 - (a) a gangmaster will not withhold personal documents from gang workers;
 - (b) a gangmaster will provide personal identity to their agents/workers;
 - (c) a gangmaster (or their worker or agent) will to show their licence or identity to users of gangmasters on demand;
 - (d) a gangmaster will keep records relating to his activities as a gangmasters for a period of 5 years from the date of that conduct;
- (4) to make it a criminal offence for users of gangmasters to engage an unlicensed gangmaster (subject to a defence);
- (5) to require the Secretary of State to set up a scheme of licensing and enforcement

Morecambe Bay

6. On the evening of Thursday 5 February thirty-five cockle-pickers were trapped by the tide in Morecambe Bay. Despite rescue attempts, twenty subsequently drowned. Although the full facts of the case are not yet known, and the incident remains the subject of a police inquiry,

⁷ HC (2003-04) 122, p.13

⁸ Votes and Proceedings, 7 January 2004

⁹ Explanatory notes, Bill 17-EN

there was immediate suspicion that those involved were ganged labour, and that they were illegal immigrants from China. That brought the issue of gangmasters to the top of the political agenda: in the aftermath of the incident the Home Secretary said that “we will want to back Jim Sheridan's Bill in relation to gangmasters and I hope we can move forward on that very quickly”.¹⁰

Our inquiry

7. When we published our original report in September 2003 we announced that we would return to the matter “in Spring 2004” to examine progress made.¹¹ Soon after the tragedy in Morecambe Bay we decided that the time was right to follow up our previous work. On 12 February 2004 we announced our decision, inviting written evidence, and saying that we would take oral evidence from Government Ministers in March.¹²

8. We received nine memoranda in response to our invitation.¹³ We subsequently heard oral evidence from the Transport and General Workers’ Union, Jim Sheridan MP, and Geraldine Smith MP, whose constituency covers part of Morecambe Bay; the Association of Chief Police Officers; Mr Zad Padda, a legitimate labour provider; Lord Whitty, the Minister for Food and Farming at Defra; and Beverley Hughes MP, then Immigration Minister at the Home Office, and Chris Pond MP, a Department for Work and Pensions Minister. We are most grateful to all those who helped us with our inquiry.

2 Urgency

Achievements since our last report

Research

9. As we have said, our report expressed our extreme disappointment that Defra, by its own admission, did “not have a sufficiently comprehensive view of the situation” of illegal gangmaster activities.¹⁴ Our conclusion was straightforward:

If the Government does not even know how many casual workers there are and who they are working for, it is plainly difficult for it to make any estimate of the scale of any illegal activity being carried out within that sector of the labour market. The Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, if it cannot make even a rough estimate of the scale of that problem.¹⁵

¹⁰ Quoted in TUC Risks, No.143, 14 February; see www.tuc.org.uk/risks

¹¹ Press Notice, 18 September 2003

¹² *Gangmasters: Committee to follow up its report*, Press Notice, 12 February 2004

¹³ From Jim Sheridan MP, Transport and General Workers’ Union, Geraldine Smith MP, Association of Labour Providers, Defra (on behalf of the Government), Association of Chief Police Officers, National Farmers’ Union, British Retail Consortium and a labour providing company.

¹⁴ Q 333, asked on 4 June 2003; quoted in HC (2002-03) 691, para.19.

¹⁵ HC (2002-03) 691, para.19

For that reason we recommended that the Government “commission a detailed study into the use of casual labour in the agricultural and horticultural industries”.¹⁶

10. In its reply the Government accepted the need for research, although it said this only should look at casual labour in off-farm packhouses.¹⁷ It said that in fact information was known about the activities of gangmasters: there were estimated to be around 3,000 gangmasters operating in agriculture and horticulture, of which around 250 were “big players”. The Agricultural Census had revealed that around 64,000 casual workers were employed in the two sectors. Moreover, specifically identifying the scale of the problem of *illegal* gangmaster activity was “unlikely to be amenable to answering through commissioned research ... Previous attempts to quantify the extent of illegal working across the economy as a whole have found it extremely difficult to make reliable estimates”.¹⁸

11. In its written evidence to this follow up inquiry the Government told us that it *had* in fact decided to commission research into the use of seasonal and casual labour in the agricultural sector, as well as in the “related food processing and packaging [*sic*] sectors”.¹⁹ The research would also cover the role of labour providers in relation to these industries. We were told that “Defra and the Home Office are currently evaluating the tenders received. The report of the research will be published when it is complete”. **The reality, then, is that the Government is no nearer obtaining a comprehensive picture of the scale and nature of the problem of illegal gangmaster activity than it was when we published our original report eight months ago. Other than issuing a tender for one piece of limited research, the Government has made no progress. So we repeat our previous observation: the Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, if it cannot make even a rough estimate of the scale of that problem.**

12. Clearly, as the Government says, it will be difficult to uncover a full picture of any illegality. But information is available, and *estimating* the scale of the problem ought to be possible. For example, the auditing work undertaken by the Ethical Trading Initiative, albeit on a voluntary basis, has revealed examples of exploitation.²⁰ Targeted enforcement operations also uncover useful data: Operation Shark, led by the Department for Work and Pensions, raided all the main fish processors in Scotland in December 2002. It is said that it found that *half* of the workforce was illegally employed.²¹ **We strongly recommend that the Government take urgent steps to develop a better picture of the extent and nature of illegal activities by gangmasters. It should do so through a combination of research in the field and by centrally compiling data from sources such as regional Operation Gangmaster operations. Anecdotal evidence suggests that this is a widespread problem: the Government should now produce figures which at least attempt to *estimate* how widespread it is.**

¹⁶ HC (2002-03) 691, para.20

¹⁷ HC (2003-04) 122, p.2

¹⁸ HC (2003-04) 122, pp.2 and 3

¹⁹ Ev 34, para 3

²⁰ *Migrants in bonded labour trap*, Guardian, 29 March 2004

²¹ *'Gangmaster ring' arrests in dawn raids*, Guardian, 26 March 2004

13. We have been told informally that one of the difficulties faced by those undertaking research for the Government in this area is that different projects are commissioned by different arms of Government. The result is that numerous small projects with limited budgets are undertaken, when it might be more sensible to set out more all-encompassing, better funded commissions. However, this assertion must be viewed in the context of the fact that Defra and the Home Office have indeed jointly commissioned the piece of research referred to above. **We recommend that the Government look at the various tenders it issues which relate to research into gangmaster activity, and consider what scope there might be for amalgamating the ‘pot’ of funding available to allow for more extensive, better-funded research in future.**

Enforcement

14. In our last report we noted that gangmasters operating illegally might breach a number of laws, including the Asylum and Immigration Act 1996, the National Minimum Wage Act 1998, the Agricultural Wages Act 1948, the Employment Rights Act 1996, the Employment Agencies Act 1973, and the Health and Safety at Work etc Act 1974, as well as legislation relating to VAT, taxes and National Insurance.²² We were critical of enforcement of this existing legislation, which we described as “perfunctory and uncoordinated”. The enforcement agencies, we said, were “insufficiently resourced and lack the political backing to make a significant impact on illegal activity”.²³

15. Our conclusion has been supported by other Members of Parliament. Perhaps the most telling evidence has been provided by Geraldine Smith MP. She has given examples of instances when enforcement activities aimed at suspected ganged labour involved in cockle-picking in Morecambe Bay failed due to poor co-ordination and shortages of resources:

- on 28 June 2003 Geraldine Smith wrote to the then Immigration Minister about an operation on 19 June involving police and the Department for Work and Pensions targeting Chinese cocklers operating on Pilling Sands just south of Morecambe Bay, asking why Immigration Service investigators had not been present. She was told that their attendance would not be “an effective use” of resources;²⁴
- on 29 July 2003 police found 22 Chinese nationals in a flat in Morecambe, and sought Immigration Service assistance in ascertaining their immigration status. The police were unable to contact the Service, and the people were released; and
- on 4 August 2003 police arrested 37 Chinese nationals in Morecambe on suspicion of being illegal immigrants. It took 20 hours before Immigration Service assistance could be secured, and again those arrested were released.²⁵

It is worth noting that these incidents relate to a period of just two months in one small part of the country.

²² HC (2002-03) 691, p.14

²³ HC (2002-03) 691, summary

²⁴ *Cockle beds must close, MP urges*, www.bbc.co.uk, 12 February 2004 [accessed 7 April 2004]; HC Deb, 4 March 2004, col.1146

²⁵ HC Deb, 4 March 2004, col.1145

16. Jim Sheridan MP, during the debate on second reading of his Bill, told the House that “currently, when it comes to gangmasters, enforcement is non-existent at best and ineffective at worst”.²⁶ And in his reply to the debate the Minister for Rural Affairs and Local Environmental Quality said that “I agree ... about the need to make enforcement by existing agencies more effective”.²⁷

17. Moreover, it has been suggested that little has changed recently. For example, we received evidence from the Association of Labour Providers (ALP) that, since the time our report was published, there has been “no strengthening of enforcement action against disreputable gangmasters and no visible evidence of a more joined-up approach”.²⁸ It said that “members of the ALP can see no evidence of any change in the Government approach since last September. Indeed, in some respects enforcement activity has diminished because of lack of resources”, and that “enforcement agencies are more inclined to go after ‘soft’ targets rather than major problems”.²⁹ Zad Padda, from Fusion Personnel, told us that enforcement activity was “pretty normal ... they are still doing raids and stopping vans and what have you”. He said that he did not think that enforcement had intensified since September 2003, but he did not think it had diminished either.³⁰

18. By contrast the Government argued that enforcement activity had been stepped up, and provided evidence in support of its argument. For example, it cited two recent high-profile cases involving gangmasters. In one case, a father and son were each sentenced to seven years imprisonment for criminal offences relating to the provision of illegal immigrants as labour for farms and food processors in Kent.³¹ In the other six people connected with the Ultimate Source gangmaster company in East Anglia were convicted of offences relating to illegal immigration, money laundering and other activities, and received sentences of between nine months and seven years.³² In addition there have been a number of recent reports of arrests.³³

19. As well as these specific cases, the Government cited the following enforcement activities in its evidence:

- 10 ‘live’ operations under the regionally-based, inter-agency, **Operation Gangmaster** umbrella, as well as two operations completed between September 2003 and February 2004;
- two **Inland Revenue** specialist teams have settled 51 investigations in 2003-04, identifying additional tax liabilities of £4.7 million;
- **Customs and Excise** brought successful actions against four labour providers who in March 2004 had pleaded guilty to VAT offences;

²⁶ HC Deb, 27 February 2004, col.522

²⁷ HC Deb, 27 February 2004, col.564

²⁸ Ev 83, para.3

²⁹ Ev 83, para.7

³⁰ Q104

³¹ *Gangmasters jailed over workers scam*, Guardian, 16 March 2004

³² *Gang convicted of migrant racket*, BBC News website, 8 March 2004 (accessed 2 April 2004)

³³ *'Gangmaster ring' arrests in dawn raids*, Guardian, 26 March 2004

- In 2003-04 the **UK Immigration Service** carried out 34 enforcement operations aimed at farms and packhouses where labour providers were involved; and
- Between April 2003 and January 2004 the **Department for Work and Pensions** reported 1908 cases involving labour providers where benefit was adjusted or stopped, and 236 prosecutions and sanctions, netting £1.1 million.³⁴

20. The Government told us that the pace of enforcement activity will continue to increase. From April 2004 the Inland Revenue will add a further 50 staff to the 18 staff currently working in specialist teams investigating non-compliance by labour providers with tax regulations, and a further 20 staff will follow in April 2005.³⁵ The two current specialist teams operate in southern and central England: the new staff will provide “wider coverage”,³⁶ creating a national network of regionally-based teams investigating corporation tax, income tax and PAYE irregularities.³⁷ In its evidence the Government also told us that the UK Immigration Service had planned a further 11 operations involving labour providers.³⁸ And the National Crime Squad has set up ‘Reflex’, a multi-agency group looking at organised immigration crime.³⁹

Reflex

‘Reflex’ is the Government’s multi-agency response to organised immigration crime. It was set up in 2000 under the chairmanship of the Director General of the National Crime Squad. It includes representatives from Government departments, law enforcement and the intelligence community.

Reflex primarily focuses on ‘level 3’ serious and organised crime. But over the past two years it has developed a ‘level 2’ response with regional police forces and other law enforcement agencies as well as developing projects to help reduce and prevent the criminality both here and overseas.

18 Reflex operations currently involve an element of illegal working. Nine of these within the National Crime Squad and nine within regional police forces. Many of these operations have links with other agencies such as DWP and Immigration Service.⁴⁰

21. **There is some evidence, such as that presented by Geraldine Smith MP, that enforcement continues to be held back to an extent by a lack of resources and an absence of coordination. We are surprised that so much current enforcement activity is apparently carried out by agencies acting alone, rather than in concert through Operation Gangmaster. We once again urge the Government to coordinate all attempts to enforce existing legislation, even if only by ensuring that agencies report their activities to regional Operation Gangmaster meetings, and through them to central Government. That said, there is also evidence of increasing levels of enforcement activity, and we commend all those involved for their efforts.**

³⁴ Ev 35, paras.12 ff

³⁵ Ev 72, paras.15 ff

³⁶ Ev 35, para.15

³⁷ Ev 72, paras.15 ff

³⁸ Ev 36, para.17

³⁹ Ev 20

⁴⁰ Ev 20

22. However, it is difficult to judge the effectiveness of current enforcement activity when we know so little about the extent of the problem of illegal gangmaster operations. Anecdotal evidence suggests that the problem is widespread, in which case the enforcement activities cited by the Government may only be scratching the surface. **We repeat our earlier recommendation that the Government take steps better to understand the nature and scope of illegal activity by gangmasters. Unless it does so it is extremely hard to assess how effective enforcement has been.**

Ministerial meetings

23. One measure of the urgency with which the Government is responding to the problem of illegal gangmasters is Ministerial engagement with the issue. We were therefore keen to find out what meetings and conversations Ministers had held to discuss the matter. Our aim was to assess the degree of priority Ministers had given to the issue following the publication of our report.

Ministerial meetings and conversations relating to gangmasters (excluding meetings about the Gangmasters (Licensing) Bill)⁴¹

2003

18 September	Committee publishes its report
23 September	Chris Pond visits Cornwall in relation to an enforcement operation
7 October	Lord Whitty meets representatives of the Ethical Trading Initiative
16 October	Beverley Hughes and Lord Whitty meet to discuss committee report
20 October	Lord Whitty and Chris Pond speak on telephone about committee report
11 November	Lord Whitty, Beverley Hughes, Chris Pond, Dawn Primarolo (Treasury) and Gerry Sutcliffe (DTi) meet to discuss Government's response to Committee report
8 December	Government reply to Committee report received

2004

7 January	Gangmasters (Licensing) Bill introduced
2 February	Meeting of Illegal Working Steering Group, chaired by Beverley Hughes and attended by Gerry Sutcliffe (DTi)
5 February	Incident in Morecambe Bay
12 February	Committee announces it will return to subject of gangmasters
12 February	Chris Pond meets Members to discuss Operation Gangmaster
25 February	Meeting of Illegal Working Steering Group, chaired by Beverley Hughes and attended by Gerry Sutcliffe (DTi)
27 February	Second Reading of the Gangmasters (Licensing) Bill
8 March	Defra Ministers meet stakeholders to discuss issues relating to labour providers
15 March	Lord Whitty discusses gangmasters at a wider meeting with trade unionists
17 March	Margaret Beckett and Patricia Hewitt (DTi) discuss gangmasters at wider meeting
18 March	Lord Whitty, Beverley Hughes and Chris Pond meet to discuss the Government's memorandum to the committee
22 March	Government memorandum submitted to the committee
23 March	Ministers give oral evidence to the Committee

⁴¹ Ev 70, paras. 6 ff; Ministers in addition have held discussions with officials

24. What is revealed by this timetable of meetings is that the triumvirate of Ministers primarily responsible – the Ministers of State in the Home Office and Defra (Beverley Hughes and Lord Whitty), and the Minister in the Department for Work and Pensions (Chris Pond) – apparently gave little priority to the issue until the incident took place in Morecambe Bay and we announced we would return to the issue. It is also worth noting that the three Ministers nominally in charge of policy relating to gangmasters did not meet until *six weeks* after the incident in Morecambe Bay.⁴²

25. There *has* been something of a flurry of Ministerial activity surrounding the Gangmasters (Licensing) Bill, as the timetable below demonstrates. The responsible Minister, the Minister for Rural Affairs and Local Environmental Quality (Alun Michael), has held a number of meetings about the Bill – as might reasonably be expected.

Ministerial conversations relating to the Gangmasters (Licensing) Bill⁴³

2004

7 January	Gangmasters (Licensing) Bill introduced
12 January	Alun Michael and Lord Whitty meet to discuss Gangmasters Bill
13 January	Alun Michael, Lord Whitty and Jim Sheridan MP discuss Gangmasters Bill
16 January	Alun Michael and Lord Whitty speak on telephone about Gangmasters Bill
26 January	Alun Michael speaks informally to Gerry Sutcliffe (DTi) about Gangmasters Bill
2 February	Alun Michael and Lord Whitty meet to discuss Gangmasters Bill
2 February	Alun Michael and Chris Pond speak on telephone about Gangmasters Bill
2 February	Alun Michael and Beverley Hughes speak informally about Gangmasters Bill
4 February	Alun Michael and Douglas Alexander speak about Gangmasters Bill
5 February	Incident in Morecambe Bay
6 February	Alun Michael and Dawn Primarolo (Treasury) speak about Gangmasters Bill
6 February	Alun Michael and Keith Hill (Whips) speak about Gangmasters Bill
9 February	Chris Pond, Lord Whitty and Alun Michael meet Jim Sheridan MP and others about Gangmasters Bill
12 February	Committee announces it will return to subject of gangmasters
23 February	Alun Michael and Lord Whitty speak on telephone about Gangmasters Bill
24 February	Alun Michael and Lord Whitty speak on telephone about Gangmasters Bill
25 February	Alun Michael, Lord Whitty and Margaret Beckett meet to discuss Gangmasters Bill
27 February	Second Reading of the Gangmasters (Licensing) Bill
22 March	Alun Michael and Lord Whitty meet to discuss Gangmasters Bill
22 March	Alun Michael meets Association of Labour Providers
23 March	Ministers give oral evidence to the Committee

26. What is revealed by these two timetables is that Ministerial engagement in addressing the problems of illegality on the part of gangmasters has been stepped up primarily in response to the introduction of the Gangmasters (Licensing) Bill, to the incident in Morecambe Bay, and to our new inquiry. Thus it is clearly apparent that outside events are driving Government policy, notwithstanding Lord Whitty's claim that "the Sheridan Bill has [simply] brought us to focus on what legislative processes we were taking. We were already taking action on a voluntary basis".⁴⁴ This failure to grasp the nettle is all the more surprising given the comments made in our previous report, and our stated intention to return to this issue to

⁴² See Q273

⁴³ Ev 70, paras. 6 ff; Ministers in addition have held discussions with officials

⁴⁴ Q161

examine progress made. **It is regrettable that Ministers do not seem to have been sufficiently seized of the urgency of the need to deal with illegality on the part of gangmasters until prompted into action by external pressures, principally the Gangmasters (Licensing) Bill. We trust that they now understand how important this matter is, and will commit themselves to continuing to treat it as a high priority in future.**

Response to Morecambe Bay

27. We were particularly interested to note the Government's response to the incident in Morecambe Bay. The Minister identified as principally responsible was the Minister for Nature Conservation and Fisheries, Ben Bradshaw MP.⁴⁵ At our request the Government provided us with a list of the meetings he held in the aftermath of the incident.

Meetings held by Ben Bradshaw MP after the incident in Morecambe Bay

5 February	Incident in Morecambe Bay
10 February	with Defra officials
12 February	with Geraldine Smith MP and Andrew Miller MP, also with officials
17 February	with Defra officials
24 February	with Defra officials
24 February	by telephone, with Geraldine Smith MP
24 February	with Chris Pond [in margins of a Joint Ministerial Committee (Europe) meeting]
25 February	with Chair of Health and Safety Commission
26 February	visit to Morecambe Bay [meeting with many local stakeholders]

28. We are surprised that it took three weeks for Mr Bradshaw to visit the Morecambe Bay area. In our oral evidence session a comparison was drawn between that timescale and the reaction to a rail accident, when Ministers are typically on the scene within hours.⁴⁶ The local Member of Parliament, Geraldine Smith MP, has pointed out that this was the worst industrial accident, in terms of its death toll, since the Piper Alpha disaster in 1988.⁴⁷ **On reflection we are sure that the Government will agree that a Minister should have visited Morecambe Bay much sooner after the incident there, to offer condolences to the community involved, and to support the emergency services. We are concerned that Ministerial reaction to the incident reflects an underlying problem of confusion and uncertainty, with no-one in Government quite sure who is responsible for policy relating to gangmasters and illegal working.**

European Union enlargement

29. On 1 May 2004, eight eastern and central European nations acceded to the European Union. In his evidence, Zad Padda of Fusion Personnel expressed considerable concern about the impact of this enlargement, talking of a "flood of new people coming in who may take up gangmastering themselves".⁴⁸ We have put this point to Government more than once. The

⁴⁵ Q183

⁴⁶ Q185

⁴⁷ *Doubt over gangmaster law plan*, www.bbc.co.uk, 23 March 2004 [accessed on 8 April 2004].

⁴⁸ Q94

Minister for Food and Farming has pointed out that since workers would have entered the United Kingdom legally, the worst exploitation, associated with the effective blackmail of those of illegal immigration status, would in fact be reduced.⁴⁹

30. We make two points in response. First, some of the worst reported exploitation now involves Portuguese workers – in other words, from an existing European Union Member State. There are reports of passports being taken away by gangmasters, and of the exploitation of uncertainty amongst workers about their immigration status. Second, there is concern that gangmasters based abroad employing workers from eastern Europe may well try to avoid paying National Insurance or tax, or the minimum wage. They might also ignore health and safety and other workplace regulations. Employees might be put at risk, and tax revenues lowered, as a result. And such workers would pose an unfair competitive challenge to UK-based gangmasters. **We urge the Government to take seriously the threat of illegality on the part of gangmasters and ganged labour from the European Union accession states. It should, as part of its research into the problem, look at this particular issue and, if it proves to be a matter of concern, take steps to address it.**

3 Structures

31. A plethora of cross-departmental and inter-agency committees, forums, steering groups, working groups and co-ordination groups have been set up, each of which addresses aspects of the problem, or which have wider responsibilities for illegal working. The role of each group is:

- The **Illegal Working Steering Group** was set up in November 2002 to discuss the prevention of illegal working and to make proposals to Government. **It is chaired by a Minister of State in the Home Office**, and includes representatives of private sector and public sector employers, the Trades Union Congress, Health and Safety Executive and Commission for Racial Equality.⁵⁰
- The **Informal Economy Steering Group** was established in March 2000 to implement the recommendations of the Grabiner Report into the informal, or hidden, economy.⁵¹ **It is chaired by the Inland Revenue**, and includes officials from HM Customs and Excise, the Department for Work and Pensions, Defra and the Home Office. Operation Gangmaster activity reports to the Steering Group.
- The **Informal Economy Working Group** supports and reports to the Steering Group, and is concerned with operational issues. **It is chaired by HM Customs and Excise**, and attended by Inland Revenue, the Department for Work and Pensions, the Home Office and Defra.

⁴⁹ Evidence taken before the Committee on 27 April 2004, relating to *Agriculture and EU Enlargement*, Q223

⁵⁰ A full list of members is at Ev 74, Annex B

⁵¹ Lord Grabiner QC (2000) *The Informal Economy*, HC Treasury, March 2000; see www.hm-treasury.gov.uk

- The **Gangmaster Co-ordination Group** was set up at the behest of the Informal Economy Steering Group in July 2003 as a specific forum for the discussion of policy and enforcement issues relating to agricultural gangmasters. **It is chaired by a Defra official and reports to the Minister for Food and Farming.** It is attended by the Department for Work and Pensions, the Home Office, Inland Revenue, Department of Trade and Industry, HM Customs and Excise, the Cabinet Office and the Health and Safety Executive.
- **Regional Gangmaster fora** consider and share intelligence, and make decisions about the initiation of multi-agency enforcement actions “under the Operation Gangmaster banner”.⁵² **The Department for Work and Pensions are responsible for the fora, and chair all eight of them.** Attendance at the regional fora varies, but core participants are Inland Revenue, HM Customs and Excise, Defra, Department of Trade and Industry, the Health and Safety Executive, local authorities, the National Asylum Support Service, UK Immigration Service, the National Criminal Intelligence Service and the police.
- The Department for Work and Pensions **Fraud Steering Group, chaired by a Minister from the Department,** has Operation Gangmaster as a standing item on its agenda.
- As we have said, some enforcement activity is co-ordinated through **Reflex**, which is **chaired by the National Crime Squad.** It includes the National Crime Squad, the National Criminal Intelligence Service, the Immigration Service, the Foreign and Commonwealth Office, intelligence agencies, and certain key police forces.⁵³ It does *not* include representatives of, for example, Defra and the Department for Work and Pensions.⁵⁴
- Policy development and enforcement activity is also carried out by individual Departments and agencies.

The Government also provided details of the structure of inter-relationships between the various groups. An organisational chart is displayed below.⁵⁵

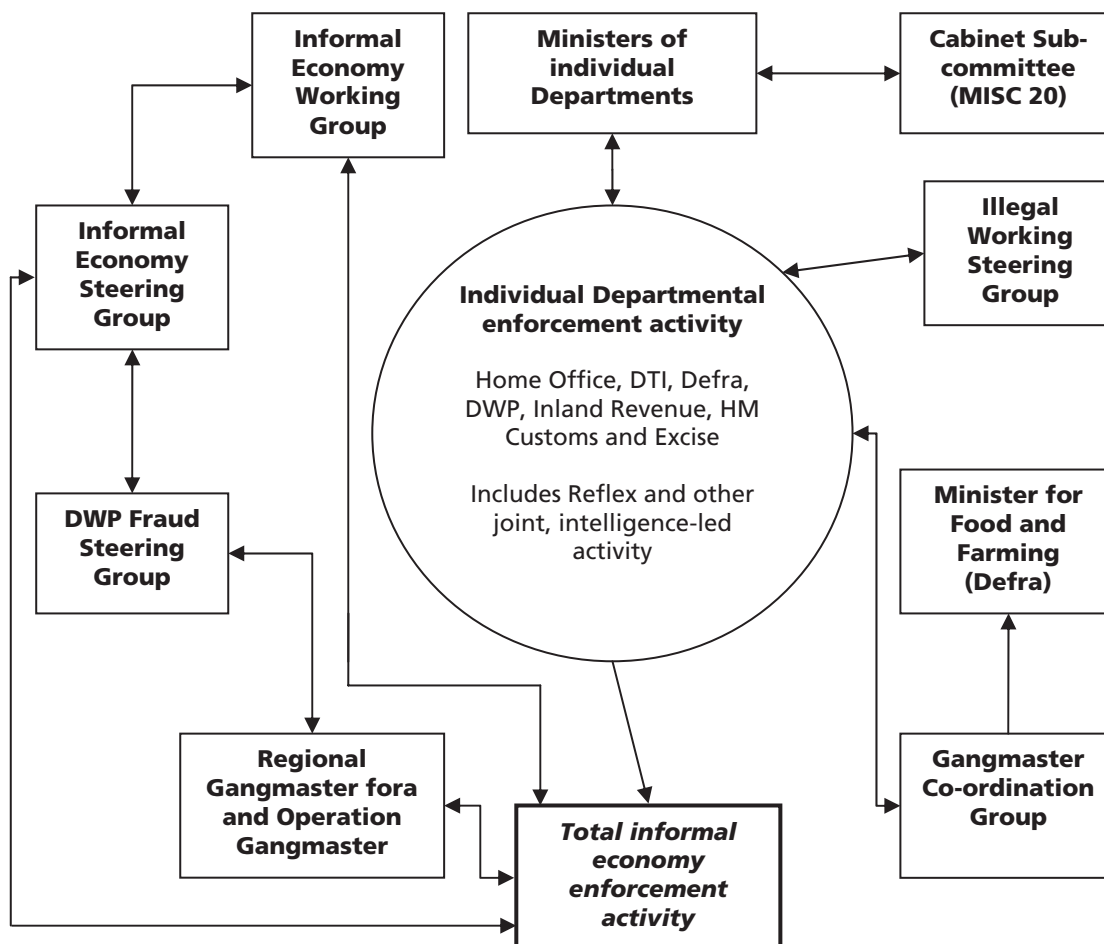
⁵² Ev 75

⁵³ See *Cracking down on organised immigration crime*, Home Office press notice 171/2002, 25 June 2002

⁵⁴ Q314

⁵⁵ Taken from Ev 74, with layout slightly changed

Figure 1: Architecture of Government activity against illegal working⁵⁶



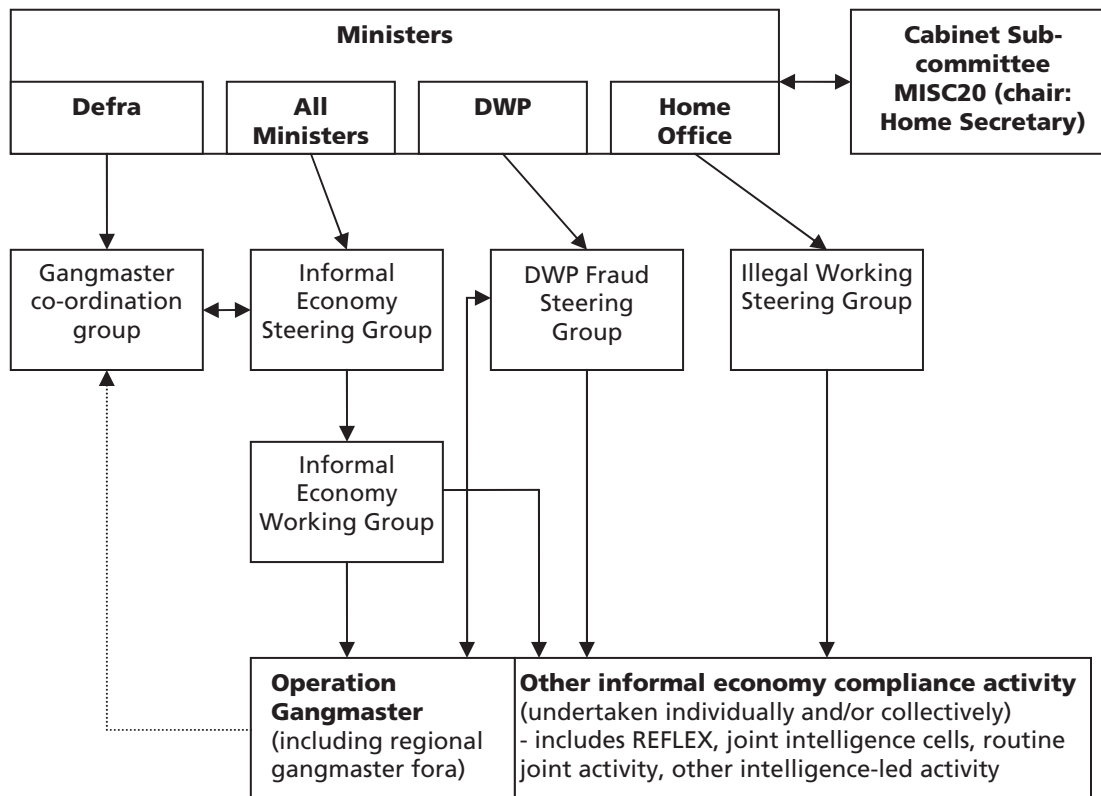
32. In further supplementary evidence the Minister for Food and Farming sought to simplify the organisational chart presented to us. He explained that the first diagram had put enforcement activity at the centre, and that on reflection it would be more helpful to present a second diagram “that illustrates more clearly the command structure involved in managing and directing the Government’s enforcement efforts in relation to gangmaster activities”.⁵⁷ The new organisational chart is reproduced below.⁵⁸ **We note that the chart refers to Cabinet Sub-committee MISC20. We recommend that the Government provide us with details of the role played by the Sub-committee in determining Government policy relating to gangmasters.**

⁵⁶ Note: Cabinet Sub-committee MISC20 is the Ministerial Committee on Social and Economic Aspects of Migration; it is chaired by the Home Secretary. For more details, go to <http://www.cabinet-office.gov.uk>

⁵⁷ Ev 79

⁵⁸ Ev 80

Figure 2: Architecture of Government activity against illegal working (revised)



33. Notwithstanding the Government's clarification of the policy-making 'landscape', we are concerned that the complex structures put in place are likely to hinder rather than help a successful multi-agency response to the problems of illegal working and of gangmasters. There are four obvious deficiencies.

- First, there are simply too many different working groups, steering groups and other bodies; greater coherence in the overall structure is essential.
- Second, the membership of the fora and working groups is inconsistent: Defra has no role in Reflex, for example.
- Third, the chairmanships of the various groups are split between Departments and agencies. It cannot be easy, therefore, for those involved to be clear which is the 'lead' Department.
- Fourth, three Ministers of State – from the Home Office, Department for Work and Pensions, and Defra – have responsibilities for different, sometimes overlapping, aspects of the matter. This again makes it impossible to judge who is in charge.

34. Given the range of Departments and agencies which have an interest in illegal working this complicated structure is perhaps not surprising. But it is wholly unsatisfactory. The organisational charts above confirm that there is no one Minister in charge of policy and enforcement in this area. **We are convinced that the overly complicated structure of bodies put in place to deal with this cross-departmental issue hinders rather than helps a**

coherent response to the problems of illegal working and of gangmasters. We recommend that the Government rationalise and streamline the steering groups, working groups and other bodies that operate in this policy area. Currently co-ordination of activities appears only to take place on the ground: we recommend that a single co-ordinating body for illegal working and the informal economy be established. We again recommend that a single Minister be made clearly responsible for the issue. Given the wider responsibility to be taken on by that Minister we accept that the responsible Minister probably should not be from Defra – a Minister from the Home Office would be more appropriate.

4 Gangmasters (Licensing) Bill

35. As we have noted above, the Gangmasters (Licensing) Bill is currently before the House of Commons: it received its Second Reading on 27 February 2004, and was committed to Standing Committee. It was considered in Committee on 28 April 2004.

36. The Government, particularly after the incident in Morecambe Bay, has been broadly supportive of the *objectives* of the Bill as presented by Mr Sheridan. Thus the Home Secretary said that “we will want to back Jim Sheridan's Bill in relation to gangmasters and I hope we can move forward on that very quickly”.⁵⁹ A similar sentiment was expressed by the Prime Minister, although he was clearly concerned about the Bill's detail: on 11 February he said that the Government “certainly support[s] the objectives set out in the private Member's Bill proposed by my hon. Friend the Member for West Renfrewshire (Mr Sheridan). The detail must be got right, and we are working with him and Departments to ensure that it is”.⁶⁰

37. Lord Whitty told us that one of the principal concerns about the Gangmasters (Licensing) Bill was that as drafted it ranged too widely. He told us that the Government would prefer the Bill to “be confined, at least in its initial circumstances, to agriculture, shellfish gathering, processing and pack-houses related to agriculture, but not [extend] into areas like construction and catering”.⁶¹ He also said that there were issues to be resolved about the detail of the licensing and registration scheme.⁶² Lord Whitty said that the Government would work with Mr Sheridan to “refine” the Bill through amendments at Committee stage.⁶³

38. In its memorandum the Government listed the amendments it sought to the Bill. It argued that the Bill should:

- “be specific and limited to gang workers supplied or used to undertake work in agriculture, [and] shellfish gathering including related areas and activities”;
- apply both the primary labour providers and to sub-contractors;
- define the form of licensing to be applied;

⁵⁹ Quoted in TUC Risks, No.143, 14 February.

⁶⁰ HC Deb, 11 February 2004, col.1405

⁶¹ Q146

⁶² Q211

⁶³ Q210

- make provision for a licensing scheme and associated register of licensed gangmasters to be established by the Secretary of State using secondary legislation;
- make provision for charges to be made for licenses, with the charges to be set in secondary legislation at a level to cover the full costs of the scheme;
- create an offence of operating as a gang labour provider whilst not registered;
- make provision for an offence of engaging the services of an unlicensed gangmaster;
- give the Secretary of State the authority to appoint officers from existing enforcement agencies to deal with the offences of operating whilst not registered and using an unlicensed gangmaster; and
- set out the powers of enforcement officers, including a provision for enforcement officers from different departments to share information.⁶⁴

39. In the event Mr Sheridan tabled a large number of amendments at Committee stage. Their effect was to scrap the existing Bill, and replace it with provisions to which the Government agreed. The amendments were then agreed to by the Committee.⁶⁵ The most significant provisions of the ‘new’ Bill are:

- To establish a ‘Gangmasters Licensing Authority’, to define its functions, and to provide for the Secretary of State to make provisions *by secondary legislation* regarding its status, membership, and other matters;
- To provide that the Secretary of State may direct the Authority;
- To restrict the Bill to agricultural work, gathering shellfish, and processing and packaging of products derived from agricultural work and of shellfish and fish, and to allow the Secretary of State *through secondary legislation* to exclude and include certain activities within the ambit of the Bill;
- To define what is meant by the word ‘gangmaster’;
- To require the Authority to licence the activities of gangmasters, to make rules and other provisions relating to licences, and to maintain a register of licensed gangmasters;
- To prohibit unlicensed activities (although the Secretary of State, *by secondary legislation*, may determine that certain activities do not require a licence), and to make offences of acting as an unlicensed gangmaster, or in contravention of a licence, or of entering into an arrangement with a prohibited gangmaster (though the Secretary of State can, *by secondary legislation*, alter aspects of this provision);
- To establish *through secondary legislation* an appeals process; and
- To make provisions relating to enforcement.

⁶⁴ Ev 36, para.22

⁶⁵ See Standing Committee C Proceedings, 28 April 2004, cols.3 to 46

40. In our previous report we said that we were “not convinced that a statutory registration scheme offers a stand-alone solution to the problems of illegal gangmasters. ... without concerted action to remedy shortcomings in enforcement ... a statutory registration scheme, introduced as a single policy response, will solve nothing”.⁶⁶ For that reason we did not then declare our support for registration and licensing. **We are now persuaded that licensing and registration are required to deal with the problem of illegal gangmasters. Therefore we support the Bill, and call on the Government to ensure that time is made available – in Government time if necessary – for its successful passage. However, the Bill cannot be regarded as a panacea: greater political will and resources are required to ensure that the provisions of the Bill, and of existing legislation, are enforced.**

41. We are particularly concerned about two aspects of the Bill. First, for it to be fully effective the Government must introduce a considerable volume of secondary legislation. There is no defined timetable which it must follow in doing so. Second, the Bill requires a reliable form of identification to be carried by both gangmasters and their employees so that farmers, enforcement officers and others are able to identify who is legitimate and who is not. We assume that this will be the subject of rules set out by the licensing authority. **We obviously recommend that the Government introduce the secondary legislation envisaged in the amended Bill as soon as possible after the Bill is passed. It should commit itself now to a timetable for doing so. We further recommend that the Government set out its views of exactly how gangmasters and their employees can in practice be identified when working in the fields and elsewhere.**

Costs

42. There are concerns about the costs the legislation will impose on legal gangmasters. In his evidence, Zad Padda, a legitimate gangmaster, told us that under the *original* Gangmasters (Licensing) Bill the cost of a licence will be around between £1500 and £3000.⁶⁷ The worry is that this will simply add to the cost base of legitimate operators relative to the illegal, perhaps encouraging less scrupulous farmers and others to consider using unlicensed gangmasters. **We are concerned that if the cost of the licence is too high some farmers and others might be tempted to use unlicensed gangmasters due to their lower costs. We recommend that the Government ensure that the licence fee is set at a low level, so as not to harm legitimate gangmasters, and that the penalties for operating without a licence should be set at a high level. We again emphasise the need for vigorous enforcement of the new legislation.**

Supermarkets' responsibility

43. In our previous report we said 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”.⁶⁸ Our contention was that the pressure for just-in-time delivery of produce, and the downward pressure supermarkets are able to influence on price, put pressure on producers to cut costs and cut corners.

⁶⁶ HC (2002-03) 691, para.58

⁶⁷ Q119

⁶⁸ HC (2002-03) 691, para.25

44. It is clear that supermarkets have made efforts to address the issue. The Transport and General Workers' Union said that although supermarkets “do exert pressure on the food chain”, they had worked through the Ethical Trading Initiative to address the problem.⁶⁹ Mr Sheridan told us that the supermarkets had been “first class” in their support for his Bill.⁷⁰ Indeed the British Retail Consortium, representing the supermarkets, said in its evidence that it supported the *registration* of legitimate gangmasters.⁷¹ Nevertheless, the dominance of the major retailers over the supply chain inevitably means that producers are pressured to produce at high speed and at low costs. **We continue to believe that retailers should take greater responsibility for ensuring that their goods are produced using high labour standards. We therefore recommend that the Government give consideration to extending liability under the Gangmasters (Licensing) Bill to retailers which do not take reasonable steps – perhaps by mechanisms to be defined by the new Gangmasters Licensing Authority – to ensure that their suppliers contract only with licensed gangmasters.**

45. That said, perhaps the most sobering point made in our evidence was that of the Transport and General Workers' Union. It pointed out that we all have responsibility for the problem of illegal gangmasters because we all demand ever-cheaper food.⁷² We made the same point in our previous report into this subject.⁷³ **It is worth noting that the consequence of driving down prices for consumers of food may very well be a diminution in the wages and a deterioration in the working conditions of those who produce it. We therefore call for the provision by supermarkets of information for consumers about the means of production of their food, a point to which we will return in our forthcoming inquiry into food information.**

5 Conclusion

46. The message of our report is straightforward. Whilst we welcome the steps taken by enforcement agencies to address the problem of illegal activities by gangmasters, we are concerned that the Government (a) does not have the data needed to know whether enforcement is having a significant impact, and (b) has not put in place structures which ensure co-ordination in policy-making and in enforcement. We strongly urge it to develop a greater sense of urgency about the problem; to streamline the number and structure of bodies addressing the issue; and to make a single Minister responsible. We also support the Gangmasters (Licensing) Bill which, at the very least, should make it a lot easier to identify where breaches of the law occur, and who it involved.

47. Like the Government we cannot say how serious is the problem of exploiting workers, and of defrauding the Government, by illegitimate gangmasters. The information simply is not available. However, anecdotal and media reports suggest that there are large numbers of

⁶⁹ Q16

⁷⁰ Q18

⁷¹ Ev 84

⁷² Q16

⁷³ HC (2002-03) 691, para.29

gangmasters operating illegally in this country, and that many thousands of people are employed by them. We also note an observation made by Zad Padda, a legitimate gangmaster, who told us that

it used to be the majority [of gangmasters] that were working legally and the minority were working disreputably. Now it is fair to say that it seems the majority are working disreputably and there is a minority of legal operators.⁷⁴

Such a disgraceful situation demands a robust and concerted response. We urge the Government finally to provide it.

Conclusions and recommendations

1. The reality, then, is that the Government is no nearer obtaining a comprehensive picture of the scale and nature of the problem of illegal gangmaster activity than it was when we published our original report eight months ago. Other than issuing a tender for one piece of limited research, the Government has made no progress. So we repeat our previous observation: the Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, if it cannot make even a rough estimate of the scale of that problem. (Paragraph 11)
2. We strongly recommend that the Government take urgent steps to develop a better picture of the extent and nature of illegal activities by gangmasters. It should do so through a combination of research in the field and by centrally compiling data from sources such as regional Operation Gangmaster operations. Anecdotal evidence suggests that this is a widespread problem: the Government should now produce figures which at least attempt to estimate how widespread it is. (Paragraph 12)
3. We recommend that the Government look at the various tenders it issues which relate to research into gangmaster activity, and consider what scope there might be for amalgamating the 'pot' of funding available to allow for more extensive, better-funded research in future. (Paragraph 13)
4. There is some evidence, such as that presented by Geraldine Smith MP, that enforcement continues to be held back to an extent by a lack of resources and an absence of coordination. We are surprised that so much current enforcement activity is apparently carried out by agencies acting alone, rather than in concert through Operation Gangmaster. We once again urge the Government to coordinate all attempts to enforce existing legislation, even if only by ensuring that agencies report their activities to regional Operation Gangmaster meetings, and through them to central Government. That said, there is also evidence of increasing levels of enforcement activity, and we commend all those involved for their efforts. (Paragraph 21)

⁷⁴ Q94

5. We repeat our earlier recommendation that the Government take steps better to understand the nature and scope of illegal activity by gangmasters. Unless it does so it is extremely hard to assess how effective enforcement has been. (Paragraph 22)
6. It is regrettable that Ministers do not seem to have been sufficiently seized of the urgency of the need to deal with illegality on the part of gangmasters until prompted into action by external pressures, principally the Gangmasters (Licensing) Bill. We trust that they now understand how important this matter is, and will commit themselves to continuing to treat it as a high priority in future. (Paragraph 26)
7. On reflection we are sure that the Government will agree that a Minister should have visited Morecambe Bay much sooner after the incident there, to offer condolences to the community involved, and to support the emergency services. We are concerned that Ministerial reaction to the incident reflects an underlying problem of confusion and uncertainty, with no-one in Government quite sure who is responsible for policy relating to gangmasters and illegal working. (Paragraph 28)
8. We urge the Government to take seriously the threat of illegality on the part of gangmasters and ganged labour from the European Union accession states. It should, as part of its research into the problem, look at this particular issue and, if it proves to be a matter of concern, take steps to address it. (Paragraph 30)
9. We note that the chart refers to Cabinet Sub-committee MISC20. We recommend that the Government provide us with details of the role played by the Sub-committee in determining Government policy relating to gangmasters. (Paragraph 32)
10. We are convinced that the overly complicated structure of bodies put in place to deal with this cross-departmental issue hinders rather than helps a coherent response to the problems of illegal working and of gangmasters. We recommend that the Government rationalise and streamline the steering groups, working groups and other bodies that operate in this policy area. Currently co-ordination of activities appears only to take place on the ground: we recommend that a single co-ordinating body for illegal working and the informal economy be established. We again recommend that a single Minister be made clearly responsible for the issue. Given the wider responsibility to be taken on by that Minister we accept that the responsible Minister probably should not be from Defra – a Minister from the Home Office would be more appropriate. (Paragraph 34)
11. We are now persuaded that licensing and registration are required to deal with the problem of illegal gangmasters. Therefore we support the Bill, and call on the Government to ensure that time is made available – in Government time if necessary – for its successful passage. However, the Bill cannot be regarded as a panacea: greater political will and resources are required to ensure that the provisions of the Bill, and of existing legislation, are enforced. (Paragraph 40)
12. We obviously recommend that the Government introduce the secondary legislation envisaged in the amended Bill as soon as possible after the Bill is passed. It should commit itself now to a timetable for doing so. We further recommend that the

Government set out its views of exactly how gangmasters and their employees can in practice be identified when working in the fields and elsewhere. (Paragraph 41)

13. We are concerned that if the cost of the licence is too high some farmers and others might be tempted to use unlicensed gangmasters due to their lower costs. We recommend that the Government ensure that the licence fee is set at a low level, so as not to harm legitimate gangmasters, and that the penalties for operating without a licence should be set at a high level. We again emphasise the need for vigorous enforcement of the new legislation. (Paragraph 42)
14. We continue to believe that retailers should take greater responsibility for ensuring that their goods are produced using high labour standards. We therefore recommend that the Government give consideration to extending liability under the Gangmasters (Licensing) Bill to retailers which do not take reasonable steps – perhaps by mechanisms to be defined by the new Gangmasters Licensing Authority – to ensure that their suppliers contract only with licensed gangmasters. (Paragraph 44)
15. It is worth noting that the consequence of driving down prices for consumers of food may very well be a diminution in the wages and a deterioration in the working conditions of those who produce it. We therefore call for the provision by supermarkets of information for consumers about the means of production of their food, a point to which we will return in our forthcoming inquiry into food information. (Paragraph 45)

Formal minutes

WEDNESDAY 12 MAY 2004

Members present:

Mr Michael Jack, in the Chair

Mr Colin Breed	Joan Ruddock
Mr David Drew	Alan Simpson
Patrick Hall	David Taylor
Mr Mark Lazarowicz	Paddy Tipping
Diana Organ	Mr Bill Wiggin

The Committee deliberated.

Draft Report [*Gangmasters (follow up)*], proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 47 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No.134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.-(*The Chairman*).

[Adjourned till Wednesday 19 May at a quarter past Two o'clock.]

Witnesses

Tuesday 16 March 2004

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Jim Sheridan MP and Geraldine Smith MP	Ev 7
Peter Allensen and Gary Brisley, Transport and General Workers Union	Ev 7
Bill Hughes and Gerry Liddell, Association of Chief Police Officers	Ev 21
Zad Padda, Fusion Personnel	Ev 28

Tuesday 23 March 2004

Lord Whitty and Geoff Webdale, Department for Environment, Food and Rural Affairs	Ev 38
Beverley Hughes MP and Brodie Clark, Home Office , and Chris Pond MP and Richard Kitchen, Department for Work and Pensions	Ev 51

List of written evidence

Jim Sheridan MP	Ev 1
Transport and General Workers Union	Ev 4
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Association of Chief Police Officers	Ev 20
The Government	Ev 34, 69, 79
Association of Labour Providers	Ev 83
British Retail Consortium	Ev 84
Quality Assured Personnel	Ev 85
National Farmers' Union	Ev 85

Reports from the Committee since 2001

Session 2003–04

Seventh Report	Implementation of CAP Reform in the UK	HC 226-I
Sixth Report	Marine Environment	HC 76
Fifth Report	The Foods Standards Agency and Shellfish	HC 248
Fourth Report	Environmental Directives (<i>Reply, HC 558</i>)	HC 103
Third Report	Caught in the net: Cetacean By-catch of dolphins and porpoises off the UK coast (<i>Reply, HC 540</i>)	HC 88
Second Report	Annual Report of the Committee 2003	HC 225
First Report	Water Pricing (<i>Reply, HC 420</i>)	HC 121

Session 2002–03

Eighteenth Report	Conduct of the GM Public Debate (<i>Reply, HC 443, Session 2003-04</i>)	HC 220
Seventeenth Report	Biofuels (<i>Reply, HC 88, Session 2003-04</i>)	HC 929-I
Sixteenth Report	Vets and Veterinary Services	HC 703
Fifteenth Report	New Covent Garden Market: a follow-up (<i>Reply, HC 123, Session 2003-04</i>)	HC 901
Fourteenth Report	Gangmasters (<i>Reply, HC 122, Session 2003-04</i>)	HC 691
Thirteenth Report	Poultry Farming in the United Kingdom (<i>Reply, HC 1219</i>)	HC 79-I
Twelfth Report	The Departmental Annual Report 2003 (<i>Reply, HC 1175</i>)	HC 832
Eleventh Report	Rural Broadband (<i>Reply, HC 1174</i>)	HC 587
Tenth Report	Horticulture Research International (<i>Reply, HC 1086</i>)	HC 873
Ninth Report	The Delivery of Education in Rural Areas (<i>Reply, HC 1085</i>)	HC 467
Eighth Report	The Future of Waste Management (<i>Reply, HC 1084</i>)	HC 385
Seventh Report	Badgers and Bovine TB (<i>Reply, HC 831</i>)	HC 432
Sixth Report	Rural Payments Agency (<i>Reply, HC 830</i>)	HC 382
Fifth Report	The Countryside and Rights of Way Act 2000 (<i>Reply, HC 748</i>)	HC 394
Fourth Report	Water Framework Directive (<i>Reply, HC 749</i>)	HC 130
Third Report	The Mid-term Review of the Common Agricultural Policy (<i>Reply, HC 615</i>)	HC 151
Second Report	Annual Report of the Committee 2002	HC 269
First Report	Reform of the Common Fisheries Policy (<i>Reply, HC 478</i>)	HC 110

Session 2001–02

Tenth Report	The Role of Defra (<i>Reply, HC 340, Session 2002-03</i>)	HC 991
Ninth Report	The Future of UK Agriculture in a Changing World (<i>Reply, HC 384, Session 2002-03</i>)	HC 550
Eighth Report	Hazardous Waste (<i>Reply, HC 1225</i>)	HC 919
Seventh Report	Illegal Meat Imports (<i>Reply, HC 1224</i>)	HC 968
Sixth Report	Departmental Annual Report 2002 (<i>Reply, HC 1223</i>)	HC 969
Fifth Report	Genetically Modified Organisms (<i>Reply, HC 1222</i>)	HC 767
Fourth Report	Disposal of Refrigerators (<i>Reply, HC 1226</i>)	HC 673
Third Report	Radioactive Waste: The Government's Consultation Process (<i>Reply, HC 1221</i>)	HC 407
Second Report	The Countryside Agency (<i>Reply, HC 829</i>)	HC 386
First Report	The Impact of Food and Mouth Disease (<i>Reply, HC 856</i>)	HC 323

Oral evidence

Taken before the Environment, Food and Rural Affairs Committee

on Tuesday 16 March 2004

Members present

Mr Michael Jack, in the Chair

Ms Candy Atherton
Mr Colin Breed
Mr David Drew
Patrick Hall
Mr Mark Lazarowicz

Mr David Lepper
Mr Austin Mitchell
Diana Organ
Alan Simpson
Mr Bill Wiggin

Memorandum submitted by Jim Sheridan MP

INTRODUCTION

Jim Sheridan MP introduced a Private Member's Bill—the Gangmasters Licensing Bill—to the Commons on 7 January 2004. The Bill successfully passed its Second Reading on 27 February 2004, the accompanying Money Resolution was passed on 8 March 2004 and it is currently awaiting Standing Committee in the Commons.

This contribution to the Efra Select Committee seeks to set out the context of why Jim Sheridan MP believes the time is right for a statutory solution to the problems of gangmasters; highlight the key points of his Bill; and underline the key role of government in licensing and enforcement.

SUMMARY OF KEY POINTS

- Voluntary codes have not and will not prevent the widespread exploitation and illegal activities engaged in by rogue gangmasters. It is therefore time for a statutory solution.
- By operating alongside a public register and by putting in place legal obligations on gangmasters and those who use their services, a licensing scheme would help to protect workers, decent employers and the taxpayer.
- Following the Morecambe Bay tragedy the Government has indicated its support for a statutory licence and register.
- The Bill is seeking to licence and register gangmasters operating in the UK's agricultural and food processing and packaging sectors.
- For a licensing scheme to be effective there must be effective enforcement. The Government must play the lead role in funding and administering a licensing scheme and in enforcing its provisions.

SUBMISSION

1. THE FAILURE OF THE VOLUNTARY APPROACH

In the absence of a legally enshrined framework of monitoring and enforcement unscrupulous gangmasters are not only able to undercut good gangmasters, they are also able—as the Efra Select Committee's Gangmasters Report highlighted—to exploit the workers they employ and supply.

In an attempt to tackle such problems two voluntary codes were introduced. Although well-intentioned initiatives, ultimately they have failed. They have not reduced levels of exploitation of workers, nor have they enticed unscrupulous operators into operating transparently and within the law.

As the Efra Committee itself stated, "*it is unrealistic to expect the voluntary codes to prevent widespread illegal activity by gangmasters.*" Key industry stakeholders are now supporting the Gangmasters Licensing Bill because they believe that voluntarism must be replaced by a statutory solution backed up by effective enforcement (see Appendix A for a list of organisations supporting the Bill).

Since the Efra Report, the failure of voluntary codes has been further exposed by the tragedy at Morecambe Bay and the evidence of exploitation of migrant workers outlined in reports by NACAB (“Nowhere to Turn”) and the TUC (“Gone West”).

In the face of this growing body of evidence there has been a change in the political climate. In its original evidence to the Efra Committee, and in its subsequent response to the Committee’s Report, the Government rejected a statutory licensing scheme. However, during the Second Reading Debate on the Gangmasters Licensing Bill Alun Michael acknowledged that *“the time is right to introduce statutory control of labour providers operating in agriculture and related areas, so we support the concept of a statutory licensing scheme”* (Column 570 Hansard 27 Feb 04).

This change means that, through this Bill, there is now an ideal opportunity to put in place an effective statutory mechanism for regulating gangmasters.

2. THE BENEFITS OF A STATUTORY LICENSING SCHEME

The Efra Committee’s Gangmasters Report recognised that *“a statutory registration scheme may prove to be necessary”*. But it acknowledged that such a scheme would *“only be effective if it is introduced as part of a wide range of policy initiatives”*.

By proposing a licence to complement a public register, as well as placing legal obligations both on gangmasters and on those who use their services and their labour, the Gangmasters Licensing Bill puts in place many of the mechanisms required to make statutory registration effective:

- A licence sets out legally enforceable conditions and criteria that a gangmaster must abide by in order to operate. In other words, it has a deterrent value.
- As a physical document a licence empowers and protects those who employ the services of gangmasters—ie the requirement that gangmasters show their licence to those farmers and businesses using gang workers means that they can confirm that the gangmaster supplying those workers is legitimate.
- A licence and register will protect workers because it will create a paper trail for government departments and enforcement agencies to follow. At the moment the Government has no accurate data to tell them how many gangmasters exist, where they operate, who they employ or how they treat their workers.
- Through that same paper trail the taxpayer is also protected—as Alun Michael acknowledged during this Bill’s Money Resolution Debate, the proposed licensing scheme would result in *“savings to the Exchequer in respect of lost tax, national insurance revenue and reductions in benefits fraud”* (Column 1341 Hansard 08 Mar 04).

3. THE GANGMASTERS LICENSING BILL

The Bill secured unanimous cross-party support in the House during its 27 February Second Reading Debate and the 8 March Money Resolution Debate. It seeks to regulate the estimated 3,000 gangmasters operating in the following areas: agriculture, horticulture, the harvesting of shell-fish (eg cockle picking) and food processing and packaging. The Bill would also cover the production of any consumable produce grown and harvested for sale or consumption, whether on land, on cockle-beds, or in market gardens or on nursery grounds.

In essence this Bill would:

- Establish an effective system for registering and licensing gangmasters in the aforementioned sectors.
- Make it illegal for gangmasters to operate without a licence.
- Make it illegal to use the services of an unlicensed gangmaster.

The Bill proposes that, as a condition of the licence, all gangmasters will have to:

- Carry and produce for users of their services photo ID containing their name, company details and licence number.
- Maintain proper records—who they employ, who they supply to, what they pay, what they deduct from wages.
- And co-operate with the proper enforcement agencies and abide by minimum standards.

In addition, it will be a breach of licence to withhold personal documents from gang workers. The Bill will also cover sub-contractors by requiring anyone supplying gang labour to obtain a licence and it will require all gangmasters to keep records of where they obtain their workers from—this would therefore identify any overseas providers of labour.

The Bill leaves the setting of a licence fee to the discretion of the Secretary of State (Defra). Alun Michael has stated that “*the licensing process should be self-funding*” (Column 1339 Hansard 08 Mar 04).

4. LICENSING, ENFORCEMENT AND THE ROLE OF GOVERNMENT

The Bill leaves the administration and co-ordination of licensing and enforcement to the discretion of the Secretary of State. In doing so, it recognises that pivotal role of central government. It also reflects the Efra Committee’s recommendation in its Gangmasters Report 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*”.

It is for government to take the political lead on this issue. This could be done, for example, through the establishment of a dedicated “Gangmaster Unit” within Defra. There might also be a role for key industry players as an advisory body to government. An industry body could produce and advise on matters such as codes of conduct, minimum standards, licence conditions and the auditing and compliance process. It might also conduct research and policy analysis and feed this into government to aid enforcement and inform policy. It could even have a role in monitoring the effectiveness of the licensing scheme and of enforcement. However, the drive, resourcing, responsibility and accountability for licensing and enforcement must sit with a lead Minister.

So, if licensing and enforcement are to be effective then:

- Enforcement must be properly resourced—and used to bring the full weight of the law down on those who evade the law, breach minimum standards or exploit workers.
- There should be inspectors who vet licence applications and then carry out regular inspections of gangmasters to see if they are abiding by the terms of the licence.
- There must be ministerial responsibility and accountability and also co-ordination with and across other departments and enforcement agencies.
- Enforcement must be proactive—it cannot rely on whistle-blowing when workers are too frightened to blow the whistle.

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Appendix A: Coalition of Support

Outlined below is a list of those organisations from industry, the unions and wider society supporting Jim Sheridan MP’s Gangmasters Licensing Bill:

- The National Farmers’ Union
- The Fresh Produce Consortium
- The Recruitment Employment Confederation (which represents employment agencies)
- Fusion Personnel (a legitimate labour provider)
- TUC
- Transport & General Workers Union
- Unison
- GMB
- Usdaw
- Joint Council for the Welfare of Immigrants
- The Dover 58 Group
- Family Welfare Association
- Ethical Trading Initiative
- The Catholic Bishops Conference of England & Wales
- Institute of Employment Rights
- Rt Rev Patrick O’Donoghue, Bishop of Lancaster
- Tesco

- Safeway
- Asda
- Sainsbury's
- Marks and Spencers
- Somerfield
- Co-op Retail
- National Association of Citizens' Advice Bureaux
- Keystone Development Trust
- Portuguese Workers Association

March 2004

Memorandum submitted by the Transport and General Workers Union

EXECUTIVE SUMMARY

- Voluntarism has not worked and legislation is now crucial in order to tackle rogue Gangmasters effectively
- The failure to prevent Gangmasters operating illegally has meant that millions of pounds per year in VAT and NI are potentially being lost
- The Employment Agencies Act 1973 has failed to work effectively in policing Gangmaster operation
- The Government has so far failed to act in an effective and co-ordinated manner in addressing the issue.
- Operation Gangmaster has been under resourced, under co-ordinated and not sufficiently prioritised
- Gangmasters' operation stretches from "plough to plate" and analysis of the situation should not be limited to traditional agriculture
- Jim Sheridan MP has a broad coalition of support in favour of his Gangmaster Licensing Bill. This includes trade unions, industry organisations and retailers
- The T&G believe that the Efra Committee should support Jim Sheridan's Private Members Bill, and also support the principle of any forthcoming legislation being well resourced and effectively enforced

Recommendation 6, Efra Committee Report, Gangmasters

"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 can not, however, be expected to stamp out illegal activity by gangmasters on its own."

INTRODUCTION

1. The Transport and General Workers Union represents over 120,000 workers employed in the food industry stretching from "plough to plate". The T&G is recognised by both Government and industry as the representative voice of agricultural and horticulture workers in the UK. The T&G constitutes the workers side of the statutory Agricultural Wages Board, represent the TUC on the National Rural Affairs Forum and are the majority trade union on all Health and Safety Executive bodies related to agriculture.

2. We are therefore pleased to have been asked—following our oral evidence to the recent Efra Committee on Gangmasters—to submit written evidence at this particularly important time. The recent tragic events of Morecambe Bay should be a wake up call to all of us involved in the food industry and its supply chain. We believe that Government can no longer afford to take the voluntarist approach in dealing with rogue Gangmasters. For the Efra Committee's consideration we include reports conducted by leading lay expert, Don Pollard, of problems the T&G have encountered when dealing with Gangmasters [Not printed]. To this end the T&G have fully supported—along with all other key stakeholders in industry—Jim Sheridan's Private Members Bill to register and license Gangmasters.

3. The T&G welcomed the Efra Select Committee Report in highlighting many of our current concerns about this acute and growing problem. The T&G agree with Government that failed voluntarism means "we may need to consider the possibility of further legislation" (32., Government Response to EFRA Report). The T&G also believe that Defra data in regard to the number of Gangworkers could be a substantial underestimate as the statistics are based on only one period within any year. We could therefore be looking

at a significantly larger pool of effected workers than currently estimated, and we agree with the Efra findings that statutory registration would achieve little “unless it were rigorously enforced” (Recommendation 10, Efra, Gangmasters).

VOLUNTARY CODES: WELL INTENTIONED BUT NOT EFFECTIVE

Mrs Day, Farmforce (Ev 11, Efra Committee Report, Gangmasters)

“With the combination of no licensing, no registration, various schemes being chucked in the pot and stirred around, supermarkets dictating very low prices, I hate to say it, but at the end of this, if we do not do something, there is going to be a large, black hole and it is called ‘agriculture’.”

4. The T&G as part of the ETI have welcomed the Government’s action in releasing resources in order for trial Gangmaster accreditation and audit programmes to take place. However, as Doug Henderson of the Fresh Produce Consortium stated, in his oral evidence to the last Efra Committee on Gangmasters

“We have gone down the voluntary route for the last three or four years and we have used our very best endeavours to make the voluntary system work. Our conclusion is that despite the work that we have done, we do need the backing of legislation to bring this problem under control” (Ev 2, Efra Committee Report, Gangmasters). The T&G—together with the other key stakeholders—believes that now is the time for Government intervention.

5. One of the fundamental problems with the voluntary codes that have been—and are being—tried is that there is no obligation on any Gangmaster or labour user to sign up and be involved in any accreditation process. The lack of obligation means that there are also no fixed sanctions if Gangmasters or labour users do not get involved in the voluntary schemes. As we readily acknowledge, there are many law abiding Gangmasters in operation, unfortunately under a voluntary approach it will only be those more reputable businesses that will participate. This creates problems for both workers and business. Workers being exploited remain hidden as rogue Gangmasters fail to engage with no threat of sanction, and law abiding businesses suffer as there is a consequent failure to create a level playing field.

REVENUE: THE MISSING MILLIONS

6. The T&G believe that the current failure of Government to co-ordinate and regulate effectively is costing the Treasury potentially many millions of pounds every year. As Defra themselves prove, proactive enforcement can help claw back large sums of previously unidentified money for the Exchequer:

“The Inland Revenue is aware of the potentially serious risk to revenue stemming from illegal activity by gangmasters and it has been working to combat this for several years. Two IR regions have already formed specialist units to tackle these risks. During 2002 – 2003 these units settled 46 investigations resulting in additional liabilities in excess of £4.3 million being identified.” (Ev 72, Memorandum submitted by Defra, Efra Committee Report, Gangmasters)

It is important to note that this revenue was identified from only two of the Government regions. A national, pro-active enforcement regime would be likely to discover more “additional liabilities”. The T&G believe that creating an obligation on Gangmasters to register and licence would help retrieve otherwise lost revenue, by creating a “paper trail” for officials to follow, therefore enabling a more accurate assessment of money due, and a more systematic and targeted approach to inspection. The T&G therefore believe that the recovery of otherwise “lost” revenue would significantly aid any registration and licensing scheme to be self-financing.

CURRENT LEGISLATION: EAA 1973

7. The T&G believe that the current Employment Agencies Act 1973 has been ineffective in policing rogue Gangmasters. The Act itself excludes a significant number of Gangmasters who supervise their workers, and there has only been one identified prosecution of a Gangmaster under its auspices since 1977 (*Parliamentary Question (152098)* 3 February 2004: *Column 775W*). It is therefore clear that current legislation is inadequate and that new regulation is needed to deal with rogue Gangmasters.

OPERATION GANGMASTER: GOVERNMENT CO-ORDINATION

8. The T&G welcomed Operation Gangmaster in 1998 as a clear step forward in Government thinking towards the problem of rogue Gangmasters. The initiative brought increased cross departmental co-operation and a greater acknowledgment of the role of Government, however, it has been continually hampered by a lack of resources and a lack of clear lines of responsibility and accountability (*see Efra Rec. 8 & 9*). Therefore the T&G welcomed the EFRA Committee findings:

Recommendations 8 and 9, Efra Committee Report, Gangmasters

“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. . . . Operation Gangmaster should have a single budget derived from the budgets of each of the relevant Government agencies and Departments”

The T&G believe that it is of paramount importance that there are clear lines of responsibility and that there are specific budgets for initiatives aimed at targeting rogue Gangmasters. As has been mentioned previously Government has already set a precedent for this by freeing resources to engage in the ETI auditing trials.

9. By the same principle the T&G believe that following any legislative action requiring Gangmasters to register and licence, that there should be clear lines of responsibility and adequate resources available for enforcement. The T&G believe—like the Efra Committee—that unless *“rigorously enforced”* legislation would be ineffective. Government enforcement of such legislation needs to be proactive, systematic and targeted, and therefore there needs to be clear Government leadership. The creation of a Gangmaster enforcement unit within Defra to co-ordinate and complement existing enforcement agencies—and backed up by advice and guidance from industry stakeholders—would help deliver greater focus and accountability.

GANGMASTER OPERATION: FROM “PLOUGH TO PLATE”

10. The scope of Gangmaster operation is widening across the food chain. The results of Dr Jennifer Frances survey of Gangmasters prove this to be the case (*University of Cambridge, Labour Provision Survey for Agriculture and Fresh Produce Sector*). Gangmasters now consistently supply labour to the food processing industry, with 75% of survey respondents stating this to be the case for their business. In the same survey 85% said that they considered Packhouse work to be one of the most important areas of business, and 60% stated food processing. It is clear from such evidence that any legislation enacted needs to cover the food chain as a whole, not just land-based agriculture and horticulture.

COALITION FOR GOVERNMENT REGULATION AND ENFORCEMENT

11. There is a broad and growing coalition of support in favour of the principle of Government legislation in relation to Gangmasters. The coalition spans trade unions, business federations, the major retailers, welfare groups and the religious community. The ETI working group on Gangmasters represents a broad base of this coalition and has long been working to find practical solutions to the problem—all members are in favour of Government intervention. The NFU in their oral evidence to the last Efra Committee made clear their support for legislation and effective enforcement:

Mr Paske, NFU (Ev 16)

“I hope in our evidence that we will be able to show you that we are prepared to make a stand on this issue and make sure that proper enforcement is put in place and also ask you to use your influence to have a statutory system put into place as quickly as possible.”

The support for Jim Sheridan’s Private Members Bill is equally as strong and broad. The organisations which have signed up to the “Gangmaster Licensing and Registration Bill” include:

- The National Farmers’ Union.
- The Fresh Produce Consortium.
- The Recruitment Employment Confederation (which represents employment agencies).
- Fusion Personnel (a legitimate labour provider).
- TUC.
- Transport & General Workers Union.
- Unison.
- GMB.
- Usdaw.
- Joint Council for the Welfare of Immigrants.
- The Dover 58 Group.
- Family Welfare Association.
- Ethical Trading Initiative.
- The Catholic Bishops Conference of England & Wales.
- Institute of Employment Rights.
- Rt Rev Patrick O’Donoghue, Bishop of Lancaster.

- Tesco.
- Safeway.
- Asda.
- Sainsbury's.
- Marks and Spencer.
- Somerfield.
- Co-op Retail.
- National Association of Citizens' Advice Bureaux.
- Keystone Development Trust.
- Portuguese Workers Association.

JIM SHERIDAN: GANGMASTER REGISTRATION AND LICENSING BILL

12. The T&G would clearly be delighted if the EFRA Committee, in light of the broad and growing coalition of support, would itself endorse the principle of registration, licensing and effective enforcement. The T&G believe—like the EFRA Committee—that it is “*unrealistic to expect the voluntary codes to prevent widespread illegal activity*” and recommend that the time for Parliamentary support for legislation is now. Jim Sheridan's Bill offers that opportunity, and the T&G hope that the “Gangmaster Registration and Licensing Bill” is enacted as a fitting tribute to those who died tragically at Morecambe Bay.

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Witnesses: **Jim Sheridan**, a Member of the House, Member for West Renfrewshire, Promoter of the Gangmasters (Licensing) Bill, **Geraldine Smith**, a Member of the House, Member for Morecambe and Lunesdale; and **Mr Peter Allenson**, National Secretary and **Mr Gary Brisley**, Head of Policy and Research, Transport and General Workers' Union, examined.

Q1 Chairman: Good afternoon, ladies and gentlemen, and welcome to this further evidences session of the Committee on the subject of gangmasters and can I welcome Jim Sheridan, the proposer of the Private Member's Bill on Gangmasters, Geraldine Smith, the Member for Morecambe and Lunesdale, and I say that because she is not far from my area, Mr Peter Allenson, the National Secretary of the Transport and General Workers' Union and Mr Gary Brisley, the Head of Policy and Research for the T&G. You are all most welcome before the Committee. I would like to start our questioning, if I may, with Geraldine Smith. It has not, I think, Geraldine, been a particularly easy time for you, particularly in the light of the tragic events which occurred in Morecambe Bay, and it was clear from an article in the *Lancashire Evening Post* of 12 March that you perhaps have had quite a difficult time in dealing with this. The headline said, “I stand up for what I believe in and if that means government whips and Party managers do not like it, then that is the price I have to pay”. Why do you think it has been difficult for you in dealing with what essentially is a very important humanitarian issue?

Geraldine Smith: Well, you are a Member of Parliament yourself, Michael, and you know how the Party whips operate and the whipping system. I do not think it is often seen as the done thing to be, as is sometimes perceived, attacking your own ministers. I certainly did not think I was trying to attack anybody; I thought I was trying to seek the truth and quite clearly I had been given inaccurate and misleading information by the Home Office and I had a duty to my constituency and indeed to the country to make sure that that information was

accurate and it was put on the public record. I was told last year that operations had been carried out in Morecambe Bay similar to those on Pilling Sands which the Immigration Service did not take part in. The Pilling Sands was a pre-planned operation and there were no other such operations which had taken place in Morecambe Bay and that was only established after the tragedy when I had asked for specific details of what those operations were. The reason the Minister gave for that inaccurate and misleading information was, she said, as a result of inaccurate record-keeping by the Home Office and also it was just down to staff recollections. I just find it incredible that the Home Office, if they have got major immigration operations, depend on the memories of staff to say, “Was anyone in Morecambe Bay last August?” “Yes, I think I was on a sandbank carrying out an immigration operation”. I think they suffer from false memory syndrome because quite clearly they were not on a sandbank out in Morecambe Bay and no operations of that sort took place last year, so I just find it incredible from that point of view, and I think I have a duty as an MP to bring that information into the public domain.

Q2 Chairman: Can we wind the clock back a little bit. When did you first become aware that something was amiss as far as Morecambe Bay was concerned and that it might have something to do with gangmasters?

Geraldine Smith: Going back to June last year I was alerted to the problem by a local fisherwoman who approached me and had told me that there were suspected illegal immigrants working on Pilling Sands. It is not in my own constituency, it is a

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neighbouring constituency, but because of her concerns about exploitation, about the operation of gangmasters, about very real health and safety concerns, I wrote to the Home Office Minister Beverley Hughes on 28 June, and I have copies of correspondence, so if the Committee wants any copies, you are quite welcome to them. It basically alerted the Minister to my concerns and asked why no immigration officials were involved in a raid that had taken place on Pilling Sands by other government agencies. At that time I received a response on 8 August from Fiona MacTaggart and in her response she actually says, "I can tell you that similar exercises to this have been conducted in Morecambe Bay and other similar areas in the past which the Immigration Service have participated in". At that stage, I had no reason to doubt what that Minister had told me because I am not the MP for Morecambe Bay, I am the MP for Morecambe and Lunesdale, and a lot of the cockle-picking activity at that time was taking place in the northern part of the Bay around Ulverston and Barrow and the small village of Aldingham and there had been reports of illegal immigrants or suspected illegal immigrants sleeping on gravestones in little villages in the northern part of the bay, so when the Minister told me that they were conducting operations, it basically was not my patch and I had no reason to doubt that what she was telling me was not indeed the truth.

Q3 Chairman: You mentioned this raid in your remarks in the debate on 27 February, so did you begin to build up some kind of picture as to which parts of officialdom were actually involved in these exercises against gangmasters and which ones were not?

Geraldine Smith: I think it was quite clear that there was a lack of joined-up government. I think that was one of the real problems. After Pilling Sands in June, in July we had some Chinese people turn up in Morecambe and it was first brought to my attention actually at the end of July, around 29 July, when the police were called to a property in Morecambe and arrested 22, or they did not arrest, but they went into a property where 22 Chinese people had been staying because basically the landlady had rung them and complained that Chinese people had turned up in one of her flats. It turned out that they had been given access by one of her tenants and keys to get into this flat. The police tried to contact the Immigration Service and tried for quite some time, but all they got at that stage was an out-of-hours answerphone, so they were unable to contact anyone from immigration. The landlady was insistent that these people should leave the property, so the police turned them out into Morecambe in the middle of the night. They were cold and wet and just left to wander around the streets at three or four o'clock in the morning.

Q4 Chairman: Did you get any sort of feedback? I appreciate that as far as the tragedy is concerned, you are constrained by the fact that there is a continuing investigation perhaps from saying too

much on that, but going back to the first incident which is not so constrained, did you get any feedback from the police, apart from about the incident you have just put before the Committee, as to their views about the way that other parts of officialdom were operating? You mentioned it not being joined up, but were there some key absent parties?

Geraldine Smith: I think the police did have concerns. I certainly got the impression that they would have liked more support from the Immigration Service. Indeed when there was the second incident in Morecambe, 37 people were arrested as a result of members of the public complaining about anti-social behaviour, some sort of disturbance, again because people were in an overcrowded flat. I think there were some cultural differences and they were actually making a meal and chopping some meat or something in the street and there were some problems, so people had rung the police. The police came along and then contacted the Immigration Service and it took immigration some 20 hours to arrive on the scene. Bearing in mind that the police can only hold people for 24 hours, it is obviously very difficult for the police and I do not think they felt that they had continuing support from the Immigration Service. At that stage the main problems were in Morecambe with Chinese people and there were probably, I would say, 50 Chinese people living in a couple of flats in Morecambe where the Council would move in and evict them because there was overcrowding taking place and try and get procedures in motion. Because of those two incidents in Morecambe, the police and myself organised a multi-agency meeting which took place on 22 August last year and the Immigration Service were invited, the Department of Work and Pensions and the Inland Revenue. It was a very large meeting and my concern was what would happen when the cockle-beds opened in my part of the constituency. At that point in time they were closed and indeed they did not open until 1 December.

Q5 Chairman: All of those agencies and departments you have mentioned, did they all send representatives to the meeting?

Geraldine Smith: They all sent representatives and we went away from that meeting with them certainly looking as if they would look at joint operations when the cockle-beds in my own constituency did open. There were also representatives of Cumbria police there because of course the problems were happening in that part of the bay and I suspect that the people living in Morecambe, if they were indeed cockle-pickers, and I am not sure they were, but they most probably were, they were probably working at the other side of the bay.

Q6 Chairman: Given your optimism that there was going to be some joined-up activity as a result of the meeting you have just described, was your optimism fulfilled in the light of the tragic event that has so recently occurred?

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Geraldine Smith: I do not think there was proper regard taken certainly to health and safety issues, and indeed not just myself, but local people warned of health and safety concerns. An article appeared in the *Westmorland Gazette* on 31 October and it was actually a local guide, Alan Sledmore, who leads people across the bay and he is registered to lead walks with the local Tourist Board. He attended the Morecambe Bay Partnership Conference to warn the Sea Fisheries Committee about opening the cockle-bed, "that if they opened up, it was going to be like a latter-day gold rush with all and sundry coming from everywhere when they are not accustomed to the dangers. In winter, you get high tides and more rainfall and fog, so if a fog comes down and you have 200 people out there, they would not know what they were doing and there would be a tragedy out there". This is reported from a newspaper. Jim Andrews, who is the Chairman of North Wales and North-West Sea Fisheries Committee responds and says that the fishermen were experienced and it was proposed to introduce a permit which he expected to deter mass invasions, saying, "It is not for me to stand on the beach and tell fishermen when it is safe to go fishing. How fishermen exercise their discretion with regard to health and safety is not my concern". Now, that is clearly not joined-up government because that is the Chairman of the North-West Sea Fisheries Committee. In some respects, he is quite right, that his authority is whether those cockle-beds should be opened on the grounds of conservation. He has got a very small staff, there are only 15 of them to look after 1,000 miles of coastline, so I understand the pressures he is under, but there is clearly no joined-up government with regard to who is responsible for health and safety, saying, "Should we be looking at some of these considerations?" Clearly Alan Sledmore is not just an ordinary constituent, but he is someone with huge experience of Morecambe Bay, so he certainly alerted the authorities as well. I went down on the first day the cockle-beds opened on 1 December and whilst I did not see any foreign workers there, there were large numbers of what appeared to be British people working on the cockle-beds and there were concerns about access to the shore, about anti-social behaviour, there were no toilet facilities, about rotting cockles left lying on the beach, so I met with the Parish Council immediately after Christmas and they raised concerns about the previous month's activity. Up until that point, again I do not think there were any Chinese people involved and it was, as I understand it, about a week before the tragedy that they started appearing, but I would say, because of the earlier multi-agency meeting in August, that one of the things that was decided was they would operate a permit scheme when that cockle-bed was opened on 1 December. Indeed a permit scheme was in operation and I am sure the police will be looking carefully at the names and national insurance numbers of people that were issued with permits, but it would seem strange that Chinese people obtained permits if they were here illegally. It

would be something I am sure the police will be looking closely at to see if false national insurance numbers were used and, if that was the case, what sort of checks were done across government departments.

Q7 Chairman: Can you just relieve one slight confusion in my mind, again within the constraints that you have because of the prosecution. Was there, in your judgment, some kind of organisational structure in place as far as the cockle-pickers who sadly died were concerned? The impression given when the story first broke was that these poor tragic souls were out there, gathering cockles and the tide got them. Then as facts emerged, somebody, a merchant in Liverpool, claimed to be buying these cockles. Then there was obviously somebody who was gathering up the fruits of the harvesters' labours and selling them. In the sense of the gangmaster structure that we have looked at in the context of agriculture where there is clearly a farmer, a field and a crop and a group of people and some transport and that is the task, this seemed to be a slightly more diffuse arrangement. Is there anything you can tell the Committee which would help there?

Geraldine Smith: I think there must have been some organisation because I think some of the people who died actually came from Liverpool and someone had arranged accommodation, had arranged transport for those people to get to Morecambe. Certainly with the Chinese people that were living in Morecambe, someone had booked that accommodation and someone was arranging for them to go cockle-picking. They were not doing it off their own bat, but they were here, many of them illegally. I understand there was one person who was actually legal, but the rest were illegally here, so someone was organising that and I think there was some structure. There appeared to be a chain structure with maybe team leaders on the beach and maybe reporting back to someone higher up that chain, but I would not like to go into too much detail obviously because there is a police investigation taking place and at this moment in time I am speculating.

Q8 Diana Organ: You said that after the multi-agency meeting in August, they looked at a permit arrangement and you believed that by the time the cockle-beds were opened again, the permit was being used. You may or may not know, but was the permit for each individual cockle-picker or was it for a team leader to employ a team that might then pick so many cockles, or an area, or a gangmaster that would have the permit to be able to take this crop in effectively? The second point is to ask whether you knew if there was any policing of this permit having introduced a permit system to see who could be there, whether they had a national insurance number, whether they had the right to pick these cockles? Did anybody ever come and check whether any of these people had a permit and what happened if they did not?

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Geraldine Smith: There were actually some fisheries officers who carried out some checks to see that people had permits, bearing in mind again, as I say, that there are 15 fisheries staff for the whole of the north-west coast. With the permit scheme, I get the impression that there were some proper checks done across government departments in relation to national insurance numbers, but I would be surprised how Chinese people could have obtained those permits really, so I think that is one area that perhaps you could look at, but they were issued for individuals, and I understand that there were around 800 issued.

Q9 Diana Organ: The thing we are looking at obviously is actually about the problem of gangmasters and rogue gangmasters and how we can make it a better and a safer system for workers involved in agriculture. If you say that there are only 15 people checking the permits for a coastline that goes hundreds and hundreds of miles, are we not in a situation where actually we cannot police it? Whether it is a Gangmasters Bill or whether it is permits for people to operate in certain environments to take the harvest, we are going to have to have, are we not, hundreds and hundreds of officials checking that people have a right to be there?

Geraldine Smith: The key with any legislation is that you need proper enforcement. I think the Gangmasters Bill which is going through Parliament will actually make a difference because there will at least be some sort of paper trail. If people are employing and supplying casual labour, they will at least have to register and there will be some checks that can be carried out, but the success of that Bill will depend very much on the enforcement and the officers. There also need to be links with health and safety. People could have a permit regardless of whether they were in a position to fish out in the bay if they were aware of the dangers, so just about anyone could turn up and apply for a permit and they would be given one as long as they had some identification, a photograph and a national insurance number. There were no checks and the permits were free, so they were not paying for them, but you would need a proper licensing scheme. Indeed as well as the Gangmasters Bill, I believe that in Morecambe Bay we need proper licensing of public fisheries. Local fishermen have told me that they would be prepared to pay several hundred pounds for a licence because it would restrict the numbers of people going down on the beach to pick the cockles, so it would give them a sustainable income. It would also help local people's concerns because at the moment it is just a free-for-all, it is an invasion that takes place when hundreds of people descend on quite small communities. They take, it was estimated, £6-8 million worth of cockles in that particular area. How much money was paid in taxation? Not very much, I suspect, and local people got absolutely no benefit, but they were just left with all the rubbish that people had left behind and what had been a nice tourist spot was being

spoilt and indeed continues to be so. Nothing has changed in Morecambe Bay yet. There are still health and safety considerations. The lifeboat was called out last Thursday because cocklers were stuck out in the bay. It has been called 17 times this year and last year was a record year because of the cockling going on in parts of Morecambe Bay. There is a cost to the public purse and to the lifeboat, though they are voluntary, so I will certainly have to give a lot of House of Commons bottles of whisky to them to make up for the amount of time and effort that they are having to put in at this moment in time, so things clearly need to change. We need proper licensing of public fisheries, we need clear health and safety guidelines laid down for inshore fisheries such as Morecambe Bay, and we also need, I believe, the Gangmasters Bill. I think it will make a difference because there will at least be a register there and there will be some form of registration, but it is really, really important that the Government back that Bill with strong enforcement, otherwise it will be a waste of time.

Q10 Mr Mitchell: Any constituency MP is bound to be sympathetic because it is an experience many of us have had, that you raise a problem with the Government and back comes a letter, saying, "We are well aware of this. Don't bother your pretty little head about it", at least that is what they say to me, and, "Drop dead"! There are two problems here and I would just like to see whether there is any distinction. The problems arising in August seemed to be racial or immigration problems, disputes over who should be in a property or who should not be in a property. Then there is a second category, which you say was initially raised by Alan Sledmore. Is he the chap who is the Queen's guide? **Geraldine Smith:** He is one of the guides. He is not the Queen's guide, but he is a guide across the sands.

Q11 Mr Mitchell: The Queen's guide gets a full £20 a year in the House. His concerns are quite graphic. Those are concerns about safety. Was any distinction made in the complaints to the Government between immigration matters and safety matters and when did the safety considerations first get put home?

Geraldine Smith: Of course with the fisheries issues, including the health and safety concerns, I did also contact Elliot Morley who was the Fisheries Minister. I actually invited him to Morecambe on 20 February and he wrote back, "Thank you for your letter of 20 February 2003, inviting me to visit Morecambe and Lunesdale", and he goes on to say, "I hope you will understand that my diary is under considerable pressure, so I am unable to accept your kind invitation on this occasion". He goes on to say, "I am aware there are a number of issues relating to the management of local fisheries which are currently of concern to fishermen in your constituency. Until such time as we are able to meet, you may wish to take these up with the District Inspector", so again it was batted around.

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Any issues people kept batting them around. The local fisheries people would say, "Well, that's not our concern. We just deal with this aspect of it", so I think that is where there was a failure of joined-up government. It threw up so many questions, the Morecambe Bay tragedy.

Q12 Patrick Hall: Leaving aside, Geraldine, that there is a criminal investigation taking place and, therefore, there are things that maybe you cannot say, what do you feel is needed in the future? What are the broad lessons? You have mentioned a couple of things, the licensing of public fisheries, the Gangmasters Bill. You have talked about health and safety, you have talked about joined-up government, but just so that we have a point in this session where your conclusions are very clear and unambiguous, what would you say from your experience is needed in the future?

Geraldine Smith: I think quite clearly there are three areas which need to be addressed. I think you need the Gangmasters Bill, so I think that needs to go through Parliament and you need strong enforcement with that Bill. I think you need to regulate the operations of public fisheries, such as Morecambe Bay, and that means a proper licensing scheme. That means that for people who have licences, it has got to be linked in with health and safety and it is not just going to be a permit that anyone can apply for, but that they have to be given. I think the third issue with Morecambe Bay is that in this country we need an open and honest debate on immigration because clearly the fact that those people could not speak any English made it that much harder for them to contact the emergency services. They could contact one of the wives in China, but they could not get in touch with the local emergency services, so we do need an open and honest debate on immigration, asylum, migrant workers, the exploitation that goes on when there are so many different categories of people in this country, and I think we need to make sure that immigration can give us correct and accurate information. I think both my own experience and some of the stories we have read in the press recently about Sheffield and some of the other problems where staff just appear to have declared UDI and are seen to be making up their own policies there, I think those concerns really do need to be addressed because it is one of the most serious issues facing our country, and especially at this time when we face the very serious threat of international terrorism. Also I think we need to make sure that we have got proper immigration, asylum and rules for people coming in to work in this country.

Q13 Chairman: Jim, you have taken up the cudgels on this particular issue. Perhaps you could just tell the Committee why you decided to become involved in this area. Do you have any previous experience in dealing with gangmaster issues?

Jim Sheridan: Again, Chair, I was very fortunate to be drawn into the Private Member's Bill and, along with the support of the Transport and

General Workers' Union, we recognised the difficulties there were with gangmasters, particularly in the agricultural field. I do have my own personal experience of seeing how some of these people operate, particularly in the construction industry, which is somewhat limited just now and it is not to the same extent as we have in the agricultural area. That is basically my experience, along with the anecdotal evidence we have got through the Transport and General Workers' Union and through other coalition partners with people telling us of some of the irregularities that are coming through from people who have been exploited in the country. I think it is a very opportunistic Bill which came about in January and unfortunately what happened at Morecambe Bay has given it a focus which perhaps we could have done without in terms of the human misery it has caused. Nonetheless, it has given it a focus which has captured the imagination not only of the British public and press, but of ministers, I think, as well.

Q14 Chairman: Could I just bring in your colleagues from the T&GWU and ask you this question, gentlemen. Is there evidence that the size, scope and scale of gangmaster operations has been increasing because from our first Report, I think everybody struggled to try and get a handle on the size of the problem? There are numbers, including thousands, of gangmasters quoted with equally thousands of people being involved, but what do your researches show?

Mr Allenson: Certainly the evidence we have had since we last gave evidence to the Committee has been that the abuses have continued to come through and there has been press coverage of those particular abuses, and of course we have had the terrible Morecambe Bay disaster. Certainly a lot of the information is anecdotal and, as yet, again we have no particular evidence of the size of the problem, but nevertheless, it seems to be continuing unabated purely and simply because the evidence of abuse is continuing to come through. That may be to an extent because it has been highlighted in the press, et cetera, but nevertheless, that concern is still very much there. Actually after the last session we had with you, we watched very carefully for the Report that you gave and I remember well the 17 recommendations that you made. We were very taken with those, but felt that there really ought to be at the centre of those this registration and licensing system which at that time we were actually pursuing. The reason for that is because we need a co-ordinated approach to this particular situation. Time and time again in every situation which has developed we have seen an unco-ordinated response to it and quite clearly the registration and licensing scheme would give us a paper trail which would be useful with a co-ordinated enforcement and fully resourced initiative to try and get to grips with the gangmaster situation.

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Q15 Mr Lepper: Could I just take up one aspect of what the Chairman has already asked and that is about how things have changed, if they have changed, since you last came to talk to us, Mr Allenson. I think you had your colleague, Mr Pollard, with you then and I asked about the situation in East and West Sussex and, in particular, West Sussex because the Transport and General Workers' Union had produced a report in 2000 about the situation in Sussex. I asked whether there had been any improvement over the three years since that report had been produced. Mr Pollard said then that his informant, whom, for understandable reasons, he called "Deep Throat", in Sussex told him that, if anything, things were getting worse in the Sussex area. Now, I dwell on that because there has been concentration on other parts of the country, which is understandable with the tragic events in Morecambe Bay, but I wonder if, so far as the situation in the south of England is concerned, you feel that things have got better, worse or is it still an unknown quantity?

Mr Allenson: I think in the south it is very much an unknown quantity. Certainly in East Anglia, which has been well recognised as an area where the gangmaster operations have worked for a long period of time, there has been some evidence that in fact it has actually increased, but again it is purely and simply anecdotal evidence at this particular stage. The Ethical Trading Initiative has put a working group together and is doing some interesting work in south Lincolnshire and that is already starting to get to grips with some of the issues. Indeed if it was supported with the registration and licensing system, we could start to get to grips with these real problems very, very quickly indeed. No one is saying, I think, that the system would necessarily overnight eradicate the problem, but what we are looking for here is a dramatic culture change in the way people are treated, the way that people are brought into these particular areas to work and the opportunities they have to complain about the conditions they actually work under, opening up some of the areas. All too often we see people have not got the opportunity or ability actually to communicate the difficulties that they have got.

Q16 Mr Wiggin: I just wondered to what extent you share the Committee's views that the dominance of the supermarkets over their suppliers is a significant contributory factor in giving rise to illegal gangmaster activity?

Mr Allenson: Well, certainly from the T&G's point of view, the supermarkets have worked within the Ethical Trading Initiative working group to try and bring together the coalition of interests and I think that has been vitally important, as far as we are concerned, in bringing this to the public's attention. The voice has been all the more concentrated, important and powerful because it has been speaking on behalf of the wide and varied interests. It was brought together because of self-interest and there is no doubt about that. We have an interest as a trade union to look after workers' interests and

obviously the retailers and the growers have got an interest in making sure that there are not these press concerns which have been put across in the newspapers, putting people off the produce that is grown, et cetera. In terms of the supermarkets, we obviously recognise that they do exert pressure on the food chain and it is a wider debate, though now is probably not the time actually to debate it in terms of it being a much wider debate because if we look at Britain's cheap food policy, we could actually go much wider than that and say that we have all got a responsibility there in that cheap food perhaps is not something that can be borne when in fact we have got this kind of abuse taking place.

Q17 Mr Wiggin: One of the problems, I think, is that the pressure that food producers are under probably encourages them to cut corners. They are under a lot of pressure with time deadlines and price deadlines as well as other things. In your answer you were touching on the fact that the supermarkets have recognised their responsibility not to put that sort of pressure on, but I wonder if you still agree that that is a key part of the pressure which encourages illegal gangmaster activity.

Mr Allenson: It is a very important part which we continue to address with the retailers. I think that the retailers have taken significant steps in addressing their responsibilities and that is something we shall continue to press them actually to do. Again gangmaster registration and licensing is key and central to that.

Q18 Diana Organ: I think we recognise that the supermarkets are on board with this Bill and three cheers for that, but do you think that the problem might come from other retailers? It is easy to get, if you like, the big supermarkets on your side because they would like to be seen as doing things correctly, but there are within the food chain other retailers, smaller retailers or caterers, so are they a problem because for them price is absolutely important, so they are putting pressure on the producer and the producer is looking at how he can cut costs, and the way to do that is to cut down on labour costs? The second part is that part of the problem about the gangmaster issue is about decent wages for the job that you do and it is the labour costs you have got, so we do have a real problem here about illegal immigration filling that labour market because it can be done illegally and, therefore, cheaply and it may be the other retailers who are prepared to turn a blind eye to this.

Jim Sheridan: Can I say, just to underline what Peter has said, that the supermarkets during the whole of this process of the Bill through Parliament have been absolutely first class in terms of offering their support. I tend to believe that where the big retailers lead, others will follow, though there will be some retailers who will try and circumvent the system and try and put pressure on farmers and on produce-deliverers to try and cut prices and that is just the nature of the world we live in. Much has

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been made of the fact of illegal immigrants filling this void and I would just like to stress the point that it is not just illegal immigrants that this Bill hopes to capture, but it is about indigenous workers as well. There are a number of indigenous workers who are being exploited by these gangmasters, so it is not just a question of poor, illegal immigrant workers coming into the country and being exploited, but there are a number of young, indigenous workers who are being absolutely exploited as well. Since this Bill has got the focus it has got, we have received a number of anonymous telephone calls from people the length and breadth of the country telling us of some of the practices that are going on and it is just totally unacceptable. I would not offer this Bill as a panacea that is going to solve the problem because we will always have people who will want to circumvent or undermine the legislation, but the sort of analogy that I tend to draw is that some of us have driving licences, but that does not stop us speeding. That is the analogy I tend to draw.

Mr Allenson: Could we just quickly add into that in terms of the supermarkets that everything the Bill has been designed to try and do is underpin the reasonable people in this situation, certainly the situation with reasonable labour-providers, for example, and certainly with reasonable supermarkets. Obviously it is about changing that culture and trying to make sure that if people do step the wrong side of the law, then they are caught in a number of particular ways. Also in terms of the immigration issue, the T&G has always taken the view that this was about workers' rights and trying to make sure that it is dealt with on that particular basis and thankfully that has been the case. We have tried with the indigenous workers actually to make sure that people are received well in their local communities, treated equally and treated fairly, and that is an important message for us actually to get across. From my own experiences in East Anglia, you will very often find that although there are migrant workers involved, there is a high percentage of local workers as well and they are treated equally as badly.

Q19 Diana Organ: It does seem that we could get very concerned about the quality of the welfare of animals for the meat that we eat, but we sometimes are not too concerned about the welfare of the humans that pick the lettuces that we eat.

Jim Sheridan: Also another part of it clearly is the consumers. I have had a number of letters from the general public telling me that they have been writing to the big supermarkets because the consumers are expressing concerns because they are the ones who buy the produce that has been gained from the backs of people who have been exploited.

Q20 Ms Atherton: Forgive me my cynicism regarding the supermarkets. From some of my own involvement around gangmasters, I am aware that they operate in many other parts of the country than East Anglia and Morecambe Bay and they certainly do in Cornwall, a part of which I

represent. My feeling very strongly with supermarkets is that they act when the consumer is putting the pressure on. The consumer puts the pressure on the price, as we discussed earlier, but also the consumer will put the pressure on unfair trade and will say, "We will not drink tea or coffee that is picked in an unacceptable way in other countries". Now, I feel very frustrated in the fact that I do not feel that the British public are actually saying that in our country we ought to have a fair trade policy for the way in which people are treated and employed and that the pushing down of prices at the farm gate has resulted in farmers possibly feeling that they have to look for the lowest gangmaster price that they can get and that has implications right along the line. Do you get any sense from the supermarkets that they are aware of this chain and that they are actually at the head of that chain and they have to take action?

Jim Sheridan: I think one of the things that may come out of this Bill is the fact that we are looking at setting up an advisory board which will monitor just exactly how this Bill could operate and its implications. Part of that board will be the major supermarkets themselves, along with the farmers and the gangmasters, the trade unions, et cetera, so I think that will be an ideal forum to remind some of the major supermarkets if they are being seen to be putting pressure on anyone else, I think that is an ideal opportunity to remind the major supermarkets of their ethical, if I can use that word, responsibilities.

Q21 Chairman: Before we move off this question of the supermarkets, we had some evidence from the British Retail Consortium against a background where I know you have a long list of individual supermarkets who claim to be supporters of your Bill. In their evidence to the Committee, the British Retail Consortium, whilst reducing its general support, says that existing enforcement systems and entities should be utilised to monitor business and that most efforts should be directed on the enforcement of existing legislation. That seems to be a slightly sort of hedged position from generally supporting your Bill, but putting a lot of emphasis on to the enforcement of the existing legislation. Perhaps you would like to comment on that.

Jim Sheridan: I do not know when that was published, Chair, but certainly after the Morecambe Bay situation, I think the supermarkets' and maybe the retailers' minds have been concentrated on how best to carry out their business, but I do genuinely think that the price of goods should not be put on to people being exploited and I think that is a message to get across to the retailers. Perhaps Gary may want to say some more.

Mr Brisley: I think on that point, Chairman, the supermarkets have recognised that there are existing enforcement mechanisms out there and I think they would like those to be used more effectively. I think perhaps the principal reason they are supporting the Bill is that they have always had a great difficulty in actually identifying who is

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and who is not a legitimate gangmaster. They believe that a licence and a public register will allow them to be sure that they have clean hands in effect, that the people who are providing them with their products are actually using legitimate licensed gangmasters, and we do have a list of, as you say, major supermarkets supporting it and we have statements from them to that effect, so I think there is no distinction between the two. They do want more effective enforcement with existing mechanisms, but they see a licence and a register as an additional means of giving them a way of identifying who is legitimate and who is illegitimate.

Q22 Chairman: Earlier in the questioning, the pressure of supermarkets' price and distribution demands has been justified as one of the reasons why gangmaster-type labour is a requirement of modern-day trading. Have you done any analysis to work out the type of costs they bring to growers and packers that can result from the use of gangmaster-type labour as opposed to employing people on a normal and full-time basis?

Mr Brisley: We have not, no. I think that with many of the costs that are involved in gangmaster labour, people are saying that it is cheaper to use rogue gangmasters and I think rogue gangmasters are probably charging the same prices as legitimate gangmasters, but they are actually skimming off much larger profits and they are not passing those down to their workers because they are exploiting them, but we have not done any background research into whether it would be cheaper for farmers or pack-houses to employ workers directly rather than use labour-providers, no.

Q23 Mr Mitchell: I just wonder how you characterise the attitude of central government to this problem of illegal gangmasters. Let's divide it into two parts of before the tragedy and after the tragedy, and just put it first of all to Geraldine and then to Peter.

Geraldine Smith: Before the tragedy, to be honest, I would have to say that I think that the Government must have been aware of the problem, that it was an issue. I told them and your own Select Committee has produced reports, so they must have been aware. I think there was a certain amount of turning a blind eye to the problem, but I think that attitude has certainly changed. A tragedy does make everyone sit up and think, and I certainly hope it will mean that the Government will back this Bill on gangmasters and look at the problems of exploitation of migrant workers because clearly people are being exploited. Those people in Morecambe Bay were not just victims of the treacherous sands and sea, but they were victims of exploitation and that was quite clear, so the Government does have to tackle these issues. Let's face it, they are difficult issues and no political party has all the answers, so what we need is a bit of honesty in this debate.

Mr Allenson: I think obviously prior to the Morecambe Bay disaster the Government had in part recognised the problem and of course we had Operation Gangmaster which, with all of its failings, was recognised by this Committee in its first Report. I think since Morecambe Bay in many ways, though it is difficult to tell because we are still feeling the repercussions of that particular situation, but there seems to be a willingness to work. I think we are very clear in our view that this Bill is one of a number of measures which need to take place, some of which this Committee have touched on in previous hearings. It needs to be properly co-ordinated with a minister in Defra responsible for that legislation and properly resourced in the enforcement that needs to take place as a consequence. Clearly if we start to move in that particular direction, I hope this Committee will take the opportunity of endorsing the Private Member's Bill and assist in the process which now is going forward.

Q24 Mr Mitchell: Do you discern any change in the Government's attitude and approach after our Report in September and did that actually influence things?

Mr Allenson: I did not detect any change. However, I have to say that it was one of the reasons why we, as a trade union, decided that we needed to push this further and harder at that particular point in time.

Q25 Mr Mitchell: Do you think the Government is now taking it seriously, genuinely seriously, or is this just a response to a hot issue, and they have to be doing something about or be seen to be doing something anyway?

Mr Allenson: In the discussions we have had with government so far, they seem to be taking the situation very seriously. I have got to say that that all bodes well for government support for the Private Member's Bill.

Q26 Mr Mitchell: What can you tell us about the connection? There seem to me to be two problems here, one of which is illegal people-smugglers, people bringing people in, and the other of which is illegal gangmasters. Are they the same group? Are the people bringing the illegal immigrants in also employing them in this kind of fashion or are they two separate groups?

Mr Allenson: Again we have not had any evidence of that. From the evidence, again I can talk of East Anglia because that is the area where we have had most contact, but there was a situation of some Chinese workers being brought into East Anglia, but then they were separately employed by gangmasters locally and that is where the abuse actually took place, so the two were separate in that particular instance.

Mr Brisley: There has been some evidence from the National Criminal Intelligence Service in one of their reports about potential security threats to the UK, that the very worst elements of gangmasters operate sometimes as cartels and are engaged both

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in human trafficking and in then supplying those workers to various sectors of the economy, so there may be some overlap there in terms of criminal activity.

Jim Sheridan: As it stands just now, we do not know who the gangmasters are and we do not know who they are employing. With this Bill hopefully we will recognise who the gangmasters are and they will have responsibility. If we look at the situation in Morecambe Bay, in my view, if this legislation had been in place, then we could have identified who the gangmaster was and he would have been held responsible for the deaths of those people, and there would have been a risk assessment carried out or there should have been a risk assessment carried out before those people went on to the beach. Therefore, this Bill is about identifying who the gangmasters are, who they are employing because we need names and addresses and they will not be able to hold any documentation from them, so if an inspector turns up, he can ask exactly who the gangmaster is because he will have an identification badge, and they will also be able to supply the names and addresses of the people who have employed them, so I think that will go a long way to eliminating the practice if indeed they are bringing people illegally into the country.

Geraldine Smith: Can I say that one of the points at Morecambe Bay is that I suspect the police will have great difficulty in identifying an employer/employee relationship because everyone will turn around and say, "No, we had nothing to do with the Chinese. We did not buy from them", and I think that is going to be an issue.. I think in relation to your earlier point about whether the people-smugglers are linked to the gangmasters, the Lancashire police have done a fantastic job, it is a very impressive investigation and I think there will be some answers at the end of that, I am hopeful that there will be, and they will establish some sort of chain.

Q27 Mr Mitchell: There was some kind of boss. There was a report in the paper, and I do not know whether it is true, of a plaintive phone call made home from a mobile phone by one of the cockle-pickers, who is quoted as saying, "My boss made a little mistake", so there is certainly a boss there, is there not?

Geraldine Smith: The speculation was that basically someone should have come back for those people and they were left out in the middle of the bay. I have no way of knowing if that is true or false, but certainly there is speculation.

Q28 Mr Mitchell: How far is this a question of illegality of working? Anybody who is not allowed to work, an asylum-seeker or an illegal immigrant, is very vulnerable, is he not, to being employed by an illegal gangmaster at an illegal rate of pay in illegal conditions? How far is this a problem of whether we can allow people to work as they seem to do in the States when they cross the border and

are able to get a job with no questions asked? Would the situation be more straightforward if everybody was allowed to work?

Jim Sheridan: I think you are absolutely right and, with the EU accession countries coming in as well, people will be allowed to work and be paid the proper wage/minimum wage that everyone else in the country enjoys. There are the health and safety implications as well. So, although people will be allowed, under the new regulations, to come into the country and work, the important thing about this Bill is that we will know exactly who they are, where they are and how they are being treated and I think that is the main objective. As it works just now, these people are operating in a twilight world and trying to get a handle on it is extremely difficult. I have to say that the Treasury are losing estimates of £100 million per annum in unpaid taxes, so there is a self-interest from Treasury to support this Bill.

Mr Allenson: In addition, we have a number of people who are here as of right, for example Portuguese workers who are EU citizens anyway, but they are still abused. We have the indigenous workers who are abused. The language difficulties and the cultural difficulties are also, as has been mentioned before, things that have to be taken on board and be dealt with as something that we have to recognise.

Q29 Mr Drew: Mr Allenson, you said just a few minutes ago, as we had recommended in our report, that you felt that a Defra minister should be the lead minister on these issues. In response to our last report, the Government said that was inappropriate because the problem exists beyond the agricultural field of employment and continue to seem to see DWP as the lead department and a DWP minister as the lead minister. I extend this question to other witnesses: do you think it is important that it should be Defra that leads or is that something that is still open to argument as far as you are concerned?

Mr Allenson: In the context of this particular Bill of course, it is related to agriculture and first-stage processing, so Defra would really be the Government department that we view would be best able to coordinate it. Certainly, the main point is that it needs to be coordinated and one of the things that the Committee has found before from evidence is that, when there are a number of departments involved, things can easily get shuffled between departments and disasters come out as a consequence.

Geraldine Smith: Defra ministers lead in on issues with health and safety, their department of work and pensions. I think it is important that you have a lead minister. It is absolutely essential that you have one person to whom you can say, "Right, you are responsible for this", but that person also has to have some power and influence over other government departments for matters such as health and safety.

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Q30 Alan Simpson: I want to focus on some of the enforcement issues and can I begin with a quite quick one on supermarkets because Peter made the point that they have now come on board, their minds have been focused on this. At the first set of hearings, they were keen to have a list but not a licence because that would have rather cost. Now they have come on board on licensing, but is it still the case that their interest in licensing is to ensure that someone else has liability and not them?

Mr Allenson: To cover an earlier point, obviously the intention is that the coalition that has come together with the DTI will continue to work and hopefully will form the main body of any stakeholder advisory group and they have come together to inform the minister etc if that is the thinking later on. So, we will continue to be able to work with the people who are in the coalition including the retailers and we shall continue to bring to them concerns that we have about where they need to sharpen up and where they need to be in terms of making sure that they do not use their strength to cause problems right at the sharp end for working people. In terms of the other question—

Q31 Mr Mitchell: In fact, I only asked one, Peter, and that was not the answer. You answered something that I had not asked you about. I just want to know, is the supermarkets' position still that they are happy to have licensing but not for them to be liable?

Mr Allenson: The Bill will not—

Q32 Alan Simpson: You said that they are keen on a responsibility and ethical responsibility but that they want the legal liability somewhere else.

Mr Allenson: Yes.

Q33 Alan Simpson: Geraldine, can I come back to you because it also ties in with the previous hearings that we had specifically about the existence of *Operation Gangmaster*. We had a fantastic line-up there of all the departments involved in *Operation Gangmaster*, but it was almost like an episode of *Bremner, Bird and Fortune*. There was this interdepartmental team that was everyone's specialist yet, when we asked them about how they worked together and the number of meetings they had had, it turned out that not only had they never had a meeting but that the line-up had never met each other and we almost suggested that it might be nice if, as a committee, we adjourned in order that they could say "hello". Have you had any contact with *Operation Gangmaster* as it is lead by DWP rather than immigration authorities and the police which seem to start from, how do we chase the victims of this exploitation?

Geraldine Smith: It appears to me that *Operation Gangmaster* was under-resourced and was just an umbrella term for some operations where people had got together and decided to work together, but certainly my experience of the multi-agency approach and the different departments coming

together is that it is very hard to get anyone to accept responsibility because they always tell you what they cannot do, not what they can do and what some other department is responsible for and you can bet that, if you leave one out of your meeting, they will be the department that gets blamed for everything. So, it is really difficult getting this joined-up working unless someone gets a grip of it, unless there is someone ultimately with overall responsibility to whom you can turn and say, "Right, how are you going to get this team of people together? How about some enforcement operations? Who takes the lead?" The first multi-agency meeting that we had in Morecambe was arranged by the police and myself; the second one was arranged by North West Sea Fisheries; the third one again was going to be chaired by myself and arranged by the Sea Fisheries. So, there was no one who was willing to say, "Right, I am responsible for sorting this problem out" and working across different departments. Indeed, it would appear that immigration were quite often out of the picture altogether.

Q34 Alan Simpson: Would it be fair to say that the focus of the interests with which you had to deal was still, how do we do something about these people who effectively were the victims? How do we pick them up? How do we deal with overcrowding? In a sense, looking at those who were the most exploited parts of the process rather than those who were the villains of the piece and saying, "So, who was it who was doing the exploiting?"

Geraldine Smith: Certainly for me, the issue of cockling in Morecambe began in November 2002 when a large boat turned up in Morecambe Bay and there were some vans of people turning up for cockling. At that stage, it was not an issue of possible illegal workers, it was British workers and they were probably being exploited as well because the claims then were, as to whether these people were claiming benefits or that they were unemployed and working on the side. Since the tragedy, I have seen young kids/teenagers working down on the shore quite open to the same health and safety concerns because nothing has changed. Their lives could be put at risk and I am sure that young people can quite often be vulnerable to exploitation. I think the problem with people who are illegal immigrants is that they have no one to turn to. They cannot come to me—they did not speak English. They cannot come and say to the local MP, "We are being exploited." They keep a low profile because they are outside the law and that makes them so much more vulnerable. However, I am quite sure that the authorities were aware of what was going on.

Q35 Alan Simpson: Jim, could you just connect that into the aims of your Bill. Does it follow from what Geraldine has described that the issue of licensing and enforcement is not just going to be a question of who gets licences but what they are licensed for and the terms and strengths of licences? It is quite clear that the people who were involved in that

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tragic episode on Morecambe Beach were not there because they had a passion for night bathing. They were there because they were told to get out there and pick the bloody cockles and to earn the pittance that they were being paid. So, it is not just whether you have a licence to do that but the constraints that will be imposed with any licence.

Jim Sheridan: You are right, we cannot have people just turning up and saying, "I want a licence to become a gangmaster", pay whatever the payment may be and get on with it. What we are asking for is a very strict criteria and that will be left for the Secretary of State for Defra. What we also asking for is that the advisory board that we are hoping to set up will look at the criteria because they are the people who are working at the sharp end and who know the difficulties. So, we would hope that the advisory board can put in recommendations to the Secretary of State for Defra in order that he or she can build into that a very strict criteria in order that, when people are applying for a licence, they know what they have to follow.

Mr Brisley: In Jim's Bill, there are very basic licence conditions. For example, a requirement for an employee or agent of a gangmaster to carry photo identification in order that they can prove to the user that they are legitimate licensed gangmasters; a requirement for them to keep other documentation; a requirement for them to abide by minimum standards as to health and safety; and also to make sure that they do not withhold documents. We are having lots of reports, particularly from migrant workers, that passports are being held and basically these people are being held hostage until such time as the gangmaster no longer needs their services. Alongside those basic conditions, obviously, as Jim said, we would like to consult with the experts in the industry, the key stakeholders, and perhaps take the Ethical Trading Initiative (ETI) code, for example, and have that as the basis for licensed conditions as well as having a more robust licence. Alongside that, when somebody applies for a licence, they should be vetted, there should be background checks on these people, and then, during the lifetime of that licence, there would be compliance visits to make sure that they are keeping to the terms and conditions of the licence and those orders will also feed into wider enforcement agencies to identify problems perhaps with tax evasion or with health and safety.

Q36 Ms Atherton: Jim, have the Government now given you unequivocal support for your Bill? Well, I think you have answered the question!

Jim Sheridan: I have very quickly found out who runs the country! Seriously, during the Second Reading, the Government shared the objectives of the Bill. They have now moved on to sharing the principles of the Bill and we have had some very constructive meetings with Defra ministers and I really do think that they are now coming on board. They see the merits of this Bill and I think that we are all looking for a workable solution that (a) provides the cover that we need in order that people are not exploited and that (b), what is equally

important, we do not burden businesses with significant costs because that would endanger the cause. I think that there is a genuine desire by all parties, the coalition, ourselves and the Government, to come to some sort of workable solution and I think that we are almost there.

Q37 Ms Atherton: So, you have been meeting with Defra ministers but what about DTI and some of the other ministers and departments that might have different issues and concerns? Have they been feeding in concerns or have they all been coming through from Defra?

Jim Sheridan: They have all been coming through Defra. We took a decision earlier that, rather than us going round all the various departments, Defra would be the coordinating body and they would then contact other departments by letter or whatever seeking their views on the Bill and asking them to identify any concerns they may have and certainly there were one or two concerns that were raised in terms of costs, enforcement etc, but goodwill is now coming through and I think that we are making good progress and I am extremely confident that we will get this Bill through the necessary process.

Q38 Ms Atherton: I suppose I am trying to tease out from you whether you feel that there is resistance in some government departments that mean you are going to have to bring amendments or changes than perhaps if you were purely just dealing with Defra ministers.

Jim Sheridan: You know how the parliamentary process works. Sometimes things are said to you at face value and then other things are done behind closed doors. Certainly at face value, the 15 ministers whom I have met have been very honest and upfront about the aim of the Bill is and what their objectives are and principles are. There have been some other departments that have raised concerns and I think that we have managed to overcome those concerns and identify the concerns that they have raised.

Q39 Chairman: Alun Michael said in his concluding remarks in the Bill that we believe licensing should target agricultural activities. That does not cover fishing specifically and it does not cover anything else. Are you happy about that?

Jim Sheridan: I assume that Alun perhaps has mistakenly called it that but it does cover fisheries and processes as well.

Q40 Chairman: They way I read it it does, that is what the minister's focus was on. Can I just ask you finally on the question of the Bill, how bombproof is it to gangmasters reinventing themselves? Consider this scenario: a gangmaster buys a farm in East Anglia; it has a very large labour force; his next-door neighbour invites his help and a large number of people cross to his neighbour's farm and money exchanges hands for a harvesting job; the man then takes his large

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labour force back to his farm; ostensibly, they are farm workers, they are not in a gang. Does your Bill cover that kind of reinvention scenario?

Mr Sheridan: It is similar to sub-contracting and I will ask Gary to answer that.

Mr Brisley: We are working with Defra to ensure that there are no loopholes whatsoever. So, on issues such as that, we are working out with them how we can ensure that nobody escapes a gangmaster's licence. Going back to the point you made about Alun Michael's comments at the end of the debate, the Bill that we worked out with Defra quite clearly states that it does cover agriculture, horticulture, fisheries and shellfish, so it does cover the whole gamut of the agricultural sector. On the specific issue of subcontractors, a licence will be required to be held by anybody supplying and/or supervising labour. So, anybody who is engaged in those practices who does not have a licence will be operating illegally.

Q41 Mr Drew: I have just done some work in the care sector in my constituency and I was surprised at the degree to which care workers were being organised from abroad to come in on genuine work permits. What happens if gangmasters go offshore? What accountability then?

Mr Brisley: Obviously we cannot have a Bill that extends beyond the borders of the United Kingdom, but what we can do is ensure that the minute somebody collects labour at an airport or at a dockside, then that person is then classed as a gangmaster. I presume that anybody operating overseas will have to arrange for somebody to collect and supply that labour. It is going to be very difficult to phone from Gibraltar and direct 20 workers to a farm in Norfolk. Somebody is going to have to pick them up and leave them there and

the person doing that is therefore the employee or the agent of the gangmaster and they will be required to have a licence to operate in the UK.

Q42 Mr Lepper: This Bill—and let us assume that it will be successful—concentrates on agriculture in the widest sense as you suggested. I just wondered if the trade union colleagues present believe that there are other areas of employment in which a similar form of registration is needed for gangmasters. David Drew has mentioned the care sector and I was thinking in particular of the catering sector. I just wondered what your views are on that.

Mr Brisley: I think you have recognised that gangmaster placements do go wider than agriculture and you have mentioned areas such as construction. However, within the constraints of a Private Member's Bill, we had to address an area where we thought that the excesses of gangmasters were at their particular worse in their dealings with the most vulnerable, which is why we concentrated on agriculture. We do recognise that the issue and the problem does go far wider than that.

Q43 Patrick Hall: Are you saying that the Bill excludes construction?

Mr Brisley: It does.

Jim Sheridan: It is purely agriculture.

Chairman: May I thank all four of you for contributing your further views. We have greatly benefited from what you have had to say. If there are any further issues that you want to comment on in the light of the exchanges, please feel free to make a further written submission to the Committee. As we always say, the only thing you cannot undo is that which you have said. So, thank you very much for coming before us.

Memorandum submitted by Geraldine Smith MP

I would ask that the committee give consideration to the following points.

1. That the Government failed to adequately respond in a coordinated manner to the matters raised in my letter dated 28 June 2003 relating to gangmasters and suspected illegal immigrants.

Although I had warned the Government that a large number of people of Asian origin were being exploited and placed in danger by gangmasters whilst picking cockles on Pilling Sands, it is clear that the information was not acted upon and that no significant was effort made to address any of the issues.

2. That the Home Office exaggerated and deliberately distorted the information relating to the activities of the Immigration Service in the Morecambe Bay area.

The Home Office has repeatedly claimed that the Immigration Service has participated in multi-agency operations similar to the one on Pilling Sands in Morecambe Bay and elsewhere. This is simply not true; no such operation has been carried out in Morecambe Bay. I would draw the committee's attention to the following extracts from letters I received from the Minister of State at the Home Office [dated 12 February 2004]:

"I explained that there is ongoing enforcement activity in the Morecambe Bay area, with the specific purpose of tackling the cockle-picking problem. A successful police and immigration operation went ahead in August 2003, just before you received a reply from Fiona Mactaggart on the previous DWP operation in June. On this occasion 37 cockle-pickers were arrested. You were

not aware until today that this had taken place and explained that this may have been because it took place in a part of the bay that was not in your constituency. I have attached at Annex A a specific breakdown of the relevant activity:

Immigration service activity involving cockle-pickers in Morecambe bay since June 2003.

19 June 2003—Pilling Sands, near Morecambe . . . 19 June a joint police and DWP operation was conducted at Pilling Sands near Morecambe Bay. This was primarily an intelligence-led operation focused on benefit fraud. The intelligence and planning was focused on the police and DWP as the priority agencies for this particular operation.

August 2003—Morecambe Bay (the sandbank close to Morecambe town) . . . 37 Chinese cockle pickers were arrested by the police in Morecambe Bay. This was a police led operation. UKIS provided Immigration Officer assistance.

6 August 2003—Morecambe Bay (the sandbank close to Morecambe town) . . . The following day, on 6 August DWP led operation was scheduled to take place and UKIS had allocated Immigration Staff to assist. Because of the previous day's operation by the police, there were no further arrests on this occasion."

[Home Office Letter dated 19 February 2004]:

"One of the objectives of the meeting was to brief you on the Immigration Department's enforcement activity in relation to cockle-picking in general and most particularly that in Morecambe Bay. The details I supplied about the major Police/Immigration Service operation on 4/5 of August were correct and I stand by them."

"I also included details of the DWP operation 6 August which IND officials mistakenly informed me was in Morecambe Bay. In fact, although it was another cockle-picking operation, it took place elsewhere in the North West. Obviously I regret this minor error but I hope you agree it does not in any way materially affect the information I was providing you on the major operation that took place in August 2003 in Morecambe."

I would also like the Committee to give consideration to the following extract from Hansard: March 2004 Columns 1147–1149.

Geraldine Smith: Will the Minister comment on the operations that she referred to in her letter to me? It mentioned one on 5 August at Morecambe bay, on a sandbank close to Morecambe town, and one on 6 August on the sandbank close to Morecambe town—operations that did not take place. Is she seriously suggesting that the reaction of the police to complaints from residents in Morecambe is directly comparable with a pre-planned multi-agency operation that took place on Pilling sands or, indeed, on the Dee?

Beverley Hughes: No, I am not saying that. I shall get to that point in a moment.

The next relevant incident that my hon. Friend referred to occurred on 6 August at Thurstaston on the Wirral Dee estuary. This was a Department for Work and Pensions-led operation that targeted cockle pickers on the River Dee. The immigration service provided two immigration officers in support of the operation, but no foreign nationals were encountered on that day.

We now arrive at the tragic events of 5 February this year, after which I had a meeting with my hon. Friend the Member for Morecambe and Lunesdale on 12 February.

During our meeting, I agreed to set out in writing the immigration service's enforcement activity in relation to cockle picking, which I did the same day. We tried to fax it to my hon. Friend that day, but we could not get it through on the fax machine. I also promised to let her have details of the number of rescue operations carried out in the Morecambe bay area, and I have written to the Maritime and Coastguard Agency to ask it to provide her with the information.

My hon. Friend then wrote to me on 19 February to point out what she considered to be discrepancies between the information in my letter of 12 February and the events as she understood them. I responded that day by saying that I understood that the details that I had given about the incident on 4 and 5 August were correct, but that I had been given the incorrect location for the operation on 6 August by officials—an error which I regretted.

An investigation of how the erroneous information came to be given to me by officials has been undertaken by a senior member of the immigration and nationality directorate. It highlights significant inadequacies in record keeping in the Liverpool enforcement office. As a result, the details that I sent to my hon. Friend were drawn up on the basis of the recollection of staff who were available at the time, and they have turned out to be faulty. I am satisfied that this was done with the best of intentions of giving as full an account as possible. However, the staff responsible have been told in the strongest terms that in such cases the need for accuracy is absolutely paramount. Information should be checked, and any doubt about its accuracy should be made clear.

Geraldine Smith: What about the linkage in the operations between 5 August and 6 August? If it was just a simple error, it was just incompetence, and officials made a mistake about the location; why did they link

the two operations together, and why did they say that no one had been arrested on 6 August because of the arrests on the previous day?

Beverley Hughes: Perhaps I can clarify those issues as I continue.

The most serious problem is the absence of satisfactory records on the basis of which a confident and accurate account could and should have been given. The investigating officer, supported by a colleague from IND's human resources directorate, will now look further into how these management failures came about so that senior management can consider what further action would be appropriate. In the meantime, an additional senior manager has been appointed to lead the Liverpool office and to implement the necessary changes there.

Now that the matter has been investigated, it is also clear that aspects of the details given to me by officials about the role of the immigration service in the events of the 4 August and 5 August were not wholly accurate, and I regret that as a result my hon. Friend was not given the full picture. However, the broad outline of that picture was correct—that on those days there was a police-led activity in the Morecambe bay area involving Chinese cockle pickers, which the immigration service supported when requested.

I would also like to draw to the attention of the committee to the details contained in the attached police reports [not printed]. These documents give details of police activities relating to suspected illegal immigrants in Morecambe.

I believe that taken together the foregoing reveals an unacceptable level of incompetence within the Immigration Service and uncovers a deliberate attempt to portray a false picture of their activities in the Morecambe Bay area.

April 2004

Memorandum submitted by the Association of Chief Police Officers

REFLEX

Reflex is the name given to the Government's multi-agency response to organised immigration crime. It commenced in 2000 under the chair of the Director General of the National Crime Squad and includes key representatives from Government departments, law enforcement and the intelligence community.

While primarily an operational group focused on level 3 serious and organised crime, Reflex has, over the past two years, also been instrumental in developing a level 2 response with regional police forces and other law enforcement agencies as well as developing projects to help reduce and prevent the criminality both here and overseas.

Reflex has developed a shared strategy and targets. It aims to reduce the harm caused by serious and organised criminality involved in people smuggling and human trafficking by:

- Raising the risks that the criminals must take;
- Rendering their illegal businesses unprofitable; and
- Reducing the opportunities for them to exploit communities

Led by intelligence, operational and preventative measures target those crime groups involved in:

- The volume facilitation of illegal migrants.
- Human trafficking (in particular the trafficking of women and children).
- Running the criminal infrastructures that serve both to facilitate illegal entry and to exploit the illegal population once in the UK.

So far this year Reflex has disrupted or dismantled 30 organised crime enterprises. It has over 200 current intelligence developments and operations underway. The majority of these are targeting volume facilitation and trafficking. 18 operations currently involve an element of illegal working. Nine of these within the National Crime Squad and nine within regional police forces. Many of these operations have links with other agencies such as DWP and Immigration Service.

Reflex has an international focus and partner agencies work with partners within the EU and outside the EU to disrupt activities and strengthen systems to tackle the problem in the transit and nexus points en route to the UK. Successful collaborative projects have taken place in Bosnia & Herzegovina, Serbia and Romania. The latter involved setting up an intelligence-led unit within Romanian law enforcement that has produced impressive results in its first full year of operation.

24 March 2004

Witnesses: **Mr Bill Hughes**, Director General, National Crime Squad, and **Mr Gerry Liddell**, Head of Reflex Secretariat, National Crime Squad, Association of Chief Police Officers, examined.

Q44 Chairman: We now move to the Association of Chief Police Officers and we welcome Mr Bill Hughes, the Director General of the National Crime Squad, and Mr Gerry Liddell who has the most interesting title of Head of Reflex. Is this some kind of gymnastic activity or just the way in which you respond to things?

Mr Hughes: You can see from his athletic build that it is obviously the former!

Q45 Chairman: He is the ultimate respondent from the National Crime Squad. Could you just explain to us what the Head of Reflex is.

Mr Liddell: It is actually the Head of the Reflex Secretariat. Reflex is the Government's multi-agency response to organised immigration crime and I head up a small unit which coordinates that activity in the National Crime Squad. So, it is not Head of Reflex *per se*.

Chairman: Thank you very much for coming before the Committee and I would like to ask Alan Simpson if he would be kind enough to start our questioning.

Q46 Alan Simpson: I just want to focus in on what we know about the connections between gangmasters and illegal crime and people trafficking. There is a reference in the report that was undertaken by the National Criminal Intelligence Service about organised crime in which they said, "... employers are aware that they are employing illegal workers. While most of these workers are willing accomplices, a minority is trafficked for use as bonded labour." How much? What do we know about that connection between gangmasters and illegal people trafficking and crime?

Mr Hughes: Before responding to that particular question, it might be useful just to give a background about what we do in Reflex as that will help to fill out the gaps, so that I can answer that question better. Reflex was formed about four years ago now to deal with the issue around organised immigration crime. There are two definitions of that that are used generally by the United Nations, that of trafficking, which is where people are moved whether they want to be or not, and smuggling which is where there is some element of complicit acknowledgement and agreement to it. What Reflex was formed to do is a multi-agency approach which is chaired by the Director General of the National Crime Squad which is me, and that has been my job for about three-and-a-half years now. I took over from my predecessor who started it. We have representatives from all agencies, from the Immigration Service right through to other police forces, intelligence security services, government departments, FCO, the Home Office etc. The purpose is to deal with organised immigration crime but what is described under the National Intelligence model at Level 3, that is the serious national, international and trans-national, so we primarily deal with issues such as those who are bringing people from countries around the world towards the United Kingdom or to

Europe and those who are operating at the highest level, and we make no difference between trafficking and smuggling because what we are dealing with are the organised criminals who engage in both of those activities. The National Criminal Intelligence Service is the intelligence side, a sister agency if you like, to the Crime Squad who provide the assessments of intelligence and they run a series of liaison officers around the world. They are responsible for that liaison officer network. That information is then fed in, so that we can then start to form task and coordinating groups in order to attack those particular criminal gangs that are operating.

Q47 Alan Simpson: I do not want to be too disrespectful to you but this is a long preamble about the structure and I think what the Committee wants to know is, what do we know? In a sense, we can walk around the houses of that structure nationally and internationally on another occasion. I think that we need to be saying to you what we said to *Operation Gangmaster*, which is, tell us what we know.

Mr Hughes: I am grateful for that. I was just trying to make sure that you understood exactly the context in which I was operating because we have no role in *Operation Gangmaster*.

Q48 Alan Simpson: I am just saying, in your own role, if we can focus on identifying what it is that we currently know and where we are in the process of following that through. There have been one or two prosecutions, but give us some idea about how much we are able to identify on the issues of this organised illegal movements of people, where it is bonded labour, whether it is illegal migration.

Mr Hughes: I can tell you that there are 32 operations that we are running under Reflex at the present time against those who are involved in organised immigration crime, of which nine involve elements of illegal working. That obviously is only the picture of which we are aware based on the intelligence that comes to us in order that we can operate against it.

The Committee suspended from 3.51 pm to 4.06 pm for a division in the House

Q49 Chairman: Mr Hughes, you were rudely interrupted by the bell.

Mr Hughes: The 32 operations that I spoke about are simply National Crime Squad operations. We have 200 intelligence developments operating worldwide at the present time looking at organised immigration crime. A small percentage of those involve illegal employment issues, but I think that the important thing to point out is that what we have identified over the last three-and-a-half/four years is a better picture now of what is happening in terms of organised immigration crime and what we are trying to do with Reflex now is to get funding to local forces in order that they can start to deal at a more local level with the issues that we

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are identifying which primarily revolve around the fact that there are now groups of people illegally in the country and because they are therefore in some difficulty in relating to the host community in some instances, they can become insular and there therefore are opportunities to be exploited by organised crime themselves or they may, in some instances, turn to organised crime themselves in order to keep them going and what we are looking to do is to try to develop better Level 1 and Level 2 operations at local force level in order that they can start to deal with those issues.

Q50 Chairman: Can you describe for the Committee's benefit what Level 1 and Level 2 is.

Mr Hughes: The National Intelligence model has been set out as the model that all police forces and law enforcement agencies use. Level 1 primarily revolves around crime which is at a local level, the borough level, the basic command unit level. Level 2 is that which crosses boundaries of boroughs and forces and therefore involves an element of inter-force working. Level 3 is the area which we operate at which is the national, trans-national, international serious and organised crime levels. So, it is more about geography than about the type of criminality because a murder at a local level can be a Level 1 crime, so it is no indicator of seriousness, it is purely about geography.

Alan Simpson: We were given a copy of the media monitoring report interview that took place on Saturday 13 March on *Farming Today* about one particular case, one of the biggest criminal cases of its kind, where six people were found guilty of running a gangmaster racket that made £4 million out of supplying illegal migrant workers to farms and packhouses. Obviously, a very high-profile case. The significant thing for me about this is that what we got them on was dodging income tax and national insurance contributions.

Mr Mitchell: Just like Al Capone.

Q51 Alan Simpson: Exactly, just like Al Capone. It was not the extent to which they exploited people but the extent to which they defrauded the Treasury. Can you just clarify for the Committee, in terms of the remit that you have—and you extended it from the illegal working into this much broader picture about organised immigration crime—to what extent is this cash driven? Are you expected, in terms of your performance targets, to hit cash receipts for the country as opposed to putting people in prison for the exploitation of human misery?

Mr Hughes: At the risk of giving you another long answer, I will embark on it and you can tell me when I have said too much. The issue that we have moved towards is a culture within the Crime Squad—and this is now operating comprehensively—to try and disrupt and dismantle organised crime as quickly as possible because of the harm it causes to communities. In the past, we have had operations that have lasted four, five or even six years. What we have done is bring the average length of our operations down from 24

months to eight months because what we are seeking to do is to find any opportunity to get into organised crime and disrupt and dismantle it as quickly as possible. So, yes, on occasions we will use other offences that may, at first appearance, seem odd, but that is a way of taking them out of business because that is what we are empowered to do. We are set objectives by the Home Secretary and targets around the amount of effort we put into dealing with Class A drug trafficking and organised human trafficking which are the two main planks of work that we do. Seventy-five per cent of my resources must be allocated towards that type of criminality. Within that of course, with the Proceeds of Crime Act that is now in place, not only is that an obvious opportunity for us to remove the assets that criminals acquire, because that is a disruption and dismantlement tactic in its own right, but it is also a very useful thing to do to put that money back into areas where it can be then used better than for the criminals' assets. So, to answer your question, no, we do not have targets but how much we seize is certainly measured and is of benefit because there are now moves towards incentivisation which is where those moneys can be used to be put back into law enforcement generally.

Q52 Alan Simpson: Do you have a view in terms of our own inquiry—and I suppose that leaves out the whole drugs issue—about the sort of industries that are the locusts of those criminal gangs that are behind these large-scale people movements?

Mr Hughes: One of the things we have found in what we are doing is that we deal with serious and organised criminals. We are a different agency in that regard. We focus on the criminals rather than the criminality or the crime they have committed. What that means is that we look to see what it is they are doing in order to dismantle them. What we find as well is that most of those criminals are, if you like, criminal entrepreneurs. They engage in all types of criminal activity at all levels. So, if we can obtain information and put them out of business for whatever it is they are doing, then we will do that. I am not saying that those that we are dealing with for employing people illegally are involved in drug trafficking, but often those we are dealing with will look at all areas of criminality because that is how they operate, they are criminals and they look to any opportunity to make money.

Q53 Alan Simpson: Effectively, I think what you are saying to us is that we should not focus on the end location because they will supply to whatever the market is, that is the nature of their organising activities.

Mr Hughes: Yes. The danger all the time is focusing on the commodity or the end product and I am not demeaning people by saying that because that is how they treat them, as a commodity. We should be looking at those who commit the criminality in the first place and that is why we make no distinction between trafficking and smuggling. Unlike many of our international colleagues who

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do not deal with smuggling because they say there is an element of compliance, we deal with the serious organised criminals involved in all of it.

Q54 Mr Mitchell: How far are you concerned with this? It is basically an immigration labour issue apart from its connection with organised crime. Is crime your real entrée to this issue?

Mr Hughes: Yes. As I say, our remit is to deal with serious and organised criminals and those entrepreneurs will move wherever they see a commodity. The danger we have now is that, with human beings, to an extent they have come across what you could describe almost as the Holy Grail of criminality: a bottomless pit of a commodity for which there is an end market. What we have sought to do in Reflex is to go right back to the countries of origin and work with our colleagues in law enforcement there to try and reduce the flow in the first place. The other aspect as well is that people enter into the UK often as a staging post to somewhere else or they are on their way to other parts of Europe, but the issue around how they get here is a very confused picture on occasions and what they will end up doing is crossing the world quite literally backwards and forwards finding a nexus point where they can be got together ready for the next shipment. It is a very inhuman and degrading trade.

Q55 Mr Mitchell: To repeat an earlier question, is there a connection between the people who are bringing illegal immigrants, let us say asylum seekers, in illegally and the people who are employing them illegally? Are they same people or is there a kind of franchising operation or what?

Mr Hughes: On some occasions it is. There are those who bring people into the country who have been tricked; they think they are paying to get into the UK. They are then exploited: there are kidnaps, extortion of the family back in the country from which they come, and they are employed in illegal enterprises, in sweatshop enterprises in order that they can make more money. This is particularly the case where we are dealing with women and children brought into the country for the purposes of sexual exploitation and prostitution where often they are treated as virtual slaves.

Q56 Mr Mitchell: I notice in the threat assessment from the National Criminal Intelligence Service that it says that the immigrants, people also involved in organised crime I take it, are especially from Central and Eastern Europe. Within just a few months, they will be able to come here legally anyway. So, is the threat then removed? What happens?

Mr Hughes: That is an interesting statement.

Q57 Mr Mitchell: It was a question!

Mr Hughes: Okay, an interesting question. Whether I make an answer of course is another matter because we have done a lot of work dealing with our colleagues particularly in places like Romania, Poland and Budapest to deal with the

issue around those who are entering into their country on the way to making it into the EU and into the UK and wherever else. That excludes a number of people who come in from China and South East Asia. Our concern is to make sure that we close off nexus points, so that people cannot enter into Europe and into the UK. Obviously, when we are dealing with people in those circumstances who are in the EU, then that is another matter altogether. Those are not people with whom we would be involved.

Q58 Mr Mitchell: You have not much power with those countries which will be EU members.

Mr Hughes: It is difficult when they are already in the EU of course, but that means that we have to look at how we can stop people further afield. It is a different type of approach to dealing with drug trafficking, if you let me run with this just for a second or two. With drugs, we want to see where the network goes in order that we can take the network out that is bringing it to the end user. With illegal immigration, we want to stop people starting on the journey in the first place. As you will appreciate, the closer you get to the home, the easier and better it is to build up the intelligence picture. The way in which we are operating means that we have to do intelligence gathering in a totally different way to the way in which we have operated before and it is extremely difficult. You have examples like Kent police who have invested a lot in dealing with those who are victimised and brought in and trying to gain intelligence from those individuals in often very difficult circumstances. They are not sure they are dealing with the police; there may not be the same rapport with the Police in the country from which they come. They are also aware that their families may be at risk from those people who originally started them off. So, it is a very delicate operation, not helped of course by the language difficulties. There are huge problems around that. Much of the Reflex money goes on providing translation in order that we can actually talk to the people to whom we need to talk.

Q59 Mr Mitchell: Mr Liddell, I saw a reaction from the reaction unit.

Mr Liddell: I was just going to add some clarification. If we accept that most of the organised crime groups we are looking at are driven by profit, then if their profit is removed by the fact that the nationals with whom they are dealing become part of the EU, then they will look to other sources to make their profit. That might mean moving into different commodities but it may also mean targeting different areas of the world and, as Mr Hughes has already said, it is a fairly inexhaustible supply because it is driven, as I said, by money and they will seek the profit elsewhere.

Q60 Mr Mitchell: How often have the police been asked to support operations against illegal gangmasters and those involved in gangmaster

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activity and I will take in two parts: before Morecambe Bay and after Morecambe Bay and let us take two years before?

Mr Hughes: The figures I have show that we have had nine previous operations by regional forces against illegal working. Some of those have been supported directly by Reflex funding from our project. We have at the moment nine operations in the National Crime Squad that involve illegal working, but only two of those are in the food processing or packaging industries but, for obvious reasons, I do not want to go into the details of those.

Q61 Mr Mitchell: Has there been an increase in activity since Morecambe Bay?

Mr Hughes: Yes because we are becoming more aware of what is going on there. The link-in with *Operation Gangmaster* is through the Immigration Service and that is one of the multi-agency groups that we have working with us and, as they escalate up through the intelligence gathering into those levels about which I have spoken, that is Level 2 and Level 3 type criminality, then, if it is Level 3 work, we will get involved and, if it is Level 2, what we are doing through Reflex is to encourage all police forces to become involved in dealing with things at their local level. Of course, this was an issue where the intelligence was lacking in the past because it is a very closed covert piece of work that is going on there. Now we are getting better at the intelligence and in obtaining that intelligence, then forces are taking more and more of a role in dealing with that at local level.

Q62 Chairman: Could you put a timescale onto what you have said because you have said that things have been improving but that, in the past, they were not too good. At what point did things start improving?

Mr Hughes: In the last year or so, we have focused in Reflex on making sure that local forces play an active role as well. The focus beforehand on Reflex tended to be outside the United Kingdom on those who were facilitating moving people into the United Kingdom and dealing with those criminal gangs. What we are concerned about it that, as the intelligence picture has been developing over the last 12 months or so, it indicates that those groups of people who are in the United Kingdom already are now either at risk themselves at being exploited by organised crime or are turning to crime themselves.

Q63 Chairman: But we do not get the wrong end of the stick because obviously we have but a short time to get into what is a very complex area. You are saying that because the main focus of your activity is people movements into the United Kingdom for the people you have described to exploit, as that issue, if you like, has come up the political agenda, more resources have come to you with your own review capacity and you have become better at looking at what is going on and

then you are feeding that information back down to your Level 2 and Level 1 recipients of that information to urge them to become involved.

Mr Hughes: I think you have just added one slight matter to that with which I would not agree.

Q64 Chairman: Tell me where I have it wrong.

Mr Hughes: Whatever the political agenda is, that is not the issue that drives what we are doing. It is around the intelligence picture that we are starting to develop.

Q65 Chairman: If you are going to get better at intelligence gathering, then, by definition, it must have a resource implication.

Mr Hughes: Yes.

Q66 Chairman: And it is the Home Secretary who provides those resources. We are assuming that an inference from what you are saying is that more resources have been made available which has enabled you to become better at your job.

Mr Hughes: Yes.

Q67 Chairman: The impression I am getting is that that occurred in the last 12 months, which has enabled you to wire together some of the acts of these criminal persons, some of which touch on the subject which is at the heart of our inquiry.

Mr Hughes: Yes.

Q68 Mr Mitchell: What guidance and instructions do police forces get from the Home Office on dealing with this issue?

Mr Hughes: It is primarily done through Reflex, ourselves, and how they work with that. We are, if you like, a source of expertise for them on how to deal with those types of issues.

Q69 Mr Mitchell: There was no guidance note either before or after Morecambe Bay saying how to deal with this issue because it is going to come up locally rather than down from you. Somebody is going to come along and say, "Why are you not going to do something about this?"

Mr Hughes: There is not a specific guidance, it is about dealing with criminality which is what police forces are there to deal with. We give them advice and guidance. Just to go back to the Chairman's issue just now, we made a bid under SR2002 for funding and received funding of £20 million a year for three years and we could use that to assist local forces to move into new areas of work which include of course the aspects of dealing with organised immigration crime.

Mr Liddell: There is specific guidance on different aspects but not perhaps on the aspect about which you are talking which is dealing with gangmasters and that side of it. There is specific guidance on, for example, how to identify victims of trafficking and deal with trafficking which has been disseminated down to not only a police force but other agencies that might encounter those individuals.

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Q70 Mr Mitchell: It is not simply a question of criminal intelligence because it is a question of labour legislation and immigration legislation on which you need the co-operation of other departments. The impression I am getting, particularly from the MP from Morecambe, is that that cooperation is not readily or quickly enough forthcoming. Would that be a fair picture?

Mr Hughes: It is a little difficult for me to say because, in my position, I am not actually in a local force, so I do not know what is happening at local force level in that regard. The issue is of course that it is one of those areas where, if you are not looking for this particular type of criminality, you may not necessarily find it. What we have been trying to do is raise the awareness level at local force and their intelligence gathering capabilities to try and build up a picture themselves and that will involve them talking with other agencies as well and pulling a picture together from them. I am not going to name the specific force but one particular force started to notice that there were issues around Vietnamese illegal immigrants into the country and that there seemed also to be a heavy involvement of Vietnamese in the growing of hydroponic cultivation of cannabis. So, they now have more awareness of a problem they did not know existed beforehand.

Q71 Mr Breed: Much of this afternoon's discussion has been revolving around the whole complexity of the multi-agency, inter-departmental and everything else. At a previous investigation of this Committee when we looked into illegal imports, principally illegal meat imports, we made recommendations about the way in which we felt that the agencies operating at the ports and such ought to be actually combined into a single unit because we had the Immigration Department, we had Customs & Excise, we had the Port Health Authority and we had Trading Standards, all reporting in different lines etc. To a certain extent, do you believe that, even with this problem, there is a need for a much more coordinated approach perhaps forged into some more single unit to try and look at all these immigration and illegal imports whether it is people or goods or whatever as a way of actually maximising the resources which are actually being made available to tackle these growing problems?

Mr Hughes: You will be aware that there will be a new Serious Organised Crime Agency being formed in the next two years—it was announced by the Prime Minister on 9 February—and that will absorb the National Crime Squad, the National Criminal Intelligence Service, elements of Customs & Excise dealing with drug trafficking law enforcement and parts of the Immigration Service dealing with the type of criminality that we were talking about here, organised immigration crime. As part of the Cabinet Office review that looked at that, they did consider a border guard, an agency specifically to deal with that to pull together some of the elements of the agencies about which you spoke. As I understand it, that has been rejected.

We did supply evidence ourselves from the National Crime Squad and I know that ACPO put a view in to the Cabinet Office review around that. There is a view that some form of border agency may be beneficial in some way but, as I understand it, I think that is a matter that at the moment is not being proceeded with. I do not know why.

Q72 Mr Breed: Do you believe it could happen?

Mr Hughes: It could happen. It is whether it should happen of course that is the issue. It is certainly the case in other countries with which we deal and certainly the French and Germans, with whom we operate, have that type of approach. To an extent, it is a little out of my remit in the National Crime Squad, but I can see that it would be beneficial in some ways.

Q73 Mr Lazarowicz: The characterisation of the problem that we have had from you today is very much that this is a problem of immigrant workers, people trafficking and issues of that nature but, as Austin Mitchell was highlighting earlier on, there will be many people who are currently illegal workers who will most likely not be illegal workers after 1 May because of the accession of the EU. The case to which he referred was a case where most of the workers were Latvian and they will, on the face of it, not be illegal workers after 1 May. Will it be still a priority for yourselves to tackle this kind of issue in respect of those workers after 1 May? There may be issues of VAT, national insurance and not complying with licensing for gangmasters but there will not be the same issue of illegal migrant labour. Who will be tackling that issue? Will it be yourselves or will you be giving more of a priority to the Customs & Excise, the Revenue or whatever?

Mr Hughes: In dealing with the criminality we would only deal with those who are involved in organised immigration crime. If people are legally in the United Kingdom, that is not an issue that will figure for us. In terms of the issues that you have referred to there specifically like the evasion of tax etcetera, that is not a matter the police would normally be coming forward with except in support to another agency perhaps, but it would not be a priority role. As Gerry has already said, what we are seeing more and more is that the entrepreneurs we deal with are casting their net wider and wider and bringing in people from all over the world as well. We have had several operations involving Chinese illegal immigration into the United Kingdom and certainly with people from Sri Lanka, so there are people coming in from all over the world. We are also dealing with Afghans, with Kurds etcetera, we are not limited to the EU. In terms of assisting other agencies, one of the capabilities that we possess in the Crime Squad is a capability to do very covert surveillance and to use intrusive technology in order to do that. We are used as a resource by quite a few agencies in order

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to assist them in the type of work they do and that includes the Serious Fraud Office, we work with colleagues in Customs a lot and with our Immigration Service colleagues also. So it may be that we are called upon to assist in that regard. Our priority will be those involved in organised immigration crime and that would mean illegal immigration.

Q74 Mr Lazarowicz: In the case of the Latvians, that will not be a priority for you after 1 May, will it? A case which involved migrant workers from the new EU states, even if there was some indication of problems because of working without a licence and problems over VAT, that will not be a priority for you after 1 May, will it?

Mr Hughes: There would be no criminality as such *per se* in what was going on there. I referred in an earlier answer to 75% of the activity of the Crime Squad going on drug and illegal dug trafficking. The other 25% includes a host of other very serious crimes like counterfeit currency, contract killings and all those type of affairs, but that also means that we assist local forces particularly with kidnap and extortion cases which is one area that we provide a specialist resource on. If a local agency was having difficulties around very serious breaches of criminal law or very serious breaches of other law which required police assistance then we would be available to be tasked on that.

Mr Liddell: There is one narrow area where it may still impact. If they do not have to enter the UK illegally because they are part of the wider EU that does not preclude them from being trafficked and being forced to come to a different part of the EU to be exploited thereafter and controlled in a kind of slave labour type way. That is a very small minority of the problem but it is still an issue for those who are inside the EU.

Q75 Chairman: Can I just try to wire together some of the things that you have been saying because I am a little bit confused. That is not a criticism of your explanation or responses to the questions. Let us start with a simple question. Is there a group within ACPO that deals specifically with gangmaster issues?

Mr Hughes: No, not as such.

Q76 Chairman: You said at the beginning that you were liaising with other agencies and then you went on to outline your priorities in looking at those who had opportunities for pretty high level nasty criminality. Does the National Crime Squad have any role to play in the process of trying to join together the many departments of government and other agencies who are specifically looking at these gangmaster-type issues because gangmasters as such could not exist unless they had people to exploit? When people are exploited in the gangmasters' activities then we see lots of different parts of government starting to wake up. Is the National Crime Squad involved at all in any kind

of high level discussion with departments and agencies who are taking an overview of this type of problem?

Mr Hughes: The simple answer to that question is no. The more detailed clarification is that as part of the National Crime Squad role we lead on Reflex which is the multi-agency approach. Within Reflex there are representatives from other government departments, primarily Home Office, FCO etcetera.

Q77 Chairman: Which departments?

Mr Hughes: The Home Office, the Foreign and Commonwealth Office and we have people from the MoD but no one specifically at all from DWP. We also have people from the Passport Agency, the Immigration Service and the Intelligence and Security Services.

Q78 Chairman: So in the case of the area that we are talking about there is nobody from Defra and nobody from DTI?

Mr Hughes: No.

Q79 Chairman: In other words, some of the key players who are involved in dealing with this issue who might possibly benefit from an overview from your knowledge are not there to receive it?

Mr Hughes: No, but there is the linkage because the Immigration Service are represented in both of those areas.

Q80 Chairman: So we have to assume that whatever the Immigration Service here, they dispense to all of the other players who are not at your table. You made the point that your intelligence and involvement in this area has been increasing over the last 12 months, you have wired together gangmasters, illegal people trafficking and drugs came out of the case to which Mr Mitchell referred. Would it not be reasonable to assume that these other departments, all of whom have an interest in the matter, should be rather more directly wired in to your overview intelligence gathering and informing role?

Mr Hughes: Are you referring specifically to the issue around gangmasters or around organised immigration working?

Q81 Chairman: Yes, because that is what we are involved in. It seems that in the context of heavy loss of human life, because 58 Chinese were banged up in a lorry some time ago, we have now had 20 people killed out in Morecambe Bay, there were two or three tragically killed in a railway accident, there are big health and safety issues. There are all these other criminal issues swirling around involved in this. I see in the literature about the work of triads. There appear to be all kinds of things of which I have no detailed knowledge but which keep coming back when you discuss gangmasters and they are, if you like, the tip of the iceberg in many of the cases of which you have considerable knowledge that are going on. What surprises me is the fact that you do not have round the table once a quarter all the people who have an interest in this

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subject to exchange what they see out there on the landscape and then say, "Well, now you've got this bigger picture you can go back operationally and do whatever you've got to do to deal with the picture." I do not get the impression that that is what you are doing.

Mr Hughes: That is exactly what we do. We have a high level group within Reflex which are the high level representatives from the various agencies involved.

Q82 Chairman: But the agencies that have a direct operational responsibility for the gangmaster issues are not involved in your high level group because you said so earlier.

Mr Hughes: That is right. As I say, the intelligence picture that is given to us comes from both the National Criminal Intelligence Service and from the Immigration Intelligence Service.

Q83 Chairman: Let me turn this round the other way. When I was a Home Office minister I went to the National Criminal Intelligence Service on occasions to be briefed about various important matters. Have you had any kind of collective session of briefing to all of the senior ministers in the government departments who are relevant to this issue. In other words, have you had an Employment minister, a Trade minister, a Home Office minister, a Defra minister or a Treasury minister sitting down round the table saying, "Gentlemen, ladies, this is what we see about this high level criminality activity which is impinging on many of the areas you are interested in," and one of them is the illegal employment of labour? Has that ever happened?

Mr Hughes: No.

Q84 Chairman: Do you think it should? Would you value the opportunity of such an audience?

Mr Hughes: I would. We work very closely, as you know, with Home Office ministers anyway. The issue around Reflex is that we involve those agencies that can and do provide the assistance to us. In terms of gangmasters, it is a matter around illegal working and those who exploit and that is why we are seeking to get more co-operation and more work involved at local force level, Level 2 and Level 1. In terms of the high level approach that you are talking about, yes, it would be quite valuable to do that in those circumstances. At the moment we are operating quite effectively with a high level group that pulls together those senior members of government agencies that can assist us in dealing with this specific problem, so a high level group to set strategies and tactical level groups at which we can operate and task operations to be performed and committed.

Patrick Hall: If an issue which overlaps your main area of interest, ie parts of a gangmaster operation, is not specifically looked at at the higher level that you are involved in why would you expect the layers below that to do that?

Mr Hughes: I do not quite understand what you mean.

Q85 Patrick Hall: I think you implied, and I do not want to misquote you, that you thought that these issues were being dealt with at a lower level. We have the impression that the level of co-operation, awareness and working together is bitty to say the least. Since you are not looking at these issues from an over-arching point of view at the highest level, why would you expect those issues to be looked at at the intermediate and local levels?

Mr Hughes: That is what we are trying to develop, to get local police forces to be more involved at Level 1 and Level 2. They have the intelligence now to look at what is happening in their region. For example, we have been heavily involved with Lancashire—and I do not want to go into the inquiry that is on going—and our immigration crime teams are working with them to support what they are doing, and we are working at an international level with them and with our Chinese colleagues as well and beyond that it is probably best not to go. There is a joined-up approach. What you are looking at specifically are gangmaster operations. What we are looking at is illegal immigration and people being exploited who are illegal immigrants, that is when the two come into contact and it is at that point, at a local level and based on intelligence that we would start operations to deal with those specific types of criminality.

Q86 Patrick Hall: It is clear that some gangmasters operate in the area that you are concerned about, legality and exploitation. Would you not agree that the people operating at intermediate and local level would benefit from a signal nationally that the issue of gangmasters, where it is relevant to what you are looking at, should be the level that you operate at, including the briefing of ministers as the Chairman has just said? Would you be prepared from your position of responsibility to consider that and maybe seek to bring it about?

Mr Hughes: I am more than happy to do that. The gangmaster issue is at a local level. What we are not talking about are people who facilitate entry for Chinese people from China into the UK for this purpose. If those people exist, and they do, then we deal with them. It is maybe not the same thing as what you are talking about.

Q87 Patrick Hall: It is a national issue.

Mr Hughes: If it is a national issue, yes, we deal with it.

Q88 Patrick Hall: Even if they tend to operate locally, which most things do, it is a national and an international issue because it is part of the chain.

Mr Hughes: Yes, it is part of the chain.

Q89 Patrick Hall: At the illegal end of it there is a great deal of money to be made out of it and there is a great deal of corruption that can oil the wheels as a result of that. I am not quite clear why you seem to be saying that at the top level the question of gangmasters does not seem to feature.

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Mr Hughes: No, I am not saying that. We are talking about the Level 3, Level 2 and Level 1 approach. The National Crime Squad is operating at Level 3 with those who are facilitating those from various countries into the UK. What we are seeking to do—and we are only a small organisation—is to get the involvement at Level 2 and Level 1 of local agencies to be able to deal with it at the local level.

Q90 Patrick Hall: They are clearly not doing that well enough. You have clarified something that I may have misunderstood, that is you do take on the issue of gangmasters where it is relevant to your area of work, in which case why not get all the ministers whose responsibility touches on the question of gangmasters and their officials involved? You do not do that, you have said that and I am asking you if you will consider doing so.

Mr Hughes: I can consider that, but as the Director General of the National Crime Squad I do not call together groups of ministers. We work through the Home Office, they are aware of the issues that we are dealing with. We deal and report to Home Office ministers on that. We have agencies represented on Reflex. We can move the level of involvement up and bring in other agencies. The issue around gangmasters is not a specific policing issue. The issue for us is those who are involved in organised immigration crime exploiting those who are illegal in the country or being facilitated into the country. We need to be clear so as not to confuse the two issues. Policing gangmasters is not something I see as an issue for the police at this time, it is for other agencies involved.

Q91 Patrick Hall: It is an issue for the police where those operators are in the area of illegality and exploitation.

Mr Hughes: And that is what we deal with.

Q92 Chairman: Do you have any role whatsoever in looking at the number of people who are already here? You have indicated in your earlier remarks that where there are people movements then you are very much involved, but it seems to me that at the heart of this matter is also the fact that there is a pool of people in the United Kingdom who for various reasons have gone off the official radar, they are over-stayers, there are failed asylum seekers who have just melted away and they become easy prey because they have no official status and no official access to funds. Do you look at those issues as well or not?

Mr Hughes: That is exactly what we are trying to build up in those intelligence developments I was talking about. We are becoming more and more aware of those groups. Nobody has a handle on how many there are or where they are. What we are trying to build up is that local picture so we can start to do something about it. That is why we use Reflex funding to assist local forces to get more involved in that type of area because, as I said before, those people are ripe for exploitation or may get involved in criminality themselves.

Chairman: Mr Hughes and Mr Liddell, thank you very much indeed for taking us into the difficult and perhaps murky world of criminality. I think we will stay on this side of the fence and you can exist on yours. I think it would be of help to the Committee if you might just send us a short note just defining clearly what the programme Reflex is about so that we can be absolutely clear what those resources are available for and to what uses they are currently being put¹. Gentlemen, thank you very much for your contribution.

¹ Ev 20

Witness: **Mr Zad Padda**, Fusion Personnel, examined.

Q93 Chairman: Mr Padda, welcome to the Committee and thank you for your patience. I am sorry that we have absolutely overrun the time that you were expecting to be with us and we are grateful for you remaining with us to give evidence. We are particularly glad to see you in person because I think in our previous inquiry you were kind enough to meet with some but not all members of the Committee. Tragically, focused by the events in Morecambe Bay, the world has moved on somewhat. We said in our original report that we wanted to come back to see particularly what the Government has done in light of the findings of our previous report, but I think the currency of our inquiry has been given an even greater value by virtue of the tragedy in Morecambe Bay. For the record, you are Zad Padda. Do we call you the Chairman, Head or Chief Executive of Fusion Personnel?

Mr Padda: Chairman. My dad is not here so I can call myself that.

Chairman: You are very welcome. I would like Colin Breed to begin our questioning, please.

Q94 Mr Breed: I would like to ask you a couple of simple questions in order to get your experience of these things. How extensive do you believe the problem of illegal gangmasters actually is, and to what extent do you think it is increasing at the present time?

Mr Padda: When we speak about gangmasters or labour providers, to use a better phrase, it used to be the majority that were working legally and the minority were working disreputably. Now it is fair to say that it seems the majority are working disreputably and there is a minority of legal operators. What the legal operators are concerned with at the moment is that in May you are going to get a flood of new people coming in who may take up gangmastering themselves and that worries a lot of people. I would not say it has got any worse this year than it was last year, but I think May is a

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pressing concern with the accession countries coming in. Every year the number of incidences seems to be cropping up in the press which I do not think is an entirely bad thing, but that clouds people's judgments about how good or bad a situation is and it is all anecdotal at the moment anyway.

Q95 Mr Breed: In your view the reversal of the legal and the disreputable has been because the disreputable have been able to undercut the legal and reputable operators and, therefore, some of them have said if I cannot beat them I am going to join them?

Mr Padda: I have heard evidence throughout this Committee inquiry and last year as well where people were insinuating that the price of labour does not have much to do with it; it has a lot to do with it, that is the fundamental point. People who go into gangmastering by definition are not evil people where the only way they want to make money is by doing it disreputably. A lot of people find themselves marginalised and they end up doing it illegally because the cost of the labour that they are getting is not enough.

Q96 Mr Breed: They are not getting the contracts that they operate in a more beneficial way.

Mr Padda: That is what I have been told. We have been working with Defra to come up with a generic cost for labour. I noticed when you were talking to people like the T&G you were asking them about price. What we managed to do was, let us say that the minimum wage is £4.50, to say that in round about terms 30% on top of that is what a gangmaster would have to charge in order to make any type of profit or even break even.

Q97 Mr Breed: To cover its costs and make a bit of profit.

Mr Padda: Yes. Up until last year or so there was a lot of ignorance about the area of gang labour. You can blame the supermarkets, you can blame the gangmasters, you can blame the packers, but there was ignorance because people did not know how the system operated and whether it was on a legal footing or an illegal one. What we have been doing with Defra is to try and show that you can just about operate in this industry on a legal footing and still make money, but every year it gets more and more difficult to win those contracts.

Q98 Mr Breed: Much of the focus has been on the agricultural sector, although more on the fisheries side now because of Morecambe Bay. Can you tell us what other sectors you believe are important in terms of the use of this sort of labour provider and the potential for illegal gangmasters?

Mr Padda: If you are talking about primary production then you have got things like prepared foods and other areas. The point I want to stress is that the work that we started doing with the Ethical Trading Initiative was focused on fresh produce because you have to start somewhere. What I am keen to avoid is the problems going from one

industry to another. Labour agencies exist in some shape or form pretty much everywhere. I would be surprised if there were not a couple of people working through agencies here today. Since Morecambe Bay I have been talking to the press and people have been talking absurdly about getting rid of gang labour and why do we need gangmasters and I said, "Why do you need temping agencies in the City of London?" Most industries are working with a gangmaster-type system. What we are trying to do is to start where we have some commercial pressure that we can bear on the problem.

Q99 Mr Breed: It is anywhere there is large amounts of labour needed for a relatively short period of time essentially that is the main hunting ground of these particular ones and it could be anywhere in that sense, it could be in packing, it could be in warehousing, I have even heard of it in office removal where they needed to move over a weekend extremely quickly and needed X number of vans and 100 people. That probably could be done by an ordinary removal firm, but it would have been a very big thing to organise, hugely costly and everything else, whereas finding 100 people who can hump around a lot of stuff was much cheaper.

Mr Padda: I do not think it is to do with the nature of the industries or what sector, it is to do with outsourcing. Most industries outsource in some shape or form now and when you are outsourcing you are trying to reduce your costs. In this instance people are reducing their costs at the cost of workers' welfare and what we need to do is to start to get people to understand that you can outsource your work but you still have some responsibility over what happens with that labour.

Q100 Mr Breed: I think that is a very important point which needs to be brought up. There is a responsibility when you outsource any of your work. May we just look at the Association of Labour Providers, ALP. What benefits do you think the establishment of the ALP will bring generally and in respect of this particular problem we are investigating?

Mr Padda: I am not talking for the ALP. The Chairman of the ALP is sitting behind me. We have an independent chair. When we met in September I explained that I was working with the ETI and one of the courses of action that we were going to take was to try to get other labour providers involved in the process because even I realised it was not good having Fusion as the only people at the table. In October Defra facilitated a meeting in Peterborough of labour providers. Let me go back a step. How we found out the information about labour providers was we used our members who were retailers within the ETI group to find out from their supply chain who the labour providers were and we managed to come up with 160 names and at this forum 34 gangmasters turned up representing 24 separate companies. One of the things that were agreed was to set up some sort of body to represent gangmasters. I explained the work I was doing, but, as I said, I do not speak for all of them. The way I see the ALP is

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that hopefully it will look after the interests of people within this trade. It also needs to be borne in mind at the moment that the ALP is a group of labour providers that agree to work to a future code of practice and at the moment it is made up of volunteers and I think we are working with Mark and others to ensure that the ALP stands alone and represents gangmasters and put our views across.

Q101 Mr Breed: When we were looking into this last year we had a gangmaster give us evidence and they were seeking to do things properly and struggling because of that. We questioned them along the lines of why is there not some sort of trade association as there is in many other spheres of activity. It seems to be incredibly difficult to get those into some sort of association which could then provide that sort of strength to create the codes of conduct to be able to negotiate with the supermarkets and others and everything else so that there is a very clear line. Why do you think it is so difficult to try and get the people who provide this labour into some sort of trade association?

Mr Padda: The ALP is an Association of Labour Providers. No one had talked to labour providers before. They had skirted round the issue of making it seem that all gangmasters were involved in dodgy activities, but people within the industry knew of gangmasters because anyone going to a packhouse will have come across the guy who provides labour if he stays there for a couple of hours and so. It has only been in the last six months that we have been engaging with these people. I have to say that I was pleasantly surprised to find all the people who came forward believe the way I do, that we want to see regulations brought in to stop the disreputable practices. Hopefully the ALP will give us an opportunity to expand the membership and bring other people in.

Q102 Mr Breed: You are talking about a very small number of people at the moment who have signed up. In order to get yourself at the top table in many of the discussions you are going to have to get a lot more members. What is the likelihood of that amongst many of the current labour providing organisations? Are they interested or were they really just happy to go their own way?

Mr Padda: There has been quite a lot of interest. The funding has not been a major issue because people have put their hands in their pockets. We need to get this out into the industry and to talk to other labour providers a bit more as well. It is a new organisation, it only started in January and so it is early days. I think there has been interest shown. If people do not want to be marginalised by whatever licensing or whatever activities are brought in to deal with this problem then they need to be part of an association or some sort of body to represent them.

Q103 Mr Lazarowicz: In the evidence that the Association of Labour Providers provided for this Committee it was said that there had been "no strengthening of enforcement action against disreputable gangmasters since September 2003."

Can you give any evidence to back up that claim? Indeed, it was also suggested that the enforcement action had diminished since September 2003. Can you support that claim at all?

Mr Padda: I do not talk for them.

Q104 Mr Lazarowicz: But from your knowledge.

Mr Padda: I have been busy working with the ETI and doing some other work. I have not looked at what enforcement action has been going on. In terms of our own company, what we see around us is pretty normal in that they are still doing raids and stopping vans and what have you. I would not have thought it had increased since the date that you mentioned, but I could not say hand on heart that it has decreased. We are busy working. We do not sit and chat with the enforcement agencies and ask them what the numbers are. I am ignorant on that. If the ALP has put that forward then I am assuming it has got its information from other members within the ALP who may have seen different things to me.

Q105 Mr Lazarowicz: Since the incident in Morecambe Bay have you noticed any change in attitude from the government or the enforcement agencies?

Mr Padda: I have been working on this issue prior to Morecambe Bay. When I used to speak at seminars and say, "I'm Zad Padda and I'm a gangmaster," I used to have to justify that and explain that. After Morecambe Bay every single newspaper in the land was running gangmaster stories. What they did was construe the fact that all gangmasters are disreputable. I spent most of my time trying to get across to people that we provide a valuable service. I do not like the term gangmasters; we prefer to use the term labour providers. I read the press just like anyone else and you hear David Blunkett, the Home Office and other government departments commenting when up until that point they had not really entered the debate. I had been working with Defra ministers principally and with officials from DWP and health and safety executives up until that time. I had come across Beverley Hughes, the Immigration Minister, but the Home Secretary had no input into this. I would think there has been greater activity since then.

Q106 Mr Lazarowicz: Can I move on to a different question which is to pursue the point you made about the role of the supermarkets in forcing the cost of labour down by putting pressure on the prices that are paid. You were keen not to get involved in the game of blaming a particular sector of the industry. Do you think the retailers and the supermarkets are doing enough to try and ensure that illegal labour is not being used for the products that end up on their shelves?

Mr Padda: Today I would say they are because they have been involved in the work that we were doing through the ETI group working with the T&G to get this Bill through. If you asked me in six months and they have not taken this forward then that is a different matter. What I would say is now is the time to stop talking about it. People understand what the

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problems are out there. They can start to recognise them. People are busy blaming the supermarkets. The work we are doing is starting to show that you can identify these problems. Now is the time for them to take this issue forward. Up until this point they have done everything that has been asked of them, they have been part of the debate. There has not been anyone saying, "It's not my problem, Guv". People have sat around the table and accepted it is part of the supply chain.

Q107 Mr Lazarowicz: Was there much sign before that from the retailers, supermarkets or food processors that they were concerned about this issue or is it something that has started more recently?

Mr Padda: This has been going on for the last three or four years within the industry. We have been working for the last two years with people like the ETI, and the ETI represents all the major retailers. We did some seminars in 2002 where over 100 different firms and government organisations turned up. I do not think people have got onto the bandwagon now because of the tragedy that occurred in Morecambe. Now we are at a point where we are doing some work and we can take that work forward and the question then is what are we going to do with the information that we have gathered so far to make sure that we do not have the same problems in the future.

Q108 Alan Simpson: What you are saying to us is really important because it begs the question about where we end up in terms of our final recommendations. You heard the evidence that was given earlier on and I am just intrigued to know what your views would be on two aspects about the enforceability. If we take the principles that you have set out and the work that you have done and I am not going to knock any of it, is there a danger that we could set up a scheme where there would be nationalised things and the good guys would be licensed and pay a fee and the bad guys would take evasive action and so the net outcome of this would be nil effective change? If there is a risk of that, what have we got to do in terms of government policy to make sure that we do not put all that effort into something that is not going to deliver?

Mr Padda: That would not suit anyone's purposes. We have to make sure that the retail supply chain—and this includes the National Farmers Union—ensure that their members are only using licensed gangmasters. The reason I am supporting the Bill is because one of the recommendations in the Bill up until now has been that people who use unlicensed gangmasters are also going to be held to account and I think that is a major plus. That is tying the whole industry together and it is making it an industry-wide solution rather than focusing on one narrow area.

Q109 Alan Simpson: I am glad you put that straight. We heard earlier that supermarkets are very keen that there should be a licensing regime and I am also very keen, but it was not clear whether they wanted to be part of the liability chain. What you have just

said is that unless the supermarkets and the farmers who supply them are part of the liability chain it is going to accelerate the problem that you outlined in your opening comments when you said that every year it becomes more difficult to win those contracts. Presumably if those who are issuing the contracts do not have a sense of liability the legal are going to be squeezed against the terms that would be offered by the non-legal. Is that a fair summary?

Mr Padda: My opinion, having worked in this quite extensively over the last couple of years, is that it is almost a given that if there is a licence the major industry players would submit to that licence in that they would encourage their supply chains to use only licensed operators. It will be illegal not to do so. I always say this is an industry-wide problem, it is not just for the labour providers and it is not just for the retailers. We can trace back our products in terms of the shelf life and the quality of the products. We need to show that with people as well because the consumer is concerned about that. I hear these debates about the consumer. I do not think any consumer wants to read some of the stories that we have seen in the press in the last couple of years and we have to deal with that. Businesses like ours can show that we can do it within the current price regimes, it can work. What might need doing is a bit more research on what impact it will have on other firms because I cannot speak for anyone else but ourselves.

Q110 Alan Simpson: You made the point that the reason you support the Bill is that it includes everyone in the industry in that liability frame. If you were then faced with a Bill that was amended in Committee Stage that limited liability only to the labour providers, what you are saying is that it would be an invitation to those who purchased the products to look outside the legal framework?

Mr Padda: Yes. On a commercial basis the licence should lead to more business for the reputable operators. Maybe I am a simple person, but if that does not happen there is no point in going down this road. This needs the whole industry to take responsibility for it. I have never ducked responsibility. The liability is down to the gangmasters *per se* in terms of the offences. What the Bill states at the moment is that it will be illegal to take on unlicensed gangmasters and I fully support that. If that changed at Committee Stage then I would think that would be a bit of a problem.

Q111 Chairman: Can I ask why, if the Bill is so good, you are busy working hard on this Ethical Trading Initiative?

Mr Padda: When I got involved in this industry people were calling for this registration, legislation, whatever you want to call it, but no one knew how we operated. The work we have been doing with the ETI in terms of the code of practice is what I hoped would underpin any licensing regime because up until now they did not understand how we operated and the work that the code of practice has done is to highlight the areas a gangmaster should be looking at, ie the minimum wage, health and safety etcetera.

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What had not been done before the work that we did with the ETI was there was no guidance for gangmasters/labour providers on how to operate in a legal or ethical manner.

Q112 Chairman: Sometimes in the world of fresh produce the supply chain can be quite torturous. You can have a situation where a company has a packhouse and it is the company with the packhouse who has the arrangement to supply the supermarket. That company may work with a series of growers who may be programmed to supply the packhouse with a range of crops, but you are dealing with natural products. Let us say that that range of crops was not able to deliver the total volume that was required for the packhouse but we knew there was a grower just down the road who had exactly what we required and the guy in the packhouse rings up Joe and says, "Can you send me a truck of cabbage? I'm desperate. The other lads cannot supply." How is this carefully constructed arrangement either by virtue of the Bill or the Ethical Trading Initiative going to operate when at the end of the day one white cabbage is the same as another white cabbage and you have got one harvested by a group of illegals and one harvested by a group of people playing by the ethical code of practice and the Bill? How are we going to police it? How is it going to work?

Mr Padda: There was a similar argument before they started the Assured Produce Scheme, you might have seen the little red tractors. We are an Indian family so we have gone into other businesses and one of them is growing strawberries in this country and in order to supply those to the major retailers we have to grow through the Farm Assured Standard and you are able to put that on your product and you are audited once a year against the standard and they do spot checks. That differentiates our strawberry from the guy who is not farm assured. That is what we would hope for in terms of the code of practice. If it was going to be a purely industry driven approach, that would be how you would differentiate between the products of one lettuce grower and another. Where the industry falls down on this is the criminal activities that go on in this industry. It is not for the industry to deal with criminal gangs and I think that is why we need underpinning legislation to support the work going on at the moment. In terms of the supply chain, people are used to codes of practice, this is how the fresh produce supply chain regulates itself at the moment.

Q113 Chairman: It is still quite possible then, if I have interpreted you correctly, notwithstanding the code of practice that you are working on and the Bill, that that product could be harvested by illegal activity and still find its way into a legitimate supply chain.

Mr Padda: I think this is where the co-operation between industry and the statutory bodies needs to be more fluent. If it was a purely statutory driven approach that could happen because people can get round licensing and things such as this, but this is where the industry driven approach comes into it. I

can say with some boldness that the Assured Produce Scheme seems to have worked in the sense that they have managed to keep the number of people working outside the scheme to a minimum.

Q114 Chairman: I asked the question earlier about people re-inventing themselves. Let us say somebody in East Anglia who up to now had operated illegally decided that all of this officialdom really was not for them and they decided to buy a small farm and they become a grower and they have a very large labour force which quite fraternally they lend out to their mates down the road and money exchanges hands. In other words, we are not dealing with gangmasters, we are just dealing with the grower next door who just happens to have ten times more labour than a holding of that size ought to have, but, good heavens, he is a very generous man and he lends his labour force out and in the pub at night money is exchanged, things are harvested, things are done, exploitation takes place. I presume you would say that such activity could, in theory, happen even with the Bill and a code of practice?

Mr Padda: It is quite an interesting Bill and it covers that type of activity. Things are changing all the time. Even this morning I received more information. I think that will be covered. The farmer who is supplying the labour to his next door neighbour still has to be paying the minimum wage and he still has to be paying National Insurance contributions towards those workers. He cannot cop out of his employment responsibilities. If he supplies them to his next door neighbour then he becomes, in theory, a gangmaster according to the Bill. The way the Bill is worded at the moment means it would cover this guy who is trying that stroke.

Q115 Chairman: I hope you are right. There are some sharp minds out there and I think we got a flavour from our previous witnesses of the degree of sophistication that we are up against. Why do you think your ethical code is going to work when all previous attempts seem to have failed?

Mr Padda: I am not saying it is going to work because if it was going to work on its own I would not personally be supporting the T&G Bill to bring licensing in. I think the code is a way of showing some guidance notes to people in our industry instead of assuming they are all guilty until proven innocent. The work I have done has been in developing labour provider/gangmaster tools on how you should do your job properly, what your terms and conditions should look like, health and safety. Up until now there was no code of conduct for labour providers *per se*. It does not work on its own, but I hope it will work with the T&G Licensing Bill. You guys understand better than me how these things change in Committees Stage. I see this Bill as a start in an industry that if we are not too careful will get out of hand come May with the influx of new countries coming into it. We will have to work together and try to affect some positive change and the Bill is a way of doing that.

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Q116 Patrick Hall: I just want to be clear about something you said earlier on where you described a situation in which the exploitive area of gangmaster operations has taken over from the non-exploitive side in terms of getting the majority of contracts. Could you say where you think those contracts are coming from? What parts of the industry that used to go to the legitimate gangmasters are now going instead to the more dubious parts on the basis of cost?

Mr Padda: I do not think it is just that. Legitimate gangmasters are losing contracts to things such as the SAW Scheme (Student Agricultural Workers' Scheme) where the growers are now going and getting SAW students because they find it problematic getting legal labour. A lot of gangmasters like ourselves who were recruiting from the big cities were working with growers last year but are not doing so this year because the farmer has brought SAW students in. One of the reasons the SAW Scheme is so useful is that you do not pay National Insurance contributions. So it is not disreputable practices, I just think there is no knowledge on a broader level of what is going on in the industry. What we are seeing is that the disreputable practices seem to be a bit broader because in the past we would win contracts. I do not know whether it is purely on price that we are losing the contracts or if other people like ourselves are losing the contracts, but we see the newspaper stories and the headlines every week as well as anybody else does. My dad is ringing companies up on a daily basis to provide labour and they are not interested because the rate that we are charging does not marry up with what they want to pay.

Q117 Chairman: Are there parts of the industry that are more susceptible and who are not bothering about who is supplying it than others?

Mr Padda: I would say right now that the fresh produce industry is probably far ahead of other sectors because of the work we have been doing and I could not have said that two years ago. In other sectors there is still the notion of them having no problems.

Q118 Chairman: The fresh produce is way ahead in what sense?

Mr Padda: It recognises this as a problem within its industry and that is why we sat down with the supermarket members and the T&G. There are other areas of the industry which do not seem to be tackling it in such a robust manner so they may well have greater problems than the fresh produce industry. The first thing to do is to admit you have a problem and within the fresh produce industry there is work currently being undertaken.

Q119 Mr Mitchell: Have you made any estimates of how much it would cost you to operate under the Gangmasters (Licensing) Bill? How much would it add to your costs?

Mr Padda: I have received the Regulatory Impact Assessment, I was reading through it on the way here, it is anything between £1,500 and £3,000. I think £1,500 makes a lot of sense to us if that includes the audit scheme. People have to understand that the reputable gangmasters/labour providers are working on small margins just like anyone else in the industry. That might be to the aid of the bigger boys rather than some of the people who work in a reputable manner. When we come to discussing it I suppose that is where we will come in.

Q120 Mr Mitchell: If your father is ringing round and people are saying they can get it cheaper from somebody else it will impose higher costs on the competitors.

Mr Padda: Yes. It is not going to be the case that they will be able to go and get a licence. They are going to have to show that they are paying the minimum wage, paying their taxes, looking after health and safety. We would assume that would impact on their costs and the way they are able to trade anyway. It is not just going to be the cost of the licence, that will be nominal in the scheme of things, we had hoped the licence would introduce practices which would raise the price to the disreputable people who are doing it below the right price anyway.

Chairman: Mr Padda, thank you very much for bringing a note of realism to our proceedings. We are very grateful to you and again our sincere thanks for your patience in staying to give us this evidence, and please send our thanks to your father for releasing his right-hand man to come and talk to us this afternoon. Thank you very much.

Tuesday 23 March 2004

Members present

Mr Michael Jack, in the Chair

Ms Candy Atherton	Diana Organ
Mr Colin Breed	Joan Ruddock
Mr David Drew	Alan Simpson
Patrick Hall	Paddy Tipping
Mr Mark Lazarowicz	Mr Bill Wiggin
Mr David Lepper	

Memorandum submitted by the Government

INTRODUCTION

1. The purpose of this Memorandum is to provide a short update for the Select Committee on the various activities, planned or in progress, which flow from the Government's Reply to the Committee's report submitted in December. For ease of reference this Memorandum follows the recommendations contained in the Select Committee's Report.

2. Although there has been a relatively short period since the publication of the Government's Reply there have been a number of significant developments in the activities reported in the Reply. Most notable has been the decision by the Government to support Jim Sheridan's Private Members Bill on the licensing of gangmasters (recommendation 10). Compliance activity undertaken by Government enforcement agencies against illegal labour providers, both individually and through "Operation Gangmaster", has been substantially enhanced (recommendations 8 and 9). Full details are provided below.

RECOMMENDATIONS 1 AND 14

3. Defra and the Home Office have jointly invited tenders for a project to research the use of seasonal and casual labour in the agriculture and related food processing and packaging sectors. This research is intended to both complement the information collected by the annual Agricultural Census and to provide information on those areas which are not covered by the Census. This work will provide information on the number of seasonal and temporary workers engaged in agriculture, the agricultural packhouse sector and in related food processing businesses. It will also provide information on the role played by labour providers in the supply of workers to these businesses. The research will include an assessment of employment patterns and practices, the origin of seasonal and temporary labour and the extent to which temporary labour moves between different economic sectors.

4. The research will also provide information on the potential demand for workers under both the Seasonal Agricultural Workers Scheme and Sectors Based Scheme. In addition it will attempt to assess the impact of EU enlargement on the demand for workers under these schemes.

5. Defra and Home Office are currently evaluating the tenders received. The report of the research will be published when it is complete.

RECOMMENDATION 4

6. OFT has recently undertaken its first annual review of the supermarket code of practice. It is aware of anecdotal concerns about the effectiveness of the code expressed by some suppliers and their representative bodies. However it found no hard evidence of any breach of the code.

7. Given the reluctance of suppliers to provide specific evidence of breaches, the OFT has announced its intention to carry out a compliance audit of the supermarkets own records of their dealings with suppliers. The audit will focus on those clauses of the code where the anecdotal complaints by suppliers suggested the most frequent problems. This audit will be undertaken using monitoring powers conferred on the OFT by the supermarket's undertakings under the code. The audit will enable the OFT to establish hard facts about the supermarkets' compliance and provide a firmer basis on which to decide whether further action is necessary.

RECOMMENDATION 6

8. The Government is taking legislative action to tighten the laws preventing illegal working. On 16 March 2004 the Home Secretary announced that the Government is revising the secondary legislation supporting section 8 of the Asylum and Immigration Act 1996, the main preventative check on the use of illegal labour by employers. This will strengthen the types of document which employers are required to check at the point of recruitment to comply with section 8 and make it easier for the Immigration Service to identify and prosecute non-compliant employers. The new regulations implementing these changes will come into force on 1 May 2004. The Home Secretary also said that we are considering whether to increase the penalty for employers who employ illegal workers. In the longer term the introduction of ID cards will be a major boost in the fight against illegal working.

9. To deal with the most serious type of exploitative employer engaged in organised crime, the Asylum and Immigration (Treatment of Claimants) Bill currently before Parliament will create a new offence covering trafficking for forced labour and other forms of exploitation. The maximum penalty for this offence will be 14 years' imprisonment.

10. We are making progress in tackling the organised criminal gangs which are behind the smuggling and trafficking of people into the UK for this kind of exploitation. This work is being co-ordinated by Reflex, the multi-agency taskforce chaired by the National Crime Squad. This brings together police, immigration, intelligence agencies, CPS and government in a multi-pronged effort to tackle trafficking and smuggling at source and at destination. The recent announcement of the proposed creation of the UK-wide Serious Organised Crime Agency underlines our determination to get tough with organised criminals, including people smugglers.

11. The Home Secretary also announced on 16 March the opening of a new Immigration Office in Swaffham, Norfolk. This will more than double the capacity of the Immigration Service to tackle illegal working in the King's Lynn area and northern East Anglia.

RECOMMENDATIONS 8 AND 9

"Operation Gangmaster"

12. "Operation Gangmaster" activities are initiated through regional forums, which collate intelligence from all participating departments and agencies. These initiatives are supported by a dedicated intelligence database which is run by the Department for Work and Pensions' Agricultural Investigations Team (AIT) based at Spalding. The number of regional fora has been extended to provide coverage for all of England, Scotland, and Wales. Since the Committee's report was published new forums have been inaugurated for Wales and North West England with further new forums planned for London and Yorkshire/Humberside in March 2004. There are also plans for further initiatives in North East England and the Home Counties. The Health and Safety Executive has become increasingly involved in these regional forums.

13. The Informal Economy Steering Group and Working Groups, which meet quarterly, remain the foci for monitoring and commissioning inter-departmental action, where appropriate. The Steering Group is due to meet again in March 2004. An evaluation by the Department for Work and Pensions of the full range of "Operation Gangmaster" activity across Government commenced in October 2003. The results will be presented at the meeting. For the future the Working Group is setting up a reporting structure which will collate the results of all unilateral and collective enforcement activity undertaken by Government agencies against labour providers. The Steering Group will report quarterly to relevant Ministers.

14. There are currently 10 "live" operations, under "Operation Gangmaster", at various stages in the planning/operational cycle. Since the Committee's report was published two operations have been completed and two more have been initiated. The results of "Operation Christmas" (the only operation where results have been fully collated thus far), which took place in North Wales on 10 December 2003, are attached at Annex A.

Compliance activity by individual departments complimentary to "Operation Gangmaster"

15. The two Inland Revenue specialist teams continue to produce good results. So far this year (2003-04) they have settled 51 investigations identifying additional liabilities of £4.7 million. Inland Revenue is intending to increase the size and number of specialist teams substantially over the next few months to provide wider coverage.

16. In the pre-Budget report in December, additional funding was announced for Customs and Excise to establish a national campaign to reduce VAT losses arising from the illegal activities of labour providers. This campaign will concentrate initially on construction and agriculture. Building on existing activity the Customs' campaign will establish operational teams across all Regions dedicated to tackling VAT abuses by labour providers. This approach has already yielded results. In March 2004 four labour providers, all working within the same supply chain, pleaded guilty to conspiracy to evade the payment of VAT and will be sentenced at a later date.

17. Within the UK Immigration Service (UKIS) illegal working operations are being given higher priority. As a result there has been increased enforcement activity against labour providers. In terms of overall illegal working enforcement activity across all commercial sectors in the United Kingdom, there were a total of 446 UKIS operations in 2003. In the first nine months of 2003, UKIS reported carrying out 16 operations specifically aimed at farms and packhouses where labour providers were involved. By the beginning of 2004, UKIS had significantly increased activity in this area. In the four-month period from the beginning of November 2003 to the end of February 2004 UKIS reported carrying out 18 enforcement operations, including some major operations, at farms and packhouses where labour providers were involved. A further 11 operations involving labour providers are also scheduled or being planned. One labour provider is currently facing prosecution under Section 8 for employing 40 illegal workers following operations by UKIS in several parts of the country. In addition more serious charges are under investigation.

18. Earlier this month, two major investigations involving the police and UKIS resulted in the conviction of gangmasters for very serious criminal offences. In March of this year six labour providers with the company Ultimate Source were convicted at Kings Lynn Crown Court of various offences in connection with the supply of illegal workers. All six will be sentenced on 2 April. Over the past four months, Immigration Officers have also been assisting in the trial of a labour provider and his associates active in Kent, following a two-year police-led investigation into his activities using illegal workers. On 16 March the labour provider and his son were found guilty of charges including conspiracy to defraud and facilitating the entry of illegal immigrants into the UK. Both have been sentenced to seven years imprisonment. In addition, a dedicated team of UKIS officers has also been supporting the police in their enquiries into the tragic events in Morecambe Bay last month.

19. UKIS has also assisted the National Farmers Union in the provision of two training events in Kent to farmers, packhouses and labour providers on the requirements of the law under Section 8 of the Asylum and Immigration Act 1996. Further presentations to labour providers in the Lincolnshire area are also being planned in April following work with local labour providers to provide them with assistance on document checks.

20. The Department for Work and Pensions has produced good results this year in relation to sanctions against the employees of labour providers under their routine compliance activity in the labour provider industry. In the 10 months between April 2003 and January 2004 the Department for Work and Pensions has reported 1,908 cases where benefit was either adjusted or stopped and 236 prosecutions and sanctions. The total value of overpayments and monetary value adjustments to benefits for this period has been recorded as £1,117,753. This compares with figures for the whole of 2002–03 of 1,258 Effective Cases, 138 prosecutions and sanctions and a total value of overpayments and monetary value adjustments of £404,832. This demonstrates the DWP's continuing commitment to tackling illegal working in the labour provider industry.

RECOMMENDATION 10

21. In our Reply to the Committee we noted the Committee's view that a statutory registration scheme on its own would not be a solution to the problems associated with agricultural labour providers. While we do not wish to prejudge the outcome of the trial of the Defra/ETI labour provider best practice project (recommendation 11) it is clear that as a result of the Morecambe Bay tragedy, there is a strong demand both within Parliament and in the country at large, for closer regulation of those involved in the provision of gang labour for agricultural work, associated processing of agricultural produce and the gathering of shellfish. The Government has therefore decided to support Jim Sheridan's Private Members Bill on the licensing of gangmasters. This, combined with enhanced compliance activity (recommendations 9 and 10) represents a major strengthening of the Government's efforts to tackle such illegal labour providers.

22. Government support for statutory licensing was confirmed during the Second Reading of the Gangmaster (Licensing) Private Members Bill introduced by Jim Sheridan MP on 27 February. The Government will be working with Jim Sheridan in Committee to amend his Bill to:

- Be specific and limited to gang workers supplied or used to undertake work in agriculture, shellfish gathering including related areas and activities.
- Apply to primary labour providers and sub-contractor labour providers.
- Define the form of licensing to be used.
- Make provision for the Secretary of State to establish a licensing scheme and associated register of licensed gangmasters through secondary legislation.
- Make provision for appeals in relation to a refusal to issue a licence or a decision to revoke a licence.
- Make provision for charges to be made for licences with the level to be set through secondary legislation to cover full costs.
- Establish an offence of operating as a gang labour provider whilst not registered.
- Make provision for an offence of engaging the services of an unlicensed gangmaster.

- Give the Secretary of State the authority to appoint officers from existing enforcement agencies to deal with the offences of operating whilst not registered and using an unlicensed gangmaster.
- Set out the powers of enforcement officers, including a provision for enforcement officers from different departments to share information.

23. Defra will be working with other Government departments to ensure that there is no overlap between this scheme and other legislation such as the Employment Agencies Act.

RECOMMENDATION 11

24. Work on the Ethical Trading Initiative code of best practice for labour providers is continuing. Six trial audits of volunteer labour users and their providers based in Lincolnshire have now been completed. ETI are planning to submit a report on this project to Defra Ministers in April 2004. If a scheme of statutory licensing for labour providers engaged in agriculture, associated processing of agricultural produce and the gathering of shellfish is introduced as a result of the Sheridan Private Members Bill it is anticipated that the code will be used to develop the criteria attached to licences. The experience gained from the trial audits will be used to inform decisions on the compliance audits required to underpin the issue of licences.

25. Officers from DWP and HSE have been seconded to assist the ETI project board in the development of the Code and the implementation of the trial audit. In addition an experienced Immigration Officer from the UK Immigration Service has been seconded to the project.

RECOMMENDATION 12

26. There has been limited opportunity to make progress in this area in the three months since the Government's response was published. Representatives from South Holland District Council addressed a National Farmers Union seminar on gang labour held in Spalding on 30 January. Representatives of the Portuguese Government visited the UK on 8 and 9 March to discuss the provision of information and services to migrant workers. A meeting bringing together central and local Government agencies in the West Midlands has been organised for 30 March.

RECOMMENDATION 13

27. The Citizens Advice Bureau in Lincolnshire is playing an active part in the Ethical Trading Initiative pilot project. This work is intended to establish whether the CAB can play a role in informing gang workers of their rights and how they can be enforced. Leaflets have been prepared informing workers supplied by the labour providers involved in the trial, of the role the CAB can play. These leaflets have been translated into the languages most commonly spoken by the workers involved and translators are also being provided. Defra has contributed to the cost of these services. The trial will evaluate the effectiveness of this approach.

MORECAMBE BAY

28. Although not relevant to the Government's response to the Select Committee's report the Morecambe Bay tragedy does warrant specific mention. On the evening of 5 February a gang of predominantly Chinese workers were picking cockles in Morecambe Bay when they became trapped by rising tides. Twenty of the workers subsequently drowned.

29. The incident is currently the subject of a police investigation, with the involvement also of the Immigration Service, Health and Safety Executive, the Sea Fisheries Committee for the North West and North Wales, Marine Accident Investigation Bureau and the rescue services. As the police investigation is ongoing it is too early to speculate about the immigration status of the workers or the role of gangmasters in relation to this tragedy.

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Annex A

RESULTS OF OPERATION CHRISTMAS

AGENCIES INVOLVED

1. DWP North Wales Shadow Economy Team.
2. Wrexham County Borough Council Housing Benefit Investigators.
3. Flintshire County Borough Council Housing Benefit Investigators.
4. National Asylum Support Services.
5. United Kingdom Immigration Service.

6. Environment Agency.
7. Vehicle Operators Services Agency.
8. North Wales Police.
9. Customs and Excise.

RESULTS OF OPERATION

- 64 mini-buses were stopped.
- 54 people were interviewed with 11 found to be in receipt of benefits. So far one overpayment has been calculated.
- Two asylum seekers had their benefit withdrawn.
- Five arrests were made by UK Immigration, subsequently all five were released without charge.
- One vehicle was impounded by VOSA.
- Three certificates were issued by North Wales Police for the production of documents.
- Four staff agencies were identified from Chester, Manchester, Birkenhead and Stoke on Trent.
- Intelligence reports of Operation Christmas have been passed to the Operational Intelligence Unit in Cardiff and to Counter Fraud Investigation Service North West and Stoke for follow up action on these identified staff agencies.

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Witnesses: **Lord Whitty**, a Member of the House of Lords, Parliamentary Under-Secretary, and **Mr Geoff Webdale**, Head of Agricultural Resources Team, Defra, examined.

Q121 Chairman: Good morning, ladies and gentlemen. We resume our interest in gangmasters. Lord Whitty, as always, you are most welcome before the Committee. This is almost becoming a weekly appearance as far as you are concerned, but nonetheless we are delighted that you are here. I gather you have brought with you Mr Geoff Webdale, the Head of the Agricultural Resources Team. That is good: I will see you on my allotment at the weekend because you may have things that could be to my advantage! Lord Whitty, I would like to start with a question. When the tragic events of Morecambe Bay were first reported to you, what was your first ministerial action when you heard the news?

Lord Whitty: My personal reaction was: Can we check whether this is gangmasters operating here? Clearly the immediate response was through the emergency services and the local authorities there, but whether this was actually a situation which had arisen by the operation of gangmasters was my main concern. Of course there were also subsequent concerns in terms of the jurisdictions of the various bodies involved in Morecambe Bay but that was my initial reaction.

Q122 Chairman: Did you have to ask for that information or was it spontaneously presented to you by the mechanism which I believe you had which deals with gangmasters. You are the minister in charge of the operation to deal with gangmasters, are you not?

Lord Whitty: The answer to that, as you will see from the memorandum we submitted to your earlier report, is that as far as policy in relation to gangmasters is concerned, yes, I am the lead

minister. As far as enforcement is concerned, however, the DWP are the coordinating department.

Q123 Chairman: Did you speak to your opposite number in DWP to cross-check about these tragic events which were unfolding?

Lord Whitty: I did not personally speak to Chris Pond, who is the minister concerned, but my officials spoke to his officials. The situation, as you will be aware, in terms of responsibility for the Morecambe Bay incident was not immediately clear, nor was it clear that in the strict sense of the word these were gangmasters or not. But, yes, we were in immediate contact with the other departments involved.

Q124 Chairman: So when you produced your first reply to the Committee's report, you said that a cross-governmental Gangmaster Coordination Group of senior officials chaired by the senior official in your department... Who is the person concerned? Who is the official?

Lord Whitty: In relation to the officials' dimension?

Q125 Chairman: Yes, who chairs the Gangmaster Coordination Group? Who is that person?

Lord Whitty: It is Ray Anderson who works with Geoff Webdale. Geoff is actually responsible for the detail of it, whereas Ray Anderson is the coordinating officer in our department for that dimension of it. But that does not of course cover the enforcement side.

Q126 Chairman: Ray Anderson is the chairman. He calls the meetings.

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Lord Whitty: Yes.

Q127 Chairman: How many meetings has he called of this group since it was established and when was it established?

Lord Whitty: In terms of the number of officials' meetings, I am not sure I have the full details of that. Obviously the contacts are—

Q128 Chairman: But you told us this Committee was going to meet at regular intervals, and it is some time . . . In fact I have a copy of our report. It was printed on the 10 December 2003 and we are at the end of March now. The best part of four months have elapsed. How many times has it met?

Lord Whitty: I am not sure we have the details of that.

Q129 Chairman: You are not sure how many times it has met and we are just about sure that Mr Anderson chairs it. It looks as if some help is coming, so perhaps you would like to read that out and let us know.

Lord Whitty: The Coordination Group, as such, has met twice since then, in December and January, and again in March when we were dealing with the issue of the Sheridan Bill. So they formally have met three times, but the contacts between Mr Anderson and Geoff Webdale and the officials are of course quite frequently bilateral and not formal, but the dates I have, which I can provide you with—

Q130 Chairman: Let us get down to what you said as the Government you were going to do. What did it discuss in December? Because you told us in the reply that the objective of this group was “to ensure proper coordination of both enforcement operations and policy development relevant to agricultural gangmasters” so what was on the agenda in December?

Lord Whitty: In December . . . I mean, I am not personally clear about this, but—

Q131 Chairman: No, but you are responsible for this and that is what you as the Government told us you were going to do, so I am simply asking: What has it done?

Lord Whitty: Well, there are a number of things . . . I cannot give you the precise agenda but there are a number of things that have been dealt with since then.

Q132 Chairman: Do you want to go and take a break to find out what it has done?

Lord Whitty: No, I do not, thank you very much. I can tell you the kind of issues which have been discussed between officials. Whether or not they were on the formal agenda of the formal meeting—

Q133 Chairman: Let us start with December. What did it do?

Lord Whitty: I do not know, Chairman. I do not know and it is not reasonable to ask me that.

Q134 Chairman: I do not think it is unreasonable to ask because you told us that it was going to ensure proper coordination of both enforcement operations. The Committee were critical of the Government's response on gangmasters and I do not think it is unreasonable for us to ask what the work agenda is of the Committee.

Lord Whitty: I was about to tell you that, Chairman.

Q135 Chairman: If in December it had said, “Right, this is the programme of work that we are going to follow,” I would be perfectly happy with that, but so far we do not know what it did in December. I cannot wait until we get to January.

Lord Whitty: I can tell you the things that have been discussed there: the continued operation of *Operation Gangmaster*; the commissioning of research which the Home Office and ourselves have funded. There has been discussion on how the ethical trade initiative is proceeding and the meetings which my department have convened with the people involved in that just to establish a voluntary system of registration and a code of practice. All of those things have been discussed. In addition, the operational side in terms of enforcement which is led by the DWP has been discussed. Whether or not they were on the formal agenda, that is what officials have been busy with since your report.

Q136 Chairman: Have you actually received any key recommendations from this group yet in the form of things that you, as the minister responsible for policy in this area, need to pursue?

Lord Whitty: Yes, in the sense that we have . . . I mean, part of it is initiated in Defra rather than the group generally, but in terms of pursuing the ethical trade initiative and the feedback from that, we have looked at the code of practice which they are drawing up; we have, as I say, just commissioned jointly with the Home Office the research required or just put out to tender and received the tenders back for the research; and of course we have, since the emergence of the private member's bill, looked at the policy implication to that in some considerable detail.

Q137 Chairman: How many times have you met with Mr Anderson to be formally briefed on what the Committee is doing and to ask him questions about the work which was evolving?

Lord Whitty: Probably twice in that period, but of course I have more frequent meetings with Mr Webdale who is dealing with the detail of the policy side as distinct from other sides.

Q138 Chairman: Is Mr Webdale able to help us with a little bit more of the detail in relation to the questions that I have been asking the minister? Would you like to fill in some of the gaps, Mr Webdale?

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Mr Webdale: I think the Gangmaster Coordination Group that we are talking about has been looking primarily at the way in which we pull together information to inform ministers and to coordinate the work of the enforcement agencies—

Q139 Chairman: Could I just stop you. You have said something interesting. You say you are looking at the way you pull together information. Just go into a little more detail about these ways. What information are you seeking to pull together? When this group meet, given the comments from the Select Committee report, did you start, for example, in saying, “We have to re-examine the strategy that the Government was following to deal with the work of illegal gangmasters”? And did you then say, “We need to be better informed and here is a list of things we need to know about”? Did it work like that?

Mr Webdale: I think we were confident that the strategy that we were already working to through the auspices of *Operation Gangmaster* was the right way forward. We are seeking to provide more comprehensive information about the way in which that strategy is working and the impacts it is having.

Q140 Chairman: Minister, are you happy with that? In the report, I remember—I think it was from paragraph 10 of your reply—you said there needed to be some improvements because clearly there was nobody seemingly in charge of *Operation Gangmaster*.

Lord Whitty: As far as *Operation Gangmaster* is concerned, the DWP, both officials and ministers are clearly in charge. The issue is whether they are bringing together all the work which is relevant to *Operation Gangmaster* and whether things which are being initiated outside of *Operation Gangmaster* for immigration or for taxation enforcement are actually also being fed into the information that the regional fora in particular for *Operation Gangmaster* are pursuing. The view there was that there did need to be more data sharing but not necessarily . . . Many of the cases against gangmasters obviously initiate from other parts of the enforcement mechanism than *Operation Gangmaster* as such, but it is important that the information on that is shared.

Q141 Chairman: Coming back to the question I asked Mr Webdale, the information that you were gathering, what kinds of things did you decide you needed to know now that you did not have before and before the Committee reported?

Mr Webdale: I think we now want to achieve a much more comprehensive—

Q142 Chairman: No, Mr Webdale, the question I asked was what information did you decide you needed to know that you did not have before the Committee reported? Because you have set up this coordination group to improve the Government’s response, to advise ministers about what you are doing, I am trying to elicit from somebody what exactly is the work programme of this body. What

were the branches of information that you actually said, “Right, here’s the list. This is what we want to know.” What was on that list?

Mr Webdale: We are trying to secure a better picture of the operational aspects of *Operation Gangmaster*, the results that that work has achieved and to bring it together in a comprehensive form so that we have a picture across the country.

Q143 Chairman: Did you decide that at December’s meeting?

Mr Webdale: I do not know whether that was decided at the December meeting or the January meeting, but we have taken steps to pull together this overview that will provide all ministers, both within Defra, Home Office and DWP, a comprehensive overview of the work of *Operation Gangmaster* and the effect that it is having.

Q144 Chairman: Is that job now completed?

Mr Webdale: That work is ongoing and we have set up structures to pull together the information that we are looking for and we are hoping to produce the first of these comprehensive reports in a month or so’s time.

Q145 Chairman: I do not want to spend time in an unnecessary forensic paper chase, but I would be grateful, Minister, and Mr Webdale if you could write in more detail to the Committee and let us know more about the work programme that this group is following, what it actually has been doing, what timetables and dates it has set for action and when this report giving this wonderful, comprehensive overview is actually going to be presented to ministers, because the establishment of the group is of particular interest to the Committee but we would like a bit more detail about what it has done and when it is going to do it. I would like to ask, finally: the Gangmaster Coordination Group, does it deal solely with agricultural gangmasters or does it go wider?

Lord Whitty: It deals solely with agriculture and related gangmasters. There is of course a separate group dealing with illegal working more generally which we are involved with but which is chaired by the Home Office.

Q146 Chairman: You said earlier in your response that one of the things you looked at was the Sheridan Bill and the Sheridan Bill goes considerably wider in terms of its initial drafting than agricultural gangmasters. So you must by definition have looked at other matters.

Lord Whitty: One of the concerns in relation to the Sheridan Bill is what is its sectoral definition. The intention is that the bill will be confined, at least in its initial circumstances, to agriculture, shellfish gathering, processing and pack-houses related to agriculture, but not into areas like construction and catering, where it is clear that there are some gangmasters operating and some of the same labour is provided but the situation in agriculture and these

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related industries is very short-term and spasmodic and is somewhat different from the situation on construction sites or in the catering trade.

Q147 Patrick Hall: In terms of looking at policy, Minister, and not necessarily all the nitty-gritty that DWP is supposed to be coordinating on *Operation Gangmaster*, I have some examples or allegations of gangmaster practice in the highway, maintenance and construction area in my constituency based on drawing in illegal workers from overseas. Would you not consider, therefore, from a policy point of view, there should be a willingness and an ability to broaden out beyond the agricultural sector?

Lord Whitty: I think the issue is how much can the situation be dealt with by a piece of legislation and where is the most acute problem. The most difficult problem in enforcement terms and the most acute and high profile problem is in the provision of agriculture and related labour. It is also true that there are problems within the construction sector and, indeed, there is already some legislation relating to labour-only subcontracting in construction and there are enforcement problems in relation to that, but our concern when it came to legislation was that we would be dealing with a defined sector rather than trying to legislate for what could be a piece of general legislation on employment agencies and labour-only subcontractors, rather than supply of labour to people who broadly speaking were within the agriculture sector. I think there is a difficulty if you extend it beyond that, to getting into areas of employment agencies and a whole range of the ways in which temporary casual labour is supplied, which we did not wish to do and which I do not think would be appropriate for a bill which is based primarily on the agricultural sector.

Q148 Paddy Tipping: Could you just map out a bit more for us the different groups involved. You have talked about the Gangmaster Coordination Group which Ray Anderson chairs, a civil servant in your Department, you have also mentioned the Informal Economy Steering Group which I understood the Home Office chairs. What is the relationship between those groups? Is there an overlapping membership? What are they precisely looking at?

Lord Whitty: There is an overlapping membership. The illegal-working group is obviously looking at the issues of illegal working generally and its immigration aspects, the prospects of managed migration schemes and the situation in relation to work permits and so forth right across the economy. Therefore, the overlap with what we were looking at in the gangmasters sector, the sectoral overlap . . . There is a much broader agenda run by the Home Office on the illegal working side. Informal working, I think, is probably the right—

Q149 Paddy Tipping: These are primarily policy related.

Lord Whitty: That is primarily policy related, yes.

Q150 Paddy Tipping: Then there is *Operation Gangmaster* itself, which is operations.

Lord Whitty: Yes.

Q151 Paddy Tipping: What is the relationship between *Operation Gangmaster* and these two bodies?

Lord Whitty: *Operation Gangmaster*, its operational side, is effectively eight regional fora which meet quarterly to bring together all the enforcement departments, and their work and guidance for that work is reported to the central group which is led by the DWP. That is bringing together all the enforcement agencies. Activity covers things which are explicitly initiated within *Operation Gangmaster* and data on other operations which the enforcement agency are carrying out which may alight on gangmasters when you are looking for tax evasion or you are looking for immigration offences or looking for minimum wage violations or whatever.

Q152 Paddy Tipping: How is that operational work, that detailed work on the ground, fed into these two policy groups?

Lord Whitty: The report as to what is going on in general is part of what Geoff Webdale was just referring to, that we need to make sure that we distil from that what is actually going on on the ground in terms of enforcement activity, identification of problems, whether they come up under the heading of *Operation Gangmaster* or elsewhere. In addition, of course, we are looking for further, more detailed information on the whole structure of the labour market and that is why we have commissioned our own research directly into the area of casual/temporary labour provision within the agriculture related sectors. But, as your report recognised and we recognised, there is a dearth of information in this area.

Q153 Paddy Tipping: I accept all that. Just help me with this, because this is the bit that I find hard: Who is calling the shots? Who is driving policy on gangmasters in the agricultural sector? Which body is it that is saying, "Right we have got a problem here. We all accept there is a problem here." Who is delivering on this?

Lord Whitty: This is the policy coordination which is led by Defra and which has dealt with the issues we discussed in relation to your report, the follow-up to your report, relations to the Jim Sheridan Bill, but also takes on board some of the information coming up from the enforcement side. So it is that body which is effectively myself and the other ministers you are meeting at the moment because there is a procedure in the House of Commons, Alun Michael, my colleague, is also heavily involved in this and we meet informally quite frequently in relation to the legislative side of it.

Q154 Chairman: I am sorry, could I just be clear. You said you meet informally, and yet you have you as, if you like, the policy minister in charge from the

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Defra side. Why do you meet informally? Why do you not have formal meetings to discuss the evolution of policy?

Lord Whitty: We have had a couple of formal meetings but we are actually dealing now—

Q155 Chairman: When were those?

Lord Whitty: Our focus at the moment is dealing with . . . That takes into account . . . If the Sheridan Bill had been a few months later, the next piece of information would be basically the report back from the ethical trading initiative and the work that is being done on the code of practice which is due in weeks now.

Q156 Chairman: Just wind the clock back. You reported to us following our report on 10 December. The group of ministers to which you referred a second ago, how many formal meetings between December and now, nearly the end of March, have you had?

Lord Whitty: Between that period, one, I think.

Q157 Chairman: One. And that was to review—

Lord Whitty: Just before that, obviously we had met to discuss our response to you and related matters and then we met again a few weeks ago.

Q158 Chairman: Just for the record, was that the full cast list of ministers who have an interest in this?

Lord Whitty: Probably not entirely.

Q159 Chairman: So there was yourself—

Lord Whitty: Probably not entirely, but—

Chairman: What does “probably not entirely” mean?

Q160 Paddy Tipping: Were the Treasury there?

Lord Whitty: The Treasury were present at the earlier meeting. Treasury officials have been involved with ministers since then. The key ministers I am talking about, recent meetings, I have met to discuss effectively the Jim Sheridan bill and that has been the focus of our attention which is obviously the main policy issue before us at the moment. Had we not had that bill, then the main policy issue before us would have been the report back, which I think your Committee supported our initiative in relation to the ethical trading initiative, the work that is being done with gangmasters, bringing together legitimate gangmasters, principally in the East Midlands, and development of the code of practice. The next key point would have been to see how far we could get down that voluntary line and that would have been due in the next two or three weeks, or three or four weeks.

Q161 Paddy Tipping: So it is the Sheridan Bill that is driving policy.

Lord Whitty: No, the Sheridan Bill has brought us to focus on what legislative processes we were taking. We were already taking action on a voluntary basis, in line I think with your report and the priorities that we outlined at that point. As you will know, I expressed some view at that point that a voluntary

approach would not be sufficient and I therefore was very grateful for the Jim Sheridan Bill to give us a vehicle whereby some legislative activity could take place. But the priority in the sequence of events was (1) to see how far we could get along the voluntary initiative, (2) to establish some research, and (3) to improve on the enforcement side and the sharing of information on the enforcement side. That, I think, was in line pretty much with what the Committee said, so I do not think there is any doubt that we were doing broadly what was put to you from ministers at that time and what you broadly speaking supported. The Sheridan Bill has focused on us looking at the legislative process slightly earlier than we might otherwise have done, but, as I understand the report from the ethical trading initiative and the people involved in that, it is likely to recommend that there should be some legislative action in order to underpin a code of practice, so I think we are all moving in the same direction.

Q162 Paddy Tipping: But the Sheridan Bill at the very least has made you put your foot on the accelerator a bit.

Lord Whitty: Yes. For which I am grateful.

Q163 Paddy Tipping: In your evidence, paragraph 14, you talk about an evaluation of *Operation Gangmaster* which commenced in October 2003: “The results will be presented at the meeting.” Are you going to tell us what the results are?

Lord Whitty: That is the meeting of the Informal Economy Steering Group and it covers what I have referred to earlier, the ten live operations, the report on the fraud strategy operation, an update on the 11—it says 11 on this piece of paper and I said ten just now—the 11 active operations under *Operation Gangmaster*, the efforts from the Inland Revenue etcetera to pursue under their own operation people who turn out to be gangmasters as well. There are interrelations between that and what is the focus of the Informal Economy Working Group which is Lord Grabiner’s report and how we are developing on illegal working more generally. I think that report did also cover the point which Mr Hall was raising just now, which is the problems beyond agriculture which were thrown up by the investigations on the enforcement side.

Q164 Paddy Tipping: I do not want to be picky, I do not want to seem awkward about this, but paragraph 13 is quite clear: “An evaluation by the Department for Work and Pensions of the full range of *Operation Gangmaster* activity across Government commenced in October 2003.” So this was a review of *Operation Gangmaster* not a review of the Informal Economy Steering Group. Then it says, “The results will be presented at the meeting”—presumably this meeting. We just want to know what the results are.

Lord Whitty: The report is not finalised. It will report on activity up until the end of this month. I think the reference to March for the actual meeting—because I think the actual meeting of the

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Economy Group is beyond the end of March but it reports to the end of March, so it will cover all activity until the end of March.

Q165 Chairman: Are you really telling me that a group of civil servants began in October 2003—so that is October, November, December, January, February, March, six months—to produce an overview and it is now late in arriving?

Lord Whitty: No, it is not late in arriving. It was due to report up to the end of March.

Q166 Chairman: It says here “due to meet again in March.” Are they going to meet in the next few days so you can get within the March envelope? It seems an awfully long time to have to take to conduct an evaluation of something which was the subject of our pretty detailed scrutiny before and for which you have had the time to reply to the Committee’s first response. What on earth have they been doing for six months?

Lord Whitty: I think our Committee recognise the complexity of this issue.

Q167 Chairman: But you have been at it a lot longer than we had. We got through our report a darn sight quicker than this working group has given its evaluation.

Lord Whitty: With respect to the Committee, the Committee is not actually responsible for enforcement. Enforcement is extremely complex with a huge number of regimes and a large number of enforcement agencies. It is inevitably that. Certainly we could produce an overview report but this is . . . The report up until the end of March will give the work that has taken place over those last six months by *Operation Gangmaster* and those operations which impinged on *Operation Gangmaster*, and there will be an annual report of *Operation Gangmaster* at a later stage.

Q168 Chairman: Minister, could I just ask you, did you sign off this document which arrived with the Committee only yesterday? This is the follow-up inquiry document. Did you sign this off? Did you read paragraph 13?

Lord Whitty: Yes, the first meeting took place yesterday. The annual report . . . I am confusing you slightly because there is an interim report and then there is an annual report to the end of March, but the meeting took place yesterday of the Informal Working Group, which regrettably I had business in the House of Lords and was not able myself to attend. That received those interim results, but they will then be consolidated into a report, an annual report, running to 31 March.

Q169 Chairman: So within one week you are getting to the final report. What was in this interim report?

Lord Whitty: I have just spelled out what was in the interim report: the report on the 11 activities; the work of *Operation Gangmaster*; the implications for *Operation Gangmaster* and dealing with gangmasters of other operations; and the report of

the work of the regional fora of *Operation Gangmaster*. I mean, it is all covered in there. It needs to be finalised to 31 March.

Q170 Paddy Tipping: When is it going to be published?

Lord Whitty: I am not sure it is intended to publish it in that form. Can you help me out, Geoff?

Mr Webdale: It would certainly be available to ministers by the end of May.

Q171 Chairman: The end of May!

Mr Webdale: For the full year.

Q172 Chairman: So you are going to—

Lord Whitty: I appreciate your astonishment, Mr Chairman, but we are dealing with an extraordinarily complex labour market here. Six months is hardly a lengthy period of time.

Q173 Chairman: Yes, but it is not as if it started in this field six months ago. It started in this field a long time ago, as our initial report highlighted, and there were deficiencies. I am now just even more confused that you have had the interim report, seemingly it is going to be finalised within the next seven days and then presented to ministers in May, but you know most of the results already and it is not going to be published. I think the Committee should see a copy of these findings.

Lord Whitty: No doubt you will raise that with my colleague Beverley Hughes who chairs that committee. Certainly I am not intending to deny the Committee any information which is not personally or commercially confidential, so I see no reason why you should not have the main findings of that report, but you will have to raise it with her formally.

Chairman: Right. We will do.

Q174 Alan Simpson: May I just focus back. There is a confusion for me between the Informal Economy Steering Group and the review of *Operation Gangmaster*. I can understand that Beverley Hughes is responsible for the Informal Economy Group but Defra is responsible for the oversight in respect of *Gangmaster*. When we had the first set of hearings, what worried Committee members was that the panel of people who were involved in running *Operation Gangmaster* sat before us and did not recognise each other because they had never met each other before. In the entirety of the existence of *Operation Gangmaster* they had never met. It was deeply embarrassing. We did suggest that we adjourn so that they could at least introduce themselves to each other and it did not look as though anyone was driving the operation at all. I think that is why the Committee is focused on saying: What is this review? It is not a review of the internal economy aspects; it is a review of the full range of *Operation Gangmaster*. That is what it says in your submission to us and so it is not the last six months. It is: What the hell is this operation doing?

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Who is driving it? What does it deliver? It is not a six-month remit that I think the Committee were looking for. The expectation was that this process would try to pull together—

Lord Whitty: Exactly. That is exactly what we have indicated has been done. There has been greater coordination between the enforcement agencies, both at the national level, which is the committee chaired by Ray Anderson, but there have also been eight regional fora which are now established on a more substantial basis. In terms of enforcement, that is the level at which coordination is the most important. It is important that we then derive lessons from that and from other activities by the enforcement agencies. We derive them in terms of developing policy in relation to gangmasters in the agricultural sector. It is also important that the Informal Economy Working party draws the lessons for that for other wider aspects of illegal working, of informal working, in terms of the general policy on labour migration and the black/grey economy and so forth. There are different contexts in which the outcome needs to be pulled together and reported but the coordination on the ground which you were so worried about is principally amongst the enforcement agencies at the regional level. I am not saying that there cannot be further improvements in that either but that is the level at which the most important operations are being carried out.

Chairman: We could go on about this for some considerable time. I do find it difficult to accept that it has taken you so long to get to the interim stage, so I would like to ask you for a second piece of information. I would like to know specifically what deadlines were set to the contributing departments and/or contributors in terms of asking for the range of information that has underpinned the interim report on *Operation Gangmaster*. I do not see much of a sense of urgency about the work. It may be complicated but I cannot really accept that it has taken six months to do, bearing in mind this is not a field of brand new operation for you and your colleagues to operate in. I would like to ask Diana Organ if she would continue our questioning.

Q175 Diana Organ: You have said that Jim Sheridan's Bill is not driving this issue. Has the incident in Morecambe Bay had any effect on driving it a little faster? Because we are not talking now about just people being exploited and abused, as Jim Sheridan's Bill hopes to put into some order, we are actually talking about people losing their lives. As a result of Morecambe Bay did ministers meet, and have Chris Pond, Beverley Hughes and yourself been in the room together to have a meeting about illegal gangmasters since September or since the incident in Morecambe Bay?

Lord Whitty: Yes, we have.

Q176 Diana Organ: When was that?

Lord Whitty: 18 March, when you are talking about us all together.

Q177 Diana Organ: So you met in a room—
Lord Whitty: Yes, Beverley Hughes' office.

Q178 Diana Organ: To discuss illegal gangs. Okay.

Lord Whitty: But we also had in the interim, principally in relation to the bill but related to the ongoing activities as well, other discussions with both Beverley Hughes, Chris Pond and Gerry Sutcliffe. So there has been a lot of inter-ministerial discussion over the past few weeks, some of which pre-dated Morecambe and some of which did not. To answer your initial question, clearly Morecambe, tragically, has brought this whole issue both of illegal working and of gangmasters in the broadest sense much higher in the public profile, but the work already going on was working to a timescale and the acceleration of that timescale was due to the introduction of the bill by Jim Sheridan and those who supported him throughout the industries.

Q179 Diana Organ: If you met on 18 March, it was only last week, so that is quite convenient before yourself and Beverley Hughes and Chris Pond come in front of us today. You met only last week. You have two big pressures behind you: the piece of legislation in the private member's bill and the terrible tragedy at Morecambe Bay. How confident are you that the work that you have been doing, not just in the last six months that the civil servants have been doing, but previous to that, that we are not going to have another incident like Morecambe Bay?

Lord Whitty: I am not at all confident. I think clearly the situation in which the cockle pickers work leads to particular vulnerabilities, particularly if they are not familiar with the area, but of course there are other abuses of labour, in health and safety issues and so forth, which take place in the rest of the gangmaster operation. We did have the rail tragedy back in the summer which involved gangmaster labour and we are aware of other problems relating to the conditions in which workers sometimes are housed and work. So I am not confident that we yet have a sufficiently rigorous enforcement process in this area at all, which is why I think I am extremely grateful that we have the opportunity of the Sheridan Bill to put some legislative backbone to the activities which would otherwise depend on a rather slow process of getting voluntary endorsement I do think that will make a significant difference. Partly in terms of the enforcement, of the focus of the enforcement authorities, but more importantly, in my view, which is the point I was trying to make to you the last time I was here, in providing a basis in which the rest of the food chain can actually influence the gangmasters at the producer level and ensure that only legitimate labour is being used.

Q180 Diana Organ: Given then that you have said that ministers now regard the issue of illegal gangmasters quite seriously, you had a meeting on 18 March with other ministers. When do that group of ministers propose to meet again? What is the timetable for the follow-up meeting?

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Lord Whitty: I am not sure we have another date for that, but I should also point out that what I also said is we have discussed bilaterally and multilaterally. We have asked specifically for three ministers in a room together. I have discussed with others involved in both the legislative and the enforcement operation prior to that 18 March which is partly driven by the Sheridan Bill and partly to make sure that we did understand what actually had happened at Morecambe Bay but also, for example, to discuss the research project which the Home Office and ourselves are funding and other follow-ups to the earlier work.

Q181 Chairman: Could I be clear, when the tragedy in February of Morecambe occurred, did you have any meetings, formal or informal, very shortly after that to take stock of what had happened?

Lord Whitty: It is a fisheries issue, to put—

Q182 Chairman: No, the question—

Lord Whitty: No. No is the short answer.

Q183 Chairman: No. So you waited almost a month.

Lord Whitty: No, no, the minister directly involved in this in my department is Ben Bradshaw because he deals with fisheries. He took an immediate interest to see what had happened in relation to fisheries legislation and talked to colleagues in the Home Office.

Q184 Chairman: But you said at the beginning when I asked the first question, that you had identified this as having aspects of gangmasters involved in it. Right? You have now just said, “No, no, it was a fisheries issue” and it was for Ben Bradshaw. Surely, as the minister responsible for policy in this area, did you not think there was any merit in calling together all of the ministers simply to take stock of the evolving information and situation coming out of Morecambe Bay?

Lord Whitty: I think it would be very difficult for ministers to gather the information at that point when it was the subject of detailed police investigation. I think it would not have been helpful for ministers to be drawn together. Once we had that information then the appropriate ministers were deployed.

Q185 Chairman: If this had been a rail crash, we would have had a statement in the House on the day or the following day, the Secretary of State would have visited the site of the tragedy and there would have been an obvious start of some form of investigation. In this case, it was some weeks after the event that Mr Bradshaw went north to Morecambe and you are saying that it was in the “too difficult” column to get ministers together—

Lord Whitty: No, I am not saying that, I am saying it would not have been appropriate. If there is a police investigation—and I also have the experience of when there is a rail disaster—clearly it is primarily the responsibility of the railway police and the Health and Safety Executive.

Q186 Chairman: So that is a police investigation.

Lord Whitty: And the only minister involved is the Transport Minister when he may or may not set up an inquiry.

Q187 Chairman: One of the elements that has come out of this is the question of coordination within government. Here was an incident which the press were busy walking all over, making their own assertions as to what was going on, gangmaster aspects were being raised and government ministers did not sit down and say, “Let us take stock. What is happening? Is there anything that we should be doing in terms of our evolving policy and investigation?” You have just told us that it was not until March 18—

Lord Whitty: No, I did not say that, Mr Chairman. I said we have taken a number of initiatives bilaterally with other departments in relation to all the information coming in, including the information on Morecambe. It was not clear at the beginning of Morecambe and still is not entirely clear whether the prime responsibility was of somebody who would normally be called a gangmaster, because they were not providing labour to somebody else, they were actually gathering up labour and then selling the produce. The narrow definition of gangmaster would not include that provision. It is also the case that there are very specific problems in relation to shellfish harvesting which have different structures than the rest of agriculture, so it was not obvious that this was primarily a problem which was caused by the gangmaster situation.

Chairman: For the benefit of the Committee, Minister, before I bring Mr Lazarowicz in, it would just be helpful for us, perhaps since the report has come out, to have a little diary of events where we could know when ministers have met formally and informally and what were the principle topics of discussion, just so that we can know factually what you have all been up to and what you have been discussing in this context. Mr Lazarowicz.

Alan Simpson: Before Mark comes in, could I ask, in relation to that diary, can the minister or the Department answer Diana Organ’s question, which was at what point there were specific discussions in relation to the tragedy on Morecambe Bay. Because in the date sequence so far it does take some explaining, the gap between the incident on 5 February and the meeting that did not take place between the three ministers until 18 March. It would be helpful, if there had been other meetings that specifically sought to address that issue about what happened in Morecambe Bay, if they could be detailed.

Q188 Chairman: I am sure the minister has taken note of that and he will respond in the way he feels appropriate.

Lord Whitty: I will do what I can in that respect. You will appreciate that obviously that was a fast-moving situation and there will not necessarily be records of formal meetings, but, nevertheless, we will do what we can and you can no doubt press my colleague as well.

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Q189 Chairman: Minister, your diary secretary will, I am sure, be an excellent person, and knowing the way that ministerial diaries and papers are kept for a very long period of time, I have absolutely no doubt whatsoever that your private office will be able to put together a diary of the formal and informal contexts you have had, because notes will have been taken at those meetings because that is the way things are done. Mr Lazarowicz.

Lord Whitty: Could I just reply to that because a number of those meetings are necessarily informal—I am protecting my colleague's response to this as well. The records will not be a clear sequence of meetings in the way that Mr Simpson is looking for, but we will do what we can. I am not pretending that you have a complete forensic record of everything that has been discussed.

Chairman: respect the fact that inter-ministerial exchanges of certain types are inevitably privileged but the timing and the date of the event and the general subject area is really what we are after. As I say, I am quite convinced that your private office and diary secretary, almost as we speak, could be preparing the list of information which will be helpful to the Committee.

Q190 Mr Lazarowicz: Could I ask some questions about the enforcement activity since the Committee published its report. Looking at the memorandum submitted by your Department which the Committee received yesterday, I see that in paragraph 12 it says the "... regional fora has been extended to provide coverage for England, Scotland and Wales." But do I take it from the next sentence that this coverage across the three countries has only taken place recently. Is that correct?

Lord Whitty: If you are talking about comprehensive coverage, yes. Some of the forums have existed for some time. But comprehensive coverage, including the reference to the North East and the Home Counties is relatively recent, yes.

Q191 Mr Lazarowicz: When were Wales and North West England fora inaugurated and what have they done so far?

Lord Whitty: I could not tell you that. It may be you will have to pursue that with Chris Pond.

Q192 Mr Lazarowicz: Do you know if the fora planned for Yorkshire Humberside have now been established? When are they due to start?

Lord Whitty: The forum for London as been established. The forum for Yorkshire and Humberside has also I think just been established. But it is very recent. I could not confidently tell you there had been a meeting of that. Maybe you would wish to pursue this with Chris Pond, but we are now in a situation where we have fora for all of Great Britain, whereas when we met a few months ago we were talking about four or five regions.

Q193 Mr Lazarowicz: But Defra is involved in these fora.

Lord Whitty: Yes. We, as you know, have a relatively small enforcement function in relation to the agricultural wages. The big players are clearly DWP in relation to national insurance, Customs & Excise, Inland Revenue, Immigration Service and so on.

Q194 Mr Lazarowicz: What are the plans for the further initiatives in North East England and the Home Counties? What do these consist of?

Lord Whitty: Ensuring that the fora there are as comprehensive as they are elsewhere, I think is the general answer to that, but I cannot give you any more detailed answer.

Q195 Mr Lazarowicz: Turning to paragraph 13, which talks about the evaluation which Paddy Tipping asked about, just to be clear, in the evidence presented to the Committee last year we were told by the Government there had been two complete operations under *Operation Gangmaster: Operation Shark* and *Operation Twinstem*. According to this memorandum there have been another two complete operations. Is it fair to say that there has been a total of four complete operations so far under *Operation Gangmaster*?

Lord Whitty: Complete operations—in the sense of completed if that is a definitional issue as to when it is complete—there are two that have been completed between your report and now, and there are ten or 11 active operations in place now.

Q196 Mr Lazarowicz: There were two before the report, is that right?

Lord Whitty: Yes, specifically for *Operation Gangmaster*.

Q197 Mr Lazarowicz: If we turn to paragraph 15, it is described there that the Inland Revenue was intending to increase the size and number of specialist teams substantially over the next few months to provide wider coverage. Can you give us any information about what is meant by "substantial increase"? How many teams? How many people?

Lord Whitty: I am not sure I can, no. The total numbers do exist, but I am not sure I can put my hand on them immediately.

Q198 Mr Lazarowicz: This is a report from Defra, so you can presumably find this information?

Lord Whitty: This is a government report, actually, although submitted by Defra, but it does cover information from other government departments.

Q199 Mr Lazarowicz: How far has there been any increase in enforcement activity against illegal gangmasters since our report in October?

Lord Whitty: I think we can see, from the fact that there are 11 active operations, there has been a significant increase. There has also been an increase in other activities, earlier activities, which have ended up with some successes in relation to the tax side and the fraudulent document side which have ended up in court. There has been a fair amount of

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activity, whether or not it is branded under *Operation Gangmaster*. *Operation Gangmaster* as such has stepped up from three or four operations to ten or 11 concurrent.

Q200 Mr Lazarowicz: Have there been additional resources allocated by the government to enforcement?

Lord Whitty: Customs & Excise, for example, which paragraph 19 refers to, have allocated, and the Inland Revenue are proposing shortly to allocate, and the DWP will answer for itself. Yes, there are additional resources focussing on this area. Whether you are saying, is there an increase in the number of the people who are “employed” by *Operation Gangmaster*, it does not work that way.

Q201 Chairman: Let me ask a simple question. What is the present budget; and what is the budget in six months’ time?

Lord Whitty: As you will know, Chairman, there is not a budget for *Operation Gangmaster* as such.

Q202 Chairman: Let me ask how much spending is earmarked by the departments with an interest in this at the moment; and what will it be in six months’ time?

Lord Whitty: This is not a possible question. We have been over this ground before. If we are talking about the Inland Revenue’s enforcement, part of which is delivered through *Operation Gangmaster*, then you cannot differentiate between enforcement of tax evasion for one purpose rather than for another.

Q203 Chairman: With respect, Minister, you can.

Lord Whitty: I am sorry, I disagree.

Q204 Chairman: For instance, the financial statement and budget report issued in 1997 under my own name in which I listed the additional resources that were going to be put into major operations to deal with tax evasion as a separate entity; and other ministers have done so as well. This is a different operation; this is a subset of what the Inland Revenue do, so there must, by definition, by some resources against it?

Lord Whitty: You can identify additional resources that have been allocated specifically to follow through labour providers, but you cannot allocate the totality of resources which the Inland Revenue are bringing to bear on this because they are investigating individual firms, just as the Immigration Service will be investigating individuals; whether they turn out to be gangmasters and they pursue it through that route and maybe pursue it through *Operation Gangmaster*, it does not mean that can be separately identified. We have referred to additional resources focussed particularly on this which you can identify, but you cannot identify the infrastructure against which the enforcement agencies are working. For example, the recent cases in relation to tax evasion and fraud

would not appear under the heading of *Operation Gangmaster* in any department. They have ended up with a conviction of gangmasters.

Q205 Alan Simpson: Can we quantify the additional resources that Defra have put in?

Lord Whitty: On the enforcement side, very little. We have the enforcement of the Wages Board Inspectorate which is half a dozen people. As I say, Defra on the enforcement side is a very minor player compared with the role of the tax authorities, the Home Office authorities and the DWP authorities. Our engagement has been more at the policy level in relation to its implications for agriculture and the workforce within agriculture.

Q206 Alan Simpson: Just in enforcement then, in respect of changes that have taken place over the last six months, there has been no change in the resource input from Defra into enforcement?

Lord Whitty: No.

Q207 Mr Lepper: Minister, we have spent a lot of time reviewing what has been done and what has not been done so far; I wonder if we could look ahead a little. The Government made a statement towards the end of February about employment and migration and EU enlargement. We had evidence last week from Zad Padda a labour provider of the Association of Labour Providers, the respectable face of gangmasters, and he was expressing concerns about the impact on 1 May of enlargement. He sketched out a picture of numbers of workers being able to enter the UK legally in immigration terms, but who might be working without paying National Insurance or tax, without meeting what we would all agree are the required health and safety and other workplace standards; and that would not only be bad for the economy and bad for the people still working in those conditions, but also bad for legitimate gangmasters, labour providers. He saw real worries there. Do you share those concerns?

Lord Whitty: I think, given that Eastern Europe has been a source prior to enlargement of some of this labour, actually the situation will improve once they are clearly legally here and citizens of the EU, so the opportunities for severe exploitation are reduced. Nevertheless, some of it will be going on. Some of it has related to Portuguese workers who have been members of the EU for some considerable time. One could exaggerate the degree to which there would be a huge increase in the number of workers, because many from Eastern Europe already came and one could exaggerate the degree to which there is a new problem; but it is an issue and it is one which we necessarily have to be alive to; and also keep in contact with the Accession States to ensure that workers know what their rights are when they come to this country.

Q208 Mr Lepper: What sort of contact has there been so far with the Accession States?

Lord Whitty: This is mainly conducted through the Foreign Office and the Home Office. Part of the whole discussion about labour to Britain has related

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to terms and conditions in which they can be employed. I think there was another anxiety which Mr Padda expressed which related to the Eastern Europeans in the SAW Scheme, where there was a specific point about National Insurance. There is a slight misunderstanding there, although he is correct to say that those who are in agricultural courses do not have to pay National Insurance under the SAW Scheme, which has been the case for many decades. Those who are not agricultural students, broadly, are subject to the same rules as anybody else, and National Insurance should be paid.

Q209 Ms Atherton: Minister, I am very pleased that you welcome Jim Sheridan's bill. Do you think the whole government does, every department; are they all on board?

Lord Whitty: Yes.

Q210 Ms Atherton: That is very good to hear. Can we assume then it will be given parliamentary time, because it is a private member's bill and, therefore, it needs to have the protection of government and parliamentary time?

Lord Whitty: The position is that it is going through the process and there will be a committee stage shortly. Clearly, were time to run out then that would be an issue the government would have to face up to. It is our intention to support the principles of the bill, and to, hopefully in agreement with Jim Sheridan, refine the bill in a way which we think could be more effective, and do that both in discussions now and during the committee stage. Certainly the government as a whole supports the principles of the bill.

Q211 Ms Atherton: That is very good to hear. I believe there is still not quite agreement on the statutory instruments, because you are planning to use secondary legislation for the enforcement side with the bill?

Lord Whitty: To a large extent, yes.

Q212 Ms Atherton: Would that include agricultural workers wearing ID on their clothing so that they can be clearly identified?

Lord Whitty: Theoretically the answer must be yes, because the provision of statutory instruments would allow regulations to be made for that. I think the question of clear identity relates to the labour provider and the person who is actually in charge of the labour, rather than every individual worker. Obviously every individual worker has to have their papers in order and, therefore, be subject to scrutiny in terms of work permits or immigration status. We are unlikely to legislate for specific identification over and above that.

Q213 Ms Atherton: I think there is some concern that will make it more difficult to know exactly what is going on, who is working and which gangmaster is involved, and that is the concern. Whereas if there is clear identification then that helps for enforcement.

Lord Whitty: Part of the rules of having a licence would be that the gangmaster has to maintain those records, and those records would have to be open to scrutiny.

Q214 Ms Atherton: Who will enforce this licensing and, more particularly, who will pick up the extra resource implications?

Lord Whitty: There are three sorts of enforcement: there is the enforcement which effectively will be carried out and emerge from what the current enforcement bodies will do. In other words, if you find a situation on immigration breaches, health and safety breaches or whatever, one of the consequences of that would be to lose the licence. In other words, the enforcement would be driven by an existing criminal offence, the breach of which would lead to a loss of licence. That will be carried out in the normal course of events by the existing enforcement agencies. The second form of enforcement is the licence itself, and the issuing of the licence and the auditing of the licence and that would be carried out by a body whose details may be prescribed in secondary legislation but would involve the industry with the government in setting up a licence authority, so that you would issue licences and audit people so they were conforming with the conditions of the licence. That is where some extra resource would be required, a relatively small amount of money, which eventually would become self-financing through the fee structure for the licence. The third and, in my opinion, the most important form of licensing once you have enforcement, is not a legal enforcement at all but an enforcement through trade. Once you have a licensing system which is comprehensive and it is easy for any purchaser of produce (supermarket or caterer) to establish whether or not the grower or the producer has actually used licensed labour—because there is a definitive list and it would be an offence to use anybody who was not on that list—then it would be the trade who, in practice, do the most substantial element of enforcement; and the biggest sanction facing those who were tempted to operate outwith the terms of the licence or without a licence would be that nobody would take their produce. That has always seemed to me the most effective form of sanction and enforcement.

Q215 Ms Atherton: Whilst I agree with you that the trade is an important part, I am somewhat alarmed that there does not appear to be plans in government to recruit much of the money lost to government, by putting some extra resources in, in order to recoup further gains later on in National Insurance, tax and the other benefits that come to government while, at the same time, tackling the problem of people effectively living in almost slavery, and actually tackling that, so you have both sides of the problem being tackled. I would argue, and I think the Committee would argue, we think that is where more resources would be required?

Lord Whitty: I am not saying more resources would not be required. I am saying the audit resources, which have been a check on individual licences,

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either on a random or systematic basis, would be one dimension of it; but the most important dimension of the enforcement would be if you broke the law or if you evaded tax you would lose that licence. That is already provided in enforcement agencies. It may well be, because of the returns to the tax authorities or success in enforcement of immigration laws, that they would wish to provide more resources focussed on that; but it is part of their general responsibility which has an additional sanction, which would mean the person would lose legitimate trade as well as being fined for the particular offence.

Q216 Chairman: Can I just ask how much this licence is going to be?

Lord Whitty: The estimate we have put so far is that the basic application for a licence may be up to £750, and the charge for audit could be another £1,500 or so on top of that. That is a very rough estimate.

Q217 Chairman: You said something at the beginning that if Mr Sheridan's bill starts to run out of time in terms of the Commons proceedings, that the government would have to look at this. That is not what I would quite call a ringing endorsement. You said you supported the principles of Mr Sheridan's bill, does that mean the government is going to make certain, come what may, Mr Sheridan's bill gets on the statute book before Parliament finishes for the summer recess?

Lord Whitty: The process for a private member's bill is the time allocated in the House of Commons. You would not expect a humble member of the House of Lords to comment on that!

Q218 Chairman: Minister, you and I both know that if the government wants to the government can, and this government has precedent of taking over a private member's bill to see it through to the statute book. Are you discussing such a contingency with your colleagues?

Lord Whitty: We are confident at the moment that when we emerge from committee we will have a bill we can get through in the normal way.

Q219 Chairman: Minister, that is not answering my question.

Lord Whitty: With respect, it is.

Q220 Chairman: No, it is *an* answer, but it is not *the* answer I was seeking.

Lord Whitty: Possibly not, but there you go!

Q221 Chairman: Let me ask I again. Are you discussing, or have you discussed with the Leader of the House or in the LP committee, a contingency plan that if Mr Sheridan's bill runs out of time to complete its stages as a private member's bill the government will take it over, yes or no?

Lord Whitty: No. No, I would not be involved in those discussions were they to have taken place. Clearly, if it ran out of time as a private member's bill there would be an issue the government would then have to face, in conjunction with all other

pressures for parliamentary time. It is premature to ask that question, and I am not giving you a premature answer.

Q222 Chairman: Who is going to take it on in the Lords then?

Lord Whitty: If it goes in the normal way through the private member's procedure in the Commons and succeeds in the Commons, then it will be taken on as a private member's bill in the Lords by my very good friend Lord Carter.

Q223 Chairman: Is it bomb-proof to the kind of imaginative repositioning of labour in the country? If an illegal gangmaster buys a smallholding in East Anglia and happens to have a very, very large labour force and he gets a phone call from his next-door neighbour which says, "I've got a field of lettuces that desperately need cutting, can you send your lads round", and no money exchanges legitimately but one farmer does a favour for another with a very large gang of people and then subsequently some money is exchanged in the pub at night, does the bill cover that kind of circumnavigation of normal employment relationships?

Lord Whitty: I am not sure it covers every circumnavigation. It is important that the statutory instrument includes provision of labour by the gangmasters themselves as well as providing labour which is then employed by somebody else.

Q224 Chairman: You said earlier on that you and your colleague ministers have been discussing Mr Sheridan's bill, and one of the essentials in good legislation is to scenario-play through where a proposal may have ways in which people can get round it. Have you done that?

Lord Whitty: Yes, which is why the terms of the bill are likely to be drafted in fairly broad terms, and some of the details would have to be put in secondary legislation; but the secondary legislation would be designed to cover as many loopholes as possible. I am not sure we would be able to cover every transaction in a country pub late at night; but with somebody acting as a gangmaster they could not cover that up (as some gangmasters already do) by also owning a farm and calling a workforce of 200 their farm labourers. That would be excluded by the bill. There are, of course, numerous examples in agriculture of farmers helping each other out. I do not think that would be caught by the bill and nor should it be caught by the bill; nor should traditional agriculture contracting be caught by the bill. There are some fairly detailed ways in which we want to block off loopholes, without catching people who are not really concerned with this area and are perfectly legitimate operating as they do.

Q225 Ms Atherton: Will the secondary legislation be brought before the House before the summer recess?

Lord Whitty: No, it cannot be until the bill has proceeded through both Houses of Parliament. We may be able to give an indication but it would not be brought in—

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Q226 Ms Atherton: But you would anticipate it coming to the House at the very first opportunity?

Lord Whitty: Yes.

Q227 Alan Simpson: The Committee has had considerable evidence of gangmasters breaking all sorts of laws at the moment. What makes you think that they will take any particular notice of the licensing scheme you are proposing to back? It is the cowboys I am asking you about?

Lord Whitty: There are a lot of cowboys about but, at the end of the day, the cowboys have to sell their services. If it is the case that this Jim Sheridan bill is backed not only by the T&GWU, the NFU and the fresh produce people and by the retailers, then parts of that backing must be that, once a licensing system operates, they undertake as far as they can to ensure that the produce they sell in their shops is not provided by somebody who has used an illegal gangmaster. Their understandable excuse (and I am not being pejorative about this) so far as been, "How can we tell? There is no list." This creates an offence on the farmer, the grower or the pack-house owners in the first place for using non-licensed labour, or being provided in breach of the licence, and it provides that there is a list which the whole of the food chain can enforce. Whilst obviously enforcement activity sanctions in the bill are very important, the real sanction here is that somebody who uses illegal labour will not get their produce appearing in Tesco's.

Q228 Alan Simpson: That is the critical test?

Lord Whitty: Indeed.

Q229 Alan Simpson: I am a passionate supporter about a national licensing scheme, but when the Committee received evidence from Zad Padda, who is a legitimate labour provider, one of his concerns is that there is a certain amount of duplicity in the position taken by major supermarkets. Many of them say they would like a national scheme, but the pressure on the suppliers is "Who can provide us with the cheapest deal?" The pressure is always to look for the cheapest labour in that process. In your submission to the Committee you make a point that you want to ensure that the bill will make provision for an offence of engaging the services of an unlicensed gangmaster. That to me seems to be the critical lynchpin on this because that, presumably, is where you would bring in a legal liability in respect of maybe farmers, food processors and supermarkets. Will that be matched with penalties?

Lord Whitty: The legal liability is on the user of the labour and the provider of the labour. The legal liability would be on the grower or the pack-house owner and not further down the chain. The point I was making about further down the chain was, if the supermarket or the processor than takes produce from somebody who is in effect in breach of that regulation they will be contrary to all their assurance schemes.

Q230 Alan Simpson: You are saying this is an offence?

Lord Whitty: The offence is the use of the labour.

Q231 Alan Simpson: Will that be a criminal offence?

Lord Whitty: It will be a criminal offence to use the labour. It will not be a criminal offence to provide the produce. The criminal offence is on the person who uses the labour or provides the labour.

Q232 Alan Simpson: Your submission to us states exactly the opposite. At page 6 of the submission, paragraph 22 at the top of the page, you say you want to ensure that the bill will "Make provision for an offence of engaging the services of an unlicensed gangmaster"?

Lord Whitty: Yes.

Q233 Alan Simpson: The person who commits the offence will be a farmer, a food processor or a supermarket?

Lord Whitty: No.

Q234 Alan Simpson: If you buy through a gangmaster you are engaging their services to supply—

Lord Whitty: If you buy through a gangmaster—but that is not the way the supermarkets operate. They buy from a farmer or from a wholesaler.

Q235 Alan Simpson: There will be a legal offence on the part of the farmer, the food processor, the wholesaler if they purchase from an unlicensed gangmaster?

Lord Whitty: If they use labour from an unlicensed gangmaster. To engage the service of an unlicensing gangmaster will be an offence. Tesco's do not engage the services. What they do, will do and are committed to, is to ensure, as part of their process, that they do not provide contracts to anybody who has used unlicensed labour. Hitherto they have been unable to check on that and have hidden behind being unable to check on that. Once we have got a national registration licensing scheme they will no longer be able to do that. The offence is on the part of the person who engages the labour, or the person who provides the labour.

Q236 Alan Simpson: It will be the farmer or the food processor?

Lord Whitty: Yes, the food processor. You are talking about somebody who is a first-line processor using casual labour, which is not the person with the big factories but the person who is, for example, topping and tailing vegetables.

Q237 Mr Lazarowicz: On the question of research which is to be commissioned by Defra and the Home Office on the whole issue, can you tell us either today or, if not, in writing, when were these tenders sought? When do you expect to award the tender and, most importantly of all, when do you expect the work to be completed on this research project?

Mr Webdale: The tenders were sought just before Christmas; bids were in by the end of January; and we are in post-tender negotiations at the moment with the one firm that came forward with a firm bid.

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We are hoping to commission the work within the next few days, assuming that those negotiations are successful. The plan is that there will be an initial report towards the end of May on some of the key aspects of the work that relate to the new manual harvest worker category that the Wages Board introduced last year; and a full report should be available within about six months.

Q238 Mr Lazarowicz: Six months from?

Mr Webdale: From the date we commissioned it.

Q239 Mr Lazarowicz: How big a project is this research work? How extensive is the scope of the inquiry?

Mr Webdale: The scope of the inquiry effectively looks at all aspects of the food chain where there is a use of gang labour in one shape or another; and also looks at the use of SAWS labour within that; the demand for SAWS labour; the impact the EU

Accession countries will have on the supply and demand for labour; and also seeks to look at the possible need or size of the source quota in future years. It is fairly all-embracing, which is why it has taken some time to set the work up, and why we had relatively few tenders because of the complexity of the work we are asking people to do for us.

Q240 Ms Atherton: Are we implying they only tender for easy work?

Lord Whitty: It has been known in universities!

Chairman: Minister, thank you very much indeed for joining us this morning. You will have a little shopping list from us and we look forward to hearing from you in due course. We thank you most sincerely for your evidence. If, in addition to the things we have asked for, there are any further points of clarification or information you would like to respond to, the Committee as always would be delighted to hear from you. Thank you.

Witnesses: **Beverley Hughes**, a Member of the House, Minister of State, Home Office, **Mr Brodie Clark**, Senior Director, Operations and Projects, Immigration and Nationality Directorate, Home Office; **Mr Chris Pond**, a Member of the House, Parliamentary Under-Secretary, Department for Work and Pensions, and **Mr Richard Kitchen**, Chief Investigation Officer, Department for Work and Pensions, examined.

Q241 Chairman: Ministers, you are most welcome. It is a bit like News at Ten—we have had the natural break after part one with Lord Whitty and we now have before us, from the Home Office, Beverley Hughes, Minister of State, and Mr Brodie Clark, Senior Director, Operations and Projects, Immigration and Nationality Directorate; and Chris Pond, the Parliamentary Under-Secretary at the Department for Work and Pensions, and Mr Richard Kitchen, who has a much shorter title, the Chief Investigation Officer of DWP. You are all very welcome to this second session this morning, dealing with the subject of the follow-up of our report on *Operation Gangmaster*. Can I start, Mr Pond, with you because in operational terms, if I have understood the government's response to our report correctly, your Department takes the lead on *Operation Gangmaster*. Could I ask you, first of all, when the tragic news of Morecambe Bay unfolded what was your first ministerial act?

Mr Pond: My first reaction, if you like, was the same reaction as all of us, which was of shock. My first ministerial act was, of course, to talk to ministerial colleagues to talk with both the Members of Parliament for Morecambe and for Ellesmere Port to have a meeting with them within a matter of days of that tragedy happening, and to discuss with officials, including those in the Health and Safety Executive, what further action was necessary immediately to respond to that tragedy.

Q242 Chairman: When you said you talked to your ministerial colleagues, did you do that on the telephone or did you summon a meeting when it became evident that there were aspects potentially of

gangmaster operation involved in the tragedy of Morecambe Bay? How did it actually work out? Which ministers did you speak to?

Mr Pond: I think initially it was by phone, Chairman. I spoke also to Lord Whitty, on that occasion, over the phone, and also to Alun Michael face to face because, of course, he has responsibilities in relation to the gangmaster licensing bill. Subsequently, of course, we have had meetings with the Minister of State, with me here, and with Lord Whitty to discuss the response to this Committee and, inevitably, all of our discussions are overshadowed by that tragedy in February.

Q243 Chairman: For the record, when did the first roundtable ministerial meeting take place to discuss Morecambe Bay and the implications for *Operation Gangmaster* and, if you like, your response to our report? When did those things occur?

Mr Pond: The first meeting between myself, my honourable friend the Minister of State and Lord Whitty was on 18 March, when we were discussing our response to this Committee and, of course, also the gangmasters licensing bill. Prior to that, I have had bilateral meetings with Alun Michael, and discussions over the phone with Lord Whitty immediately following that incident.

Q244 Chairman: Did you think it was quick enough to wait nearly a month and a half to have a ministerial discussion about following up what had occurred?

Mr Pond: I do not think it would have been quick enough if it was directly in response to that tragedy. As you will be aware, Chairman, the response of my Department, as of other departments, to that

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tragedy was immediate. We offered assistance, particularly to the police, immediately; in fact in the early hours of the morning following one of my officials was discussing with the police and the other agencies engaged in considering what had happened, what should be done and the investigations. We were working immediately on that. The meeting on 18 March was to discuss our coordinated response, as I think you would expect, to the Committee's further enquiries; but, inevitably, part of those discussions was related to what had happened in the tragedy in Morecambe Bay.

Q245 Chairman: Let us go back to when the government published its reply to the Committee's report, a reply that was published on 10 December. We indicated that there was a need for improvement to be made as far as the government's response and *Operation Gangmaster* was concerned. When did you first gather as a group of ministers to consider the Committee's report? Was that also on 18 March, or did you have a meeting before then?

Mr Pond: No, we had a much earlier meeting.

Q246 Chairman: When was that?

Mr Pond: That was to consider the Committee's response, and that was on 11 November, I am advised. That was with Lord Whitty from Defra and my right honourable friend the Minister of State.

Q247 Chairman: 11 November?

Mr Pond: Yes, 11 November.

Q248 Chairman: That was the first time you met to discuss the Committee's report?

Mr Pond: That was the first time we met face to face. We had had previous telephone conversations. I had a conversation particularly with Lord Whitty in advance of that because, in terms of the recommendations that were raised, there were some important recommendations and we wanted to respond appropriately to those. Some of them required organisational change within the departments, and it was important we gave that proper consideration. We had a process of discussions leading up to that meeting on 11 November.

Q249 Chairman: It took you effectively from 18 September, when it was published, to 11 November to get round the table to officially respond to it. How did you set about between you evaluating the work of *Operation Gangmaster* in light of the Committee's findings?

Mr Pond: Can I explain that *Operation Gangmaster*, which is of course the enforcement element of the overall activities, is a responsibility of my own Department, the DWP. Following the report in September I was appointed as the minister responsible for overseeing and coordinating the work of *Operation Gangmaster*. One of your recommendations was—

Q250 Chairman: Can I stop you at that point because I want to be clear, and I am sure the rest of the Committee wants to be clear. When you say you are the minister responsible for *Operation Gangmaster*, Lord Whitty in evidence earlier pointed out that he is the minister responsible for policy as far as gangmasters are concerned. How do the two of you get on together in terms of working your way forward?

Mr Pond: We get on very well, I have to say.

Q251 Chairman: I am sure you are good chums.

Mr Pond: We have known each other for a very long time, Chairman! I should explain that the distinction we have got here is between the operation of the enforcement role—which is the coordination *Operation Gangmaster* does bringing together the different agencies through the regional forums—to look at what can be done, in a strategic way, to make sure we get the enforcement and the operational activity right. The policy responsibility lies with Defra and with Lord Whitty, as he has told you; and he also has responsibility, for instance, on Jim Sheridan's gangmaster licensing bill.

Q252 Chairman: We will come on that in due course.

Mr Pond: Those two fit together very effectively. The original recommendation in your report was that the minister should be directly accountable. I am now that minister. You also felt in your report that it should be Defra that should have that ministerial accountability. It was decided that because it was actually my department that was mainly concerned with the operational activities, and given that it was my department who had been coordinating *Operation Gangmaster*, it was more sensible that that was where the ministerial accountability should sit. That also sits, I think, quite comfortably with the policy issues being dealt with in Defra. The main groups with which we are concerned, and with which the Committee is concerned, are of course those working in agriculture, horticulture and food processing and, the industry which has risen to the top of the agenda, the fisheries industry, particularly shellfish. In those circumstances, it is sensible for Defra to be responsible on the policy end of dealing with gangmasters. In terms of operational activities it is my department that holds that responsibility.

Q253 Chairman: Is it not better to have one minister in charge of the whole thing, to give that degree of coordination and imperative which, certainly up until the publication of our report in September last, seemed to be lacking?

Mr Pond: I think one of the difficulties with that suggestion, Chairman, it does appear attractive initially, is that Defra itself (as you will be aware) has enforcement roles in relation to agricultural wages; it has no other machinery that deals with the enforcement end of things. My own department has been coordinating *Operation Gangmaster* as you know for some years. It has already an operational machinery—one of the lead members of that operational machinery is sitting to my left here—and we are in a much better position to make sure that,

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in effective terms, we can improve the enforcement and the coordination across departments. At the end of the day, it is not tidiness I think we should be concerned about, it is effectiveness. We believe it is more effective if DWP coordinates the enforcement activity—but I stress “coordinates”.

Q254 Chairman: You have evaluated *Operation Gangmaster*—what did you find?

Mr Pond: We are undertaking an evaluation, as you know, at the moment.

Q255 Chairman: When did this evaluation begin? When did you start work on it?

Mr Pond: The formal evaluation began in October last year.

Q256 Chairman: Here we are, six months on, and you still have not finished it. Why has it taken so long? You have been involved in this, Minister, for some considerable time. This is not a new kid on the block?

Mr Pond: No.

Q257 Chairman: Why has it taken so long to evaluate it, particularly in the light of our forensic report which illustrated many of the failings of what was *Operation Gangmaster* up until September?

Mr Pond: Indeed, we responded to that.

Q258 Chairman: The question is: why has it taken you so long?

Mr Pond: If I could answer the two parts of your question, Chairman. We responded to your report. Your report made a number of important recommendations. I think it is fair to say most of those recommendations we have pursued, including the appointment of a minister with direct accountability. That had to be our first priority. You will understand that the circumstances that occurred with the Morecambe Bay disaster have meant that the focus also has to be very much in that direction.

Q259 Chairman: With respect, our report was produced in September last year. The investigation which we carried out began before that and most departments witness what select committees are doing—I would have thought that the perceptive department would have started this process quite some time ago. Are you saying that the work in finishing off this analysis has not been done? Lord Whitty said that some kind of interim report had now been produced and, quite magically, by the end of the month in one week’s time the final report is going to be available. Is that correct?

Mr Pond: It is not magic, Chairman, I asked for that report to be available at the end of this month. It will be presented to me at the next Fraud steering group, which will be on 5 April.

Q260 Chairman: Lord Whitty said it was going to be May when you were going to have this information. Who is right?

Mr Pond: Different departments obviously have to give their ministerial responses.

Q261 Chairman: The minister in charge of gangmaster policy gets his final version in May and you get yours in April?

Mr Pond: I can give you an assurance that Lord Whitty will be getting the report before that. I have asked for the report to be ready by the end of this month.

Q262 Chairman: Does this interim report exist?

Mr Pond: It does exist.

Q263 Chairman: Have you seen it?

Mr Pond: It is in draft form. I have not read it, but I have seen it.

Q264 Chairman: You have just looked at the front cover and said, “I’ve seen it”?

Mr Pond: No, the Informal Economy Steering Group met yesterday to consider the draft of this report.

Q265 Chairman: So what does it tell us?

Mr Pond: This morning as I emerged from the Pensions Bill and before coming into this meeting I was shown a copy of the report. In the few minutes available I have not had an opportunity to read that report but it will be in its final form—

Q266 Chairman: Given that you are responsible for *Operation Gangmaster* and given that you talk to the people who undoubtedly have been undertaking this work, have you not since last September or October, when the work actually started, said to them, “How are things going? Are you finding anything interesting?” or has this not crossed the ministerial radar?

Mr Pond: I have done more than that, Mr Jack.

Q267 Chairman: Tell us about it, we would love to know what you have found.

Mr Pond: I would be delighted to. On a monthly basis I have reports from the Fraud Steering Group. At each of those meetings I receive reports as to what is happening with *Operation Gangmaster* and of course in recent months, both with the events surrounding the Select Committee’s report and the tragedy of Morecambe Bay, inevitably I receive reports on a much more regular but perhaps sporadic basis.

Q268 Chairman: The question I asked was in connection with the evaluation of *Operation Gangmaster*. There is a difference between what is happening on a day-to-day basis in terms of the level of activity of enforcement and evaluating whether you have got the scope, scale, structure and resources right of what is *Operation Gangmaster*. So if you have been so closely in touch with it, what have you found?

Mr Pond: As I have been explaining, we have got a series of gangmaster operations which are going on at the moment, 11 in total. In the submission we gave you we reported 10 of those.

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Q269 Chairman: You have discovered another one, have you?

Mr Pond: No, we have started another one since we submitted the memorandum to you. This is a higher level of activity than we have ever seen before in *Operation Gangmaster*—

Q270 Chairman: Yes, but Minister, with respect you are missing the point. The question I am asking about is not how hard this is all working. There was a structure that the Committee commented on, right, you were evaluating the findings of our report and looking yourself at the structure, the scope, the scale, is it working effectively, have we got the right people, have we got the right resources. All I am asking for is what have you found. So far you have told us that there is lots of activity but in evaluatory terms what did you find?

Mr Pond: There is a great deal of activity and that is the most important thing but I would ask you, Mr Jack, in your days at the Treasury how long did you expect it to take for an evaluation of an operational form of activity to take? We have asked for this evaluation in October following your report. This is a separate assessment from the normal reporting to Ministers which we would normally expect. I have asked for that report to be ready by the end of this month. It is already in its final draft form and it will be submitted to me on 5 April. That will be a thorough evaluation of how *Operation Gangmaster* is working and what changes are necessary beyond the changes which we have already implemented as a result of your Committee's report.

Q271 Chairman: The Committee notes, and I shall not pursue it any further, that in the time since we concluded our report your evaluation has yet to be produced and, in spite of the fact you have taken such a close personal interest in it, you are not able to tell this Committee any of the specific findings of this particular work. Can I just ask you in terms of the Informal Economy Group which you have mentioned, and indeed the other working groups which are associated with it, how often have they met since September 2003 and who is on the cast list?

Mr Pond: The Informal Economy Steering Group met, as I said to you, yesterday and that is the group for which the evaluation is being prepared. It met also on 17 December. The Informal Economy Working Group—and the distinction between those two is that the working group is concerned with those officials who are directly involved in the operation activities, and the Steering Group consists of the senior officials concerned with strategy—met on 12 November, I am told, and on 18 February. The Gangmaster Co-ordination Group established as a result I understand of your Committee's recommendations and overseen by Defra, met on 19 December and on 1 March and enforcement agencies participating in *Operation Gangmaster* also met on 18 March. That is in addition, of course, to the regular meetings which are held on a quarterly basis by the regional fora of *Operation Gangmaster*

and of course the meetings which I have mentioned which are the full steering group meetings, which take place—

Chairman:—I want to pass to one of my colleagues to continue our questioning but I think it would be helpful to us in getting a clear picture of how the Government's effort in this area is wired together if you would be kind enough, given that you have talked to us about a steering group, a co-ordinating group, there is the Informal Economy Group, there is the connection between ministers, to provide us with a little organisational chart to show us who is involved and how is it wired together, how does it work, and perhaps to reconfirm the meetings and perhaps some of the major subject areas that were discussed.

Q272 Alan Simpson: May I just follow that point because, Minister, when we had the first set of hearings one of the things that concerned the Committee most was that the panel of officials that came before us as the team that represented *Operation Gangmaster* had never met and they did not know each other. We almost felt that there was this operation that had been in existence but it almost had a surreal or virtual existence. It is helpful that you have specified the number of meetings that have taken place since our report came out. Would it be possible for you to just enlarge on the request that the Chairman has put down so that we can see the diary of meetings that have taken place and the officials who were part of those meetings because there were lots of telephone conversations that appeared to have taken place over the years preceding our inquiry but those were virtual meetings rather than actual meetings. If we could have that breakdown it would be extremely helpful.

Mr Pond: I am sure we can do that, Mr Simpson, and also what I would like to reassure you about is that when we are talking about the operational activities on the ground through the regional fora of *Operation Gangmaster* those people who are working on those operations do know each other, they do not have virtual meetings, they talk to each other, they work together, they make it happen on the ground. I think your concern is in relation to the higher-level strategic officials and what I would seek to reassure you all on that as well is that—partly stimulated by the Committee's report I think it is fair to say—there is now much better co-ordination both at a ministerial and an official level than might have previously been the case.

Q273 Diana Organ: In response to the point Alan has made, can I just ask from the event that happened at Morecambe Bay—because ministers did not meet until 18 March which was only last week, six weeks after the event—if you could put in the note that you are giving us of the dates of when any officials met on this how many times the agenda item of the meeting was about the incident at Morecambe Bay. We would like to be able to track that through. There are various drivers with this. There is the Private Member's Bill from Jim Sheridan which is a driver. There is the on-going

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work and the review of illegal gangmasters. But there is also, what must be—one would hope anyway—the great galvanising effect of the tragedy that happened at Morecambe Bay. I think the Committee would be interested to see how many times officials met and ministers met and anybody concerned with gangmasters and illegal working actually met and had on the agenda items of that meeting the event that happened in Morecambe Bay.

Mr Pond: Yes, can I just clarify Mrs Organ, that when we are talking about the meeting on the 18 March that was not a meeting in response to what had happened six weeks earlier in Morecambe Bay. Of course the tragedy in Morecambe Bay was on the agenda. It is on all of our minds when we are discussing these issues all of the time. The meeting on 18 March was about making sure that the recommendations the Committee had put to us back in September, to which we had responded initially in the Government's response, were still working effectively and to make sure that when we came to this Committee we were all properly briefed in terms of the sort of information you would want us to have to hand, but it was not directly in response to Morecambe Bay.

Q274 Diana Organ: Thank you, that is very interesting because when I asked the same question of Lord Whitty about when did Ministers meet about the incident at Morecambe Bay he told us that the date you met about Morecambe Bay was 18 March and when I subsequently said, "That was a bit fortuitous because you were all coming in front of us today and it was only last week" the answer we received from Lord Whitty was that actually the Morecambe Bay event galvanised the meeting on 18 March. You are saying no, that meeting was not for that purpose, it was to prepare yourselves for this meeting today and to look at the on-going work. Are you saying then that there was no ministerial meeting that was put into place as a result of the tragedy at Morecambe Bay?

Mr Pond: No, I am not saying that, Mrs Organ. What I am saying is that inevitably the tragedy in Morecambe Bay hangs over everything that we do in this area. I mentioned in the very earliest response to Mr Jack a number of the contacts we had had between Ministers. Some of these were face-to-face, some of these were over the telephone and some of these were the more formal meetings that we have discussed. There has been a great deal of activity around the issue of what happened in Morecambe Bay but inevitably we are in a situation where the police investigation is still continuing in Morecambe Bay. As I explained, I and other Departments have given as much assistance as we possibly can to that police investigation and there has been a lot of input of resources and activity into that process. That has to be the priority for all of us. Inevitably, Ministers who have responsibilities in this area talk to each other all the time and we would not be either human or effective Ministers if we did not do so.

Diana Organ: I understand what you are saying but if this had been some other disaster, if it had been an air disaster or a rail disaster with the numbers who

lost their lives, there would have been statements in the House, there would have been, I think, a little more urgent activity on the part of Ministers. We may all be concerned about people in the agricultural sector who are being exploited and abused because of illegal gangmaster workings, and that is one issue, but in this instance as a result of the particular situation these people lost their lives and, more importantly, they could get in contact with their families in China but did not know how to contact somebody locally to give them assistance when they were dying. I find it very difficult to say this is an on-going process, that we were not driven. Not one of you seems to have the issue that this is about as bad as it can get when people lose their lives and we have to deal with this issue now and it is no good going on with an on-going review.

Chairman: Just to follow that up, Minister of State, I was intrigued, bearing in mind the response of the emergency services, that no Home Office Minister went to the North West to at least show interest and have any kind of initial discussion, so perhaps when you respond to Ms Organ's points you might just address that as well.

Diana Organ: Because we were told it was a fisheries incident and that the Minister Ben Bradshaw was involved because it was cockling and it was a fishing incident. We know from the work that you have done so far that this is a complex issue, but people have lost their lives, and I think it is a little more than about who got a fishing licence.

Q275 Chairman: The Minister of State has sat there very patiently. I am sure she is just aching to give us her view so she can start and Mr Pond can finish.

Beverley Hughes: On the Morecambe Bay tragedy I was contacted by officials, as I would have expected to have been, as soon as that was known in the late evening of Thursday. I immediately instructed officials to keep me informed right throughout the night of developments, which they did. On the Friday I made sure, because I was in my constituency at that point, that IND officials were there working with the police to set up a Gold Command. The priority then, of course, was to see if there were any survivors and to make sure that people were cared for in the first instance. The police set up their Gold Command. IND were part of that and indeed there are still two officers seconded to what is an on-going investigation. It is not simply saying we have got to see the process through or saying it is an on-going investigation, that actually is very important, but we do not yet know—and I think this is an important issue for the community—whether this was a gangmaster issue. We do not yet know until the police have finalised their investigations, whether the Chinese people were employed directly or whether gangmasters are involved. Notwithstanding that, I have nonetheless instigated an investigation as to IND's involvement, both in that incident and also more generally in relation to cockle-picking activities. I would say until we actually know whether it was gangmasters

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or whether it was direct employment we do need that information before we can act to undertake whatever action is necessary.

Chairman: Just for the record, your constituency is Stretford in Manchester. If my geography is not completely skew-whiff, if you were in your constituency, given the fact that irrespective of the cause this was a human tragedy that occurred, why did you not go to Morecambe to witness what was happening?

Q276 Diana Organ: I am sorry to cut across but who is the Minister responsible for illegal gangmasters? Is it Lord Whitty? We are trying to work out who is responsible for what. Who actually takes responsibility? If a report comes back from the police that there is illegal gangmaster activity going on in Morecambe Bay in which the Chinese are involved, which Minister is responsible for that?

Beverley Hughes: The responsibility, as I think you have heard, and I will stand corrected by my colleague, for policy around that area is with Defra. The responsibility for enforcement in relation to gangmasters is with DWP. Clearly where foreign nationals are involved and illegal working is involved, the Immigration Service also has a responsibility in the context of its overall enforcement and removal responsibilities in relation to illegal working by foreign nationals.

Q277 Diana Organ: So three Ministers are responsible. Somebody has to make decisions.

Beverley Hughes: There are legitimate interests and responsibilities from different Departments in what, as you have already said, is a very complex issue, and that is the case across many areas of government. It is not necessarily either possible or desirable to put every single issue into one Department for all purposes. I certainly would not want IND's responsibilities around enforcement insofar as they do enforce in relation to gangmasters to be hived off from its overall responsibilities for illegal working and immigration matters. That would not work. What we have to get right and tight and strong and robust is the co-ordination between different Departments at official and ministerial level to make sure that in respect of the contribution we respectively make to a particular issue, in this case gangmasters and illegal working, we are doing as much as we can and we are adding value to the contribution of one another and that those co-ordination links are very strong.

Diana Organ: Do you not think the co-ordination would be much better if we had one Minister who was ultimately responsible for illegal gangmaster activity? Things done by committee, unless it is done by select committee—

Q278 Chairman:—We will have the two ministerial answers because I can see they both want to contribute. So, Minister of State, you finish and then Mr Pond can give us his view and then we can ask another question.

Beverley Hughes: As I have just tried to explain, I would not want, and I think it would be completely counter-productive to our overall enforcement effort against illegal working and people being illegally in the country, to try and hive off part of the Immigration Service's contribution and put it somewhere else. We need those connections. When an enforcement operation takes place by IND the intelligence might not indicate what we are going to find. That is why we link together enforcement on illegal working with enforcement of, say, failed asylum seekers. Very often the people are one and the same; they are both failed asylum seekers and illegal workers, and not necessarily in the agricultural sector. So the complexity of trying to hive off a bit to put into another pot would make our responsibility around those issues very, very difficult indeed to implement. What I am trying to do is to make sure that we have the necessary links very strongly at ministerial level so that we can contribute to the activity in relation to gangmasters as far as we can but also keep up with what we are charged with doing which is in the enforcement in relation to illegal working and the removal of people who have no right to be in the country.

Q279 Diana Organ: But there are a lot of complex issues in a Government that introduced joined-up government. Broadband is one; we have one Minister responsible for broadband.

Beverley Hughes: We could cite a number of issues in which it is not possible to have one minister responsible and I think in the many layers of government at local government, regional government and central government level, it is not possible when you need to, as you say, have effective joint working to put every single official and every policy area in one particular department. What you do need, as you rightly say, is the strong links and the joined-upness so that it works seamlessly. However, it does not necessarily all have to be in one place.

Chairman: We will come back to probe that but Mr Wiggin would like to follow it up.

Q280 Mr Wiggin: I was very interested by your answer that it is all enforcement. Can you explain why only eight people have been prosecuted and found guilty under Section 8?

Beverley Hughes: There has been a real difficulty with the way in which Section 8 is working currently and the structure of the defence that Section 8 gives to employers and the documents that they can say they have seen in order to have a statutory defence as the law is currently defined. That means that whilst a number of prosecutions have been brought the courts are not convicting people, and I have to say as well even when they convict people the sentences that are being given to the very few convictions we can secure do not come anywhere near, in my view, the level of fines that we should be seeing. There is a statutory maximum of £5,000 per illegal worker and in the most recent case, which I think was last year with a conviction of a person found to be employing eight Polish people illegally, that employer was fined £100—£12.50 for each worker. So we have had some

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real barriers and difficulties both in getting the convictions because of the nature of the statutory defence, and even when we can, having gone through a very labour-intensive process of mounting a case, the sentences from the courts have not sent the signal that this is a really serious issue. That is why we are actually changing, after consultation with employers through the Illegal Working Steering Group, which I chair, which includes members from the NFU and people who can speak to me about the agricultural sector, the way in which Section 8 will operate so that we can make it clearer the documents that employers will have to see and putting those documents into two groups. We are removing some of the documents from the list because they are easily forged and I hope through that process it will be less easy for employers to demonstrate a satisfactory defence and therefore we can get more of our prosecutions successfully moving to conviction.

Q281 Mr Wiggin: Before I come back to that, could you answer the Chairman's question on why you did not go to Morecambe?

Beverley Hughes: As I said, I was in my constituency and I had reports all through Friday and Saturday and Sunday from officials as to what was happening on the ground. I think the local MP, Geraldine Smith, did an excellent job of representing the issues on the part of her constituency.

Q282 Mr Wiggin: She did that before the disaster, did she not?

Beverley Hughes: Pardon?

Q283 Mr Wiggin: She actually did that before the disaster?

Beverley Hughes: Yes but she was speaking as the MP on the media all through that weekend. I spoke to Geraldine during that weekend and my view was that the focus then in those two days of all the emergency services was to make sure that they were dealing properly with the urgent situation which was to see if there were any survivors, to search for people who might yet not have died, and it was not appropriate for a Minister to go up there and add to what Geraldine was doing. She was perfectly happy with that and I think she did a very good job over that weekend. I went down to London in order to deal with this on the Sunday afternoon so I was there first thing on Monday morning and I called officials together for a direct report to me round the table as to what was happening. I think that was the appropriate thing to do. I would not want you to have the impression that I was not fully informed and having a grip of that situation as far as my responsibilities were concerned throughout the whole of that weekend; I was.

Q284 Mr Wiggin: It is very difficult to know how seriously the Home Office takes this because there is always this worry that the reason so little is being done by the Home Office is because you are worried that there will be an increase in the number of

asylum applications if you pursue it, and that is why so little seems to be going on; is that the case or is that just what the officials are telling us?

Beverley Hughes: That is not the case. Certainly since I have been Minister I have instituted bi-monthly reports to me on enforcement operations, and what is going on. I have insisted that the local enforcement offices have a much more robust way of reporting and recording what they are doing because I do not think they were recording everything they were doing so they were not able to tell the full story of their enforcement activity. Any upper-tier operation demands my approval before it goes ahead and I have—

Q285 Mr Wiggin:—I am just waiting for you to finish—

Beverley Hughes:—I was waiting for you to listen. I have a bi-monthly report on all operations, the number of operations, I am asked for approval for all the upper tier operations before they take place and I have a report on the outcome of all of those operations. We have put more investment into enforcement and removal. Over the last financial year an extra £40 million has gone into that. We have seen during 2003, 446 operations in total and the increase in those that are taking place in the agricultural sector, the food labour provider sectors has also increased. I think the first nine months of 2003—you asked for the information and you said the Home Office is not doing anything. I just want to tell you what we are doing.

Q286 Mr Wiggin: You have allowed 27,000 more people to come in and you have only prosecuted eight people successfully. It is difficult, even though you are answering in as long a way as possible, to see that you are doing anything at all.

Beverley Hughes: I am not answering in as long a way as possible, Mr Wiggin. I am just saying that the number of operations in the first three-quarters of 2003 in that sector was, I think, 16. That has increased to 18 over the last four months alone.

Mr Wiggin: 18?

Q287 Chairman: 18?

Beverley Hughes: Just in that sector.

Q288 Mr Wiggin: 18 or 80?

Beverley Hughes: 18 in the last four months from November to February. But out of a total of operations of 446 across the sector. The Immigration Department has to focus on those operations where we think—intelligence tells us—there will be foreign nationals involved. That is clear, we are an immigration department and it is where we think there are immigration offenders. The priority is also on those whom we think we can remove. So the Service will make its decision on the operations both that it leads on and those that it will contribute to, and that does not include the operations it has contributed to through the *Operation Gangmaster* process.

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Q289 Mr Lepper: Before we get more involved in the question of enforcement, which I think we have really moved on to now, can I just perhaps return for a moment to the question of whether it would be better to have one Minister, at least as the public face, for everything that the Government is doing on gangmasters. You obviously have one view about that and I think you will sense that this Committee probably has a slightly different view. We do have a memorandum that was submitted to us yesterday by the Department for the Environment, Food and Rural Affairs and we have been told earlier that is actually a memorandum on behalf of the Government, not just the Department. That is so, is it, this is a Government response?

Mr Pond: Yes.

Q290 Mr Lepper: Why did we not get it until yesterday?

Mr Pond: In answer to that question, Mr Jack, this was something that Defra was co-ordinating. Each of our Departments made a contribution towards that. We wanted to make sure that we got as much information to the Committee as possible before your deliberations today. Apologies on my behalf if people feel it was not soon enough but we needed to make sure we got as much to you as quickly as possible and bringing together the response of the three Departments was necessary to give you a Governmental view.

Q291 Chairman: Does it take that long then to get three Departments to produce what is actually quite a thin document? Does it really take that long?

Mr Pond: Clearly it does, Mr Jack, yes.

Q292 Chairman: You have had a lot of time to reflect on the facts of the matter since the Government reply was produced on 10 December. Perhaps this shows the degree of priority this matter has in your Department.

Mr Pond: The status of this document was very much an update from the earlier response.

Q293 Chairman: When did your own Department's contribution head in the direction of Defra, just for idle curiosity's sake?

Mr Pond: My colleague Richard Kitchen—

Q294 Chairman: Does Mr Kitchen want to tell us?

Mr Kitchen: We made contributions over the last three or four weeks.

Q295 Chairman: Three or four weeks?

Mr Kitchen: It has been an iterative process headed by Defra who have been clearing the final draft with Lord Whitty, I understand, before sending it over here. I know they were still working on it last week.

Q296 Chairman: Just so that we understand the joined-upness that the Minister of State illustrated to us earlier, we have got three or four weeks ago pieces of paper from DWP filtered their way towards

Defra and then Defra have been bringing together—I presume, Minister of State, your Department made a contribution. Did you make a contribution to this?
Beverley Hughes: Yes, I think you have got to look at—

Q297 Chairman:—Just before we go to this, when did yours head its direction to Defra?

Beverley Hughes: This has been—

Q298 Chairman:—The question was when?

Beverley Hughes: It has been an iterative process since the publication of the first substantive—

Q299 Chairman:—Minister, let me ask the question. I hope I am enunciating my words clearly. When did the Home Office's response that got incorporated into this document start its journey to Defra? When did it leave you? When did you sign it off? I presume you signed it off?

Beverley Hughes: I did sign it off.

Q300 Chairman: When?

Beverley Hughes: I cannot recall when I signed it off. Some time in the last fortnight.

Q301 Chairman: Some time in the last fortnight? So you are two weeks and DWP—

Beverley Hughes: No, you asked me when I signed it off. It was a process that was going on before that. As I say, this update builds on the response that you received in December. In formulating that response, just for the record, I met Lord Whitty on 16 October to discuss the immigration aspects of your original report. We then had the further two meetings that have already been referred to on 11 November and then subsequently on 18 March. I cannot remember, but we will give you the date, after the December report was produced and in the light of Morecambe Bay and the need to update you, there has been a process over recent weeks when we have wanted to update and finalise—

Q302 Chairman:—I am intrigued by all this. Clearly Morecambe Bay has had a tremendous focusing effect but I get the impression that nothing much happened between 10 December and the tragedy at Morecambe at the beginning of February that gives me any impression that any kind of work was actually going on in this area at all.

Beverley Hughes: I do not think that is the case—

Q303 Chairman: You have just said Morecambe Bay triggered something, "Oh gosh, we have got to reply to Defra; they are going to have another go at this."

Beverley Hughes: There have been a number of developments. There has also been Jim Sheridan's Bill and colleagues in Defra and DWP have been considering—

Q304 Chairman: Mr Sheridan's Bill arose out of the tragic events of Morecambe Bay.

Beverley Hughes: No, that is not true.

Diana Organ: No, that is not true.

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Q305 Chairman: In terms of it coming before the House there is an association between the two, but I accept my colleague's observations that the work began on that earlier. What actually did happen in the Home Office in between December and Morecambe Bay on this? Were you busy providing information through to DWP?

Beverley Hughes: There were a number of things. Discussion around Jim Sheridan's Bill did, as your colleague just said, predate by some considerable time discussions between Departments at official and ministerial level about the response to that and formulating a response. I also from January to now have had two meetings of the Illegal Working Steering Group and these issues were discussed there, together with issues in relation to our response and update to your report. So it was a normal process of further consideration of the initial response in December together with how we could update you on what was being done and driven as well by considerations of Jim Sheridan's Bill and then later the events in Morecambe Bay, which were clearly relevant. Or we think they may be relevant. We do not know yet if it is gangmaster activity, but clearly there was something very wrong.

Chairman: Mr Hall has a short question, Mr Drew has one and Mr Breed has one. In that order please, gentlemen.

Q306 Patrick Hall: Can I follow up a point made by colleague here to the Minister, the point about the Government's response. Could I just go back to your earlier remarks about the evaluation report which becomes an annual report on *Operation Gangmaster* which was completed, you will see, at the beginning of April you said, and Lord Whitty will see it later. When will it be published?

Mr Pond: I would be very happy, Mr Hall, for the Committee to have that at the earliest opportunity. It will need of course to be cleared by each of the other Ministers. I will certainly do that very quickly, I am sure my Right Honourable Friend will move very quickly, and although Lord Whitty is not here, I know he shares our sense of urgency on this. So I hope that the Committee will have an opportunity to see that very shortly.

Q307 Mr Drew: Can I go back to something Beverley Hughes said as an aside but which concerns me and that is the degree to which this is being steered from outside this country. When you were talking about the prosecutions you were talking about prosecuting British nationals. Can you just give the Committee an understanding—is this something that is tackleable at a national level or is it pan-European or even pan-world in terms of who is actually bringing illegal labour into the country and does that mean to actually attack the gangmaster issue you have got to work with other governments, let alone, dare I say, the problems you have got working across Departments?

Beverley Hughes: You are quite right but we need to be clear. There is an undoubted connection between organised international crime, people smuggling, people trafficking, and people ending up in the

country illegally. How far the problem of rogue gangmasters connects with the international dimension, I think that is the bit that is unclear. Clearly, for example, if the Morecambe Bay incident and the employment of those Chinese people does turn out to have had some connection with gangmasters—and we do not know that yet but if it does—then that clearly is some evidence, because we are also pretty clear that most Chinese people who come in here come in through a very highly organised system with Chinese criminals behind it. That is why both in the Immigration Department and through the multi-agency on organised immigration crime, Reflex, which supports IND as well as leading on its own on major disruptions of international trafficking, their work is so important. As I say, we cannot be quite clear how far it does connect with your focus of interest which is rogue gangmasters, but I think clearly there will be some connection because we know that so much of illegal working is connected to international organised crime. There is a great deal of work going on, not only with other countries to police the routes through but also with source countries from which people come to help them develop both their criminal justice and their policing and their intelligence systems. We have people out in a number of countries helping to raise the game of source countries so we can actually tackle the traffickers there as well.

Q308 Mr Drew: Can I just have a quick supplementary to that. What other countries are you talking to in terms of their ability to track down on illegal use of labour and is there a model anywhere within the EU that we could look to as the basis that they have maybe not overcome this but they are further forward than we are in terms of the ability to deal with people who set themselves up to broker employment of illegal labour?

Beverley Hughes: As I say, I just have to be careful that you understand that we are not clear how the comments I may make generally impact in relation to the gangmaster situation. But clearly I think some of the work at the international level that would be exemplary for you to look at is the work that we have done in the UK, say, with Romania, having people out there, helping them to develop their intelligence systems and their policing operations, actually working with them to raise the skill level and the capacity of their officers to identify and to police and to detect illegal operations that actually start in that country, and I have had contact with Romanian ministers too because we are working very closely with them. I think that is a good example that I would cite. I do not think we are behind the game in this in terms of other European countries. I think we have got some exemplary work going on with officers in the UK, the police and IND on the international scene and I think it might be very worthwhile for you to look at that.

Q309 Mr Breed: During our original report on gangmasters we learned that *Operation Gangmaster* is a pretty uncoordinated effort by the Government

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in trying to address this particular issue. That is highlighted in our report. We also have now learned that in June Geraldine Smith wrote to Ministers expressing her concern about Chinese cocklers. On 29 July 22 Chinese were found but they could not be held and they were released. On 4 August 37 were arrested but they could not be held either and they were released. On 10 September we produced our published report which you then responded to in December and then on 5 February we had the disaster. I know that we are talking with the benefit of hindsight but with that benefit do you think that either of your Departments acquitted themselves satisfactorily in response to what was clearly a problem which was being highlighted in a number of ways?

Beverley Hughes: I think that the record of operations in relation to cockle-picking led largely by DWP is one that shows that that issue was being taken seriously not only in Morecambe Bay but also elsewhere where cockle-picking activity was taking place with the suspicion that people were being employed illegally. I think we have to be careful that we do not fall into the trap of saying that the responsibility for something like Morecambe Bay is with the agencies who should have prevented it. I think the responsibility clearly has to lie with the people who were employing those people illegally and exposing them to terrible danger in which they paid with their lives. Clearly, having said that, when we get the result of the police investigation, and we know what we are dealing with here, whether it is a gangmaster issue or it is not a gangmaster issue, I think we will be better equipped then to ask the questions that you rightly ask—and it is right to ask them—is there more that we could have done and is there more that we can do more in the future together as Departments in relation to this particular sector?

Q310 Ms Atherton: Do you think resources was one of the reasons that when the Morecambe Police asked for assistance last year they did not receive it from the Immigration Service?

Beverley Hughes: No, as I say, we have increased resources in IND enforcement and removal operations nationally very considerably over this financial year.

Q311 Ms Atherton: I am sorry, I can hardly hear you.

Beverley Hughes: I will come closer to the microphone. I said we have increased resources by over £40 million in the last financial year and it is not yet clear when the police did ask IND for assistance. The Police believe, although there is no record, that they tried to phone the Immigration Service late on the evening of the 4th, although there is no record of those phone calls. IND actually got the first call through early on the morning on 5 August, and that was for assistance not with the operation if you like but assistance with identifying people because obviously we had foreign nationals involved. I hope that the investigation which I have instituted, which Brodie Clark is overseeing, into IND together with

the police investigation will elucidate the answers to those questions as to when assistance was first asked and got through to IND and when they actually responded.

Q312 Ms Atherton: We have talked about ministerial co-operation and we have talked about international co-operation. It does not sound to me as if there is a great deal of national co-ordination and co-operation. Do you think the agencies are working well together?

Beverley Hughes: Certainly my impression is that the agencies on the ground are working very well together. You will know, I think, that Ben Bradshaw made a visit on 26 February to Morecambe Bay itself and got people round the table. In fact, another Member of Parliament in that area John Hutton had had a similar meeting himself some time before and got people round the table and was happy that the agencies were working together. The agencies reported that they were working well together. I think that is what is crucially important. It is the agencies on the ground who know who they can pick up the phone to, who know that they can call in, who are sharing intelligence, who are co-operating on operations that will actually be led by different agencies according to what the intelligence says. It does not have to be the same organisation that leads all the time. What is important is that the resources and the expertise of different organisations can be brought to bear when they are needed in the context of any individual operation.

Chairman: Can I just ask for my greater education and understanding, last week we heard from the National Crime Squad and we know that the National Criminal Intelligence Service have an interest in these matters because for the last two years their annual report has commented on illegals and gangmaster operations. Last week we heard the National Crime Squad saying that they operated what they described as a level-three activity, which was a low-flying exercise looking at problems which they then filtered down to level one activity, which was to do with police forces and trying to get them interested in looking at matters connected with illegality and, inevitably, gangmasters. They did not in their discussion mention how they linked in with other agencies and one got the impression that this information was sort of filtering down through the system and some police forces were picking it up and acting on it, but there was no sense of how things were drawn together. Perhaps you could just wire it together for me. And then Ms Atherton wants to add something to my interjection.

Q313 Ms Atherton: I will finish my question afterwards.

Beverley Hughes: Reflex is the main organisation that I think you are talking about that brings together the National Crime Squad, IND, the police and all the agencies relevant to organised immigration crime, which will overlap with this issue.

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Q314 Chairman: Does Defra have any input into that?

Beverley Hughes: Defra is not represented on the board of Reflex but Defra and DWP and other agencies are connected into that through the Home Office.

Q315 Chairman: So the policy department for gangmasters does not have a seat at the board?

Beverley Hughes: It does not have a seat at the board.

Q316 Chairman: Why?

Beverley Hughes: This is an agency created to focus at that high level on organised immigration crime.

Q317 Chairman: Given the world of agriculture and horticulture why are they not there because they set the policy for this area? They should be at least there to listen to what is said, should they not?

Beverley Hughes: This is an operational activity. It is organised immigration crime and it does connect with gangmasters and labour providers but it is not wholly exclusively focused on labour providers but on the whole of illegal work in organised immigration crime. I think Brodie Clark—

Q318 Chairman: Would not policy generation from the Defra standpoint be better informed if they were listening to some of the detailed information which inevitably is fed back up the communications links that you have just been talking about from the operational people with the various Departments at a ground level? Should not all be sharing this information?

Beverley Hughes: Yes, but it does not mean to say that they all have to sit round the table of an organisation that is specifically operational at a very high level using intelligence to decide what operations should take place and who should be involved. With respect, to make the assumption that because they are not that either in policy terms or in more detailed operational terms for gangmasters they do not get fed back to the relevant Departments is wrong. Can I ask Brodie Clark to give some of the flesh on the bones of the “wiring” as you call it.

Mr Clark: I concur in relation to what has already been said in that the relationships at a local level generally are very good between immigration staff and particularly with police in terms of looking at taking forward joint operations and doing that in the interests of both those organisations. My impression of the relationships in the North West around the time of the Morecambe tragedy has been that they were very good also and I personally spoke with a group of police and immigration staff about two weeks after that occasion in some kind of debriefing arrangement and again both speaking very well and very strongly for each other in terms of how they had managed their way through that. But coming from that some learning points inevitably in terms of how the two organisations operate together under crisis situations. In terms of the higher-level issues and Reflex, these are joint fora, they are jointly funded, with participants from IND at senior

level sharing intelligence at a high level, producing very regular threat assessments in terms of the immigration issues for the Immigration Service to pursue and follow through, with a rather more operational, tactical management set of networks right through the organisations. So material is coming at the higher level and being worked through with IND, with NCIS, with NCS and then focusing directly through the organisations to delivery at the front-line. So a lot of those mechanisms are in place and working very, very effectively.

Q319 Ms Atherton: If I were an immigration officer working in the field what level of priority would I give to gangmasters?

Beverley Hughes: If you were working in the enforcement and removal operations you would give priority to those operations, wherever they are located, where the intelligence showed you that that would be the most effective place to deploy your resources because the intelligence was robust, it was comprehensive and showed you that you were more likely if you invested resources in that operation as opposed to maybe another to find a substantial number or a number of illegal workers or you were able to conduct an operation in relation to somebody about whom you had had suspicions for a long time, in other words taking someone out and trying to prosecute somebody who you felt really was a rogue gangmaster or employing people illegally and flagrantly against the law. So you would use intelligence to decide which operations are likely to be most effective from the enforcement point of view, and in that sense there is no fear or favour in terms of the sector.

Q320 Mr Wiggin: You must be very frustrated because you actually thought, I believe, that operations against cockle pickers had actually taken place in August? Is that not the case?

Mr Pond: Can I explain the circumstances, which I think are related to Mr Breed’s question. Of course there were multi-agency activities actually in the Morecambe area—*Operation Exodus*, and then in the Dee Estuary, *Operation Omega*, which was in August—activities which were in the same general geographical area. Further *Operation Gangmaster* operations were planned between March and April of this year, again in the Morecambe Bay area. Members of the Committee will understand why those operations have not gone ahead given that we still have a police investigation that is going on. In relation to Mr Breed’s earlier question, which I think is relevant to Mr Wiggin’s, there has been an activity to see what is happening. The question is with all that activity is there anything which could have been done other than having an officer from each of our Departments standing on the beach overnight 365 nights a year to avoid the tragedy that occurred? That is a question which all of us, especially those of us with ministerial responsibility, have had to ask ourselves. I think the answer has to be that clearly there is more that must be done. Hindsight is a wonderful thing and on this we will have to learn the lessons from the past.

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Ms Atherton: We had produced a report warning Ministers and the Government that there was a real problem in the wider agricultural sector relating to gangmasters working not only in cockles but in the whole agricultural and horticultural sector; it is going on today.

Diana Organ: I wonder if you could let us know what resources the Government and Home Office have given to police forces to cope with the problem of illegal gangmasters and in the light of the Sheridan Bill and the Morecambe issue do you intend to allocate additional resources for the police to cope with it in the future? What have been the instructions that the Home Office have given to police forces about the prioritising of this problem? Police forces have a wide range of issues to deal with, in the order of things how much priority is this to be given? What have you said as instructions and guidance to police forces, particularly in those areas like East Anglia where we know there are large agricultural gangmasters, illegal or otherwise, operating?

Beverley Hughes: All of the agencies get the resources allocated to them for a variety of purposes and it is up to the agencies to allocate those resources to the various activities for which they are responsible. In terms of the police, I think you have to look at the two recent prosecutions we have seen which were both police-led with Reflex involvement, the ultimate source prosecution and the Cox family whose prosecution, convictions and sentencing has recently been publicised. As I said, I get asked for approval from all of the operations, and I had another one today that has just come to fruition in terms of conviction, with the people being sentenced on 2 April, again police involvement. What happens is that through Reflex and also through the Regional Gangmaster Fora the DWP, the police, IMD, the IMD Intelligence Service, Defra and other agencies meet regionally to pool their information and to decide on a strategic basis on all of the information they have as to what is going on and what is concerning them, which operation they will either lead on their own or with the agencies and they will pull together and have a multi-agency operation. It seems to me that is a reasonable way to go about things, to make decisions on the basis of the shared intelligence and the assessment of that intelligence as to which operations are likely to yield the most results. That is a very credible way to go about it frankly.

Q321 Diana Organ: On the inter-agency work you are quite right, Minister. We are looking at gangmasters and they tend to operate, because it is to do with agriculture, in more rural areas, so police forces and police constabularies in places like Lincolnshire, Norfolk, Gloucestershire, Dorset and Cornwall are all police forces that are operating in predominantly rural areas so they are fairly stretched because of the distances. I am just a little amazed that it looks like it is not even going to come on to their radar because they have lots of other things they have to deal with and you are not giving them any particular guidance that this is an issue which is going on and it is an important crime. I can

understand that you work together but it seems there is no guidance going to the police forces in these rural areas that this is a crime that they should be looking out for.

Mr Pond: That is precisely why we need the targeted and co-ordinated response which *Operation Gangmaster* represents. We know that each of the agencies cannot do everything they would like to do in every part of the country so we have to use a risk assessment basis to work out where we are most likely to use those resources most effectively, to have that co-ordinated approach and to use those resources in the ways we have been describing. One member of the Committee suggested this was less than effective. It is a very effective way of making sure that we respond to a particular problem where we know that problem exists.

Q322 Chairman: Could I interrupt you, just talked about an operational matter in which you said that there has to be a risk assessment undertaken, who is calling the shots? Are we talking about an investigation which involves officers from your Department, the police, Immigration, the Nationality Directorate, are you deciding how that group is going to act in a particular set of circumstances or were your remarks focused solely on the DWP input on an operation that the Minister of State might be involved in? Help me because I do not understand that?

Mr Pond: *Operation Gangmaster* brings together a number of the agencies—we all heard about that—that is in addition to the normal work that each of those agencies will be doing in the enforcement and operational work. In terms of how these things operate the DWP acts for *Operation Gangmaster* as a secretariat on these matters. We will convene the agencies to invite them to take part in a particular operation once we receive a referral and we will make an assessment of that referral using pretty objective criteria as to how serious it is.

Q323 Chairman: Out on the ground is it that all of the inputs of different parts of Government who are involved in this are all ferreting about doing their own thing and suddenly they go, “There is a characteristic of something which looks like an illegal gang master operation”, and then it comes up to your co-ordinating body? Explain how the relationship occurs between the detection of activity on the ground and the initiation of and operation to deal with it?

Mr Pond: At a local or regional level it may be a referral which comes from a number of sources, it might be from the police, it might be from our own people in DWP fraud operations, it might come from individual referrals, it might come from another gangmaster, a gangmaster who is operating formally and legally who sees somebody else who is not.

Q324 Chairman: Given you have some experience in this field what do the statistics tell us so far?

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Mr Pond: I can give you information from those three gangmaster operations which have been completed so far, I cannot yet give you detailed outcomes for the 11 current and live operations for reasons you will understand, that there is some sensitivity there. You have as Annex A of the memorandum we submitted a breakdown on one of those, *Operation Christmas*, and we will be very happy to provide you with a breakdown of all of the others. To answer your specific question, Mr Jack, DWP's role here is in acting as a secretariat, it is in co-ordination. The involvement of the other agencies is voluntary and it will be determined according to the priority which they themselves place on a particular operation. We find that works well. We would be interested to hear further from the Committee whether you believe there are other ways in which *Operation Gangmaster* should be co-ordinated. On the basis of the experience we have had so far that seems to be working well.

Mr Clark: Can I say from our side a similar process is taking place in terms of looking at various priorities we have in terms of student abuse, marriage abuse, illegal working. We are also looking at the threat and the risk round those and we will undertake and agree to undertake operations. We come to those decisions at a fairly high level but we will percolate that through our organisation through our tasking arrangements and at local and regional level there will be liaison with other departments to talk about the engagement which needs to occur for these operations to move forward successfully. On a couple of other resourcing points which I think you mentioned, one is that we are constantly in the business of looking at where the resourcing lies and where it can be more effectively utilised. In the course of last year we moved resourcing round in order to allow new offices in rural areas to take up the role and carry forward their business. That is an on-going part of what we have to do to keep tracking and follow the threat and risk issues. The other thing to mention, which the Minister mentioned earlier, was a full review that we are now undertaking within the Immigration Service looking at the resources round enforcement of immigration law. That has now begun, it is in its second or third week, and we are looking at findings coming from that towards the end of July this year, that will help us determine whether we have the right level of resourcing in the right parts of the country doing what we judge to be the appropriate work in mitigating the risk.

Q325 Diana Organ: I wanted to go back to the issue about police resourcing and instructions. I recognise that in rural areas police have a lot of priorities and they are quite stretched. One way they are incredibly effective is if you take an example which happened recently where police resources were moved from Gloucester into the Forest of Dean to help with the Safer Streets Initiative in the market towns and by coming in on Friday and Saturday nights we had real results pushing down anti-social behaviour in those market towns and it had a lasting effect. Given that is done as normal policing, whether it is on a drugs issue or on anti-social behaviour, resources

are pulled in for a particular operation, when Jim Sheridan's Bill becomes law, not if, when his Bill becomes law would you expect to give guidance to rural police forces where we know that agricultural gangmasters operate to make them say, "What are we going to do, let us give an instruction about this?" This has to become one of the operations that is a priority for a rural police force. Will you give extra resources or instructions to rural police officers when that piece of legislation is in place?

Beverley Hughes: We will look at whether that is necessary. If we can give you a clearer picture of what is happening already it may reassure you that police in rural areas I do not think need that guidance or that push because most of the big operations, two of which I have just outlined which have been in the media recently, have been police-led in those rural areas, where they knew extensive illegal working and rogue gangmasters were operating. It was the police who led those, pulled the other agencies in and it is because the police are at the table both at a high level on Reflex and at the regional level on the DWP Co-ordinated Regional Fora of Operation Gangmaster that they are fully plugged in to their potential to assist with operations and are doing so. I do feel, and it is probably our fault, if we can give you a clearer picture both of the architecture, and it is complicated, which exists and also a clearer picture of the level and scale of operations across the piece that have affected this sector, whether it is being led by IND, DWP, the police or whoever you may still have some concerns but you may have some reassurance that the picture is not as bleak as you seem to think it is.

Diana Organ: If you go back to the evidence Geraldine Smith gave—and we know when the cockle beds were opened there were hundreds of people out on the foreshore collecting—it would seem in all probability, it was a jolly good bet—there had been concerns about Chinese workers in the town brought to the attention of the police and of local authorities and the MP long before—if a police officer were to go out one morning and just look at the foreshore where there were hundreds of workers and just interview one or two of them, and the same might be the case for the lettuce pickers in East Anglia.

Beverley Hughes: I would say in general terms this is a very tempting point of view and I understand it absolutely. The best way to make sure that you get the most out of the resources you put in in terms of enforcement is to base your decisions on what you do on the collection of intelligence first. Just dropping into a situation in the hope you will find some people actually takes a lot of resources often for little gain. We deliberately instituted an intelligence-led approach because the evidence shows if you collect your evidence first and your intelligence you get much more effective operations in terms of the numbers of people you find and people that you can, in terms of the organisers, apprehend.

Q326 Chairman: Minister, we would love to have your architectural clarity as long as it can be delivered in a slightly quicker time scale than other

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material which we have discussed because the Committee want to produce its report very rapidly, you are very welcome to send that information.

Q327 Patrick Hall: Two points, one is just an adjunct to that offer of the architecture, Minister of State, you included in that an example of exercises and operations, what I wanted to specifically say was, because there is confusion—at least I am confused having listened to Geraldine Smith’s evidence last week regarding IND operations in the Morecambe Bay area which may or may not have been joint with the police—could you include that in your note to explain to us what actually happened in the Morecambe Bay area in 2003 because that will help to clarify some unnecessary misunderstanding? The second, and maybe more substantive point I would like to make, arises from the evidence we heard last week from Bill Hughes, the Director General of the National Crime Squad when he was talking about Reflex. At one point he said in response to a question from me “Policing gangmasters is not something I see as an issue for the police at this time, it is for other agencies involved”. What that has made me think is that whilst illegality and exploitation are very much at the core of what Reflex is looking at I fail to see how people who are working for an illegal gangmaster are being exploited. I was trying to get from him whether or not gangmasters as such, certainly illegal gangmasters, are on the agenda of the National Crime Squad or perhaps Reflex in particular. I was not clear from the questions and answers whether or not gangmasters as such are at that level. If they are not at that level what emphasis would there be upon the operation of illegal gangmasters lower down the scale, particularly at local level? I would like that clarified. It seems that the attitude is, and there may be clear reasons for this, that gangmaster operations are for other agencies to deal with, not for the police and not for IND. I think there surely is an overlap and if that could be clarified and if you can assure me and this Committee that it is on the national agenda and therefore the signal locally, where it happens on the ground, is that illegal gangmasters can also be dealt with.

Beverley Hughes: Perhaps I can look at it in the context of the record of your question to Bill Hughes, I will not try and interpret it here. It may be that policing gangmasters might have been interpreted as checking on gangmasters. As I have made clear, and Bill has made clear in other circumstances, both in terms of the operation of Reflex at a very high level and also the operation of the police at a regional and a local level, it is a policing function—and it is one that the police have readily accepted—to enforce the law and to assist other agencies to enforce the law round illegal working, and that will include gangmasters. I did have a figure somewhere, Reflex is currently supporting nine operations by regional police forces that involve the activities of gangmasters and illegal working. Of all of the activities that Reflex has going on it is supporting nine directly by regional police services which are about gangmasters. In term of the

issue of enforcement there clearly is an acceptance by the police that it falls fair and square with them to work with other agencies.

Q328 Alan Simpson: When we started the inquiry into gangmasters the representations that we had from the trade unions and from some of the more reputable gangmasters was to say to us in agriculture we know there are reasonable markets therefore there is a need for seasonal labour. Their concern was that we should have a legal market for such labour rather than an illegal market. Is it not the case that we have, for whatever reasons, created a national framework where it is easier to make money now out of the exploitation of people than of selling crack cocaine? The fines you mentioned are derisory. There are issues about what sort of illegality it is. We had reports coming into us that set out the most horrendous treatment of people. When the police were involved by and large it was around one of two questions: “Are you here illegally?” Or “Are you defrauding the Exchequer?” That was it, the exploitation of people was not on anyone’s particular, strategic legal agenda. Is that not what we have to address? A revisiting of the work permit arrangements that we have in the United Kingdom that give a much more upfront approach to a legal right to employment that can be checked through a legal duty to be licensed as a supplier of temporary labour and a much tougher regime of criminal penalties for those who exploit it?

Mr Pond: May I respond first on that. I do not think you are right to say we have created a framework in which this sort of exploitation is encouraged. We have taken many of the measures necessary to provide people with their basic rights, the introduction of the minimum wage and the legislation on working hours. The fact that anybody, regardless of whether or not they are legally or illegally employed, is subject to the same protection under health and safety legislation. All of those measures are there but it will always be the case that there will be some ruthless and unscrupulous people who are prepared to make money, as you say, whether it be through exploiting people or exploiting the illegal drugs market, whatever the opportunity happens to be. It is our job all of the time, our in the most general sense, to make sure that we keep on top of those people and take whatever measures are necessary. In terms of the quota proposal I think the Employment Registration Scheme we are introducing to take account of the enlargement of the European Union and the eight Accession States will have precisely the effect that you are suggesting, people will no longer have to fear that they are here on an illegal basis. We will not be encouraging people to go underground into the informal economy and therefore to be even more vulnerable to this sort of exploitation. I think that will help us more effectively than a quota scheme would to achieve your objectives.

Beverley Hughes: I absolutely agree that the protection of migrant workers as well as British nationals from exploitation by unscrupulous employers is fundamentally important. In relation

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to migrant workers we have included in the Bill going through Parliament offences against trafficking for labour exploitation, for domestic slavery amongst other things, so that we have some really tough sentences that courts can give, a maximum of 14 years for people who are convicted of bringing people in for those purposes. I think this is an issue that is not just about migrant labourers, it is about the exploitation of people across the board by those who would make money out of the exploitation of people who are very vulnerable. Certainly as far as migrant workers are concerned I am determined we will bring all of the resources and pressures we can to bear to act as strongly as we can against any employer in any sector who is doing that, including the agricultural sector.

Q329 Alan Simpson: Leaving the immigration crimes to one side what we are also clear about is that really the cowboys in the system, those who are the most exploitative, go out in search of those who are most able to be exploited. It is quite clear to me that many of those who are most vulnerable are those who have had their rights to work removed from them, their right to work their and right to claim benefits, they are the sitting market really for an exploitable workforce either to be drawn into marginal illegality, i.e. doing legitimate work on a non-legitimate basis or into the networks of crime. In the review policy will that include a review of section 55 and the withdrawal of benefit entitlements?

Beverley Hughes: No, it will not on this issue or it will not on the removal of the right to work for people who have claimed asylum. It is fundamental to dealing with this problem, and I am talking about the problem of illegal working as well, in a sustained way that we separate those two systems. That is one of the cornerstones of government policy, and rightly so, to say to people, "If you want to come here and work we want you to but we want you to do so legally". That is why we have opened up the Seasonal Agricultural Workers Scheme, the work permit scheme, issuing work permits to ever-increasing numbers, and I have also opened up, as you know, on a pilot basis two sector based schemes for the lower skilled end, not at the moment for agriculture, but we are trying it out in food processing and hospitality to see how that works. We have to separate illegal entry and illegal working and using the asylum system from legal working and legal entry. In those circumstances in legal entry and legal working we have opened up opportunities as a government, as a political commitment to offer opportunities to foreign nationals who can contribute to the economy but they must do so in ways that are legal and that is why it would be wrong to go back on the decision to take away the right to work to failed asylum seekers. We have to separate those two avenues and that is quite fundamental.

Q330 Alan Simpson: Do you not accept there is an issue that needs to be separated but whatever decision is made by the State about someone's long-term rights to remain here ought not be confused

about their ability to survive short-term in that process. If we create a vacuum in which the only way you can survive is by throwing yourself into the hands of those who will exploit are we not part of the problem?

Beverley Hughes: I understand the point you are making entirely and it is a dilemma. The alternative is to go back to a situation where the pull factor of allowing people who claimed asylum to work and to be fully supported right until they left the country, given that many do not want to leave the country—and in some instances if we cannot document them we cannot remove them forcibly—I think constituted very significant pull factors to people using the asylum system instead of using the legitimate routes into work. We have welcomed that as a Government. We have faced some criticism from the Opposition and other parties outside but nonetheless we stand by that, it is what we believe in and that is why we have taken the decision on EU accession to give people the right to work immediately alongside the right to free movement provided we can monitor the situation. I make no apology for that, that is where we stand politically. On asylum we have to be clear and tough and we must not return to a situation in which both the right to work and unconditional support indefinitely remain part of that system because it will simply encourage more people to use asylum as a route in instead of the legitimate economic routes.

Q331 Chairman: You said "Provided we can monitor the situation" part of the problem is there are a lot of people in the United Kingdom who ought not to be here for various reasons who you find difficulty in monitoring, tracking down until they pop up perhaps as part of an illegal gangmaster operation, how are you going to improve monitoring over and above what you can currently do?

Beverley Hughes: The registration scheme that Chris Pond referred to for nationals of the EU Accession States will provide people with a legitimate way to work so they can work in a formal economy for a legitimate employer and through the registration process where they will have to give information about who they are working for, what their wages are, where they are based so that we can keep a record, a collation of the information, the numbers of people, where they are, what sectors, and so on. Through that process we can enable people to work but also have a system which enables us to know how many people are here and what they are doing.

Q332 Chairman: Will that mean they will have to have a job before they arrive or will it be left to their honesty to report their activities once they are admitted to the United Kingdom?

Beverley Hughes: People will have free movement to come into the United Kingdom as citizens of the EU, as any existing Member States nationals will have, they can come into the country provided they can support themselves, they then get a job and through their employer they can register with us and tell us what they are doing, where they are and we make

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sure they are getting paid properly according to the national minimum wage and also have an on-going process of collation so we know the impact on the labour market and what sectors people are working in, and just build up a picture of what is happening.

Q333 Paddy Tipping: Can we focus on benefit fraud for a moment or two, paragraph 20 of the memorandum is quite helpful, it shows that labour providers during the early part of this year approaches 2,000 and people have had their benefits stopped with a saving of £1.1 million. That means labour providers as a whole, which is wider than the scope of the Sheridan Bill, is that right?

Mr Pond: Yes, it is. I have to point out when we are talking about the sanctions and the amount of overpayments and monetary value adjustments benefits it will relate to the employees in those circumstances, not the employers, if we are to describe the gangmasters in that way. There has been quite a big stepping up, as you can see, in terms of the activity and the effectiveness of that. I ought to explain that does relate to the employees and not the employers.

Q334 Paddy Tipping: I am keen to put those figures in context, what is the total saving over the current financial year of benefit fraud in general, what proportion is that of £1.1 million?

Mr Pond: I cannot give you a precise figure on the proportion at the moment, I will send you a note on that. It is inevitably a small proportion of the total amount because we are achieving quite considerable gains in terms of reducing both fraud and error in the system, in particular fraud, and over-performing on our overall targets. I am reminded that a total of 24,000 sanctions have taken place over that period to which the 236 sanctions in the memorandum related. It is a small proportion but bearing in mind this is targeted activity we think it makes an important contribution and it sends a message through that we are not going to condone that sort of activity.

Q335 Paddy Tipping: If I have worked the figures out right that is about 8%.

Mr Pond: That is getting close, it is not bad. No, I think it is rather less than that, it is 0.8%.

Q336 Paddy Tipping: I was never any good—

Mr Pond: It sounded very good initially, I was prepared to keep quiet and accept that one.

Q337 Paddy Tipping: Is benefit fraud increasing? Are you putting more resources in?

Mr Pond: We are. In terms of the number of operations that we have I mentioned at the beginning it is the largest number of gangmaster operations we have ever had. Bearing in mind this is a relatively quiet period of the year we will expect this to increase as we get more of this seasonal activity involved. Overall we are putting about £4 million a year in the DWP in to *Operation Gangmaster* operations. Inevitably the determination of which operations we should pursue

are based on the evidence that we have we expect perhaps that might increase as well. What I would suggest to you Mr Tipping and to other members of the Committee is to extend an invitation to you—given that perhaps there might be some smidgen of doubt in your mind as to whether or not *Operation Gangmaster* is as effective as you might like it to be and we might like it to be—to visit one of the *Operation Gangmaster* regional forum, see how it works on the ground, see the real co-ordination between the different agencies, see the impact it has in terms of dealing with this illegal activity. My Department would be very happy to facilitate that sort of visit.

Q338 Paddy Tipping: That is a helpful offer. Let me try and tease you a bit further on this, you said that £4 million is spent on *Operation Gangmaster* activities, fraud activities within the Department, of the total resource that you have to fight fraud, the investigative part of the Department what proportion is it of that?

Mr Pond: It is significant. We spend about £126 million a year.

Paddy Tipping: You do the percentage this time.

Mr Pond: £4 million of £126 million is approximately 3%. Of course there are other parts of the activity, the Fraud Strategy Unit and the hotline which costs just under 1m. It is a significant proportion of our overall costings but we think it is very cost effective because it does draw the other agencies in to that work.

Q339 Paddy Tipping: How do you make decisions on how to allocate those resources on fraud?

Mr Pond: The DWP?

Q340 Paddy Tipping: Yes.

Mr Pond: First of all it will be the evidence base, whether or not we think that a particular activity is going to yield the results which would be appropriate given the resources that are invested, and that would be a decision that is very much based at a regional level but overseen by myself and by the Fraud Strategy Unit within the DWP.

Q341 Paddy Tipping: Are you telling us that you want to put more resource towards that?

Mr Pond: In our overall budget—inevitably there is not a pot of gold there—there is a considerable amount of resources already going in. Where we find there is a need for this activity resources will not be an inhibition to us taking the measures necessary.

Q342 Paddy Tipping: In the memorandum there is talk about the HSE becoming increasingly involved, and you mentioned the HSE yourself a few minutes ago, what kind of work is the HSE doing in relation to *Operation Gangmaster*?

Mr Pond: Because it has responsibility for work-related health and safety issues it is becoming involved increasingly in the gangmaster operations at a regional level. It has always been invited to take part. It is fair to say that until the relatively recent past it has been a judgment by the HSE that where

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there were not obvious health and safety implications that it would be inappropriate for it to allocate its resources in that direction. Earlier when Mrs Organ referred to seeing large numbers of cockle pickers on the beaches of Morecambe Bay and raising the question about why action did not take place, many of those people would have been there, first of all, quite legitimately and secondly quite safely as far as the Health and Safety Executive is involved. The tragedy in Morecambe Bay in February really focused all of our attentions on what can be the implications and the Health and Safety Executive has been looking at what further measures it needs to take, particularly guidance to people engaged in that industry, to make sure that neither the health and safety of the people employed in that activity or indeed of other third parties, if you like, will be damaged as a result of that activity going on.

Paddy Tipping: There has been good working practice by the HSE in some regions but following the Morecambe Bay disaster there is more of a policy lead from the centre.

Q343 Ms Atherton: Can you tell us the attitude of both your Departments to Jim Sheridan's Bill, please?

Mr Pond: We are supportive of the Bill. Initially, as you know from our response to your report and indeed your report itself, there is a concern that the Bill itself is not going to solve all of the problems. Licensing can make a valuable contribution to dealing with the issue but given much of the activity we have been discussing it is by its very definition invisible, illegal and is outside the formal economy and these are not people who are going to rush forward to licence themselves as legal operators. We do believe that as one of a number of measures it will make an important contribution. We still need to make sure we sort out issues of enforcement and that we have time to because we have to set up the licensing scheme first. There will be an issue about effective enforcement and if the enforcement is not effective then this will be seen as just another gesture. I have had a number of discussions, I mentioned this earlier on, with Jim Sheridan himself, with Alun Michael, who is doing the work within Defra on the Bill, and with other organisations like the T&G and with some of the other major players, the retailers' organisations, and so on and so forth, to give support to the Bill.

Q344 Ms Atherton: Can you tell us when you met Jim Sheridan?

Mr Pond: I have had two or three meetings with him, by recollection the last one I had with him was something like three to four weeks ago. I am happy to give you a note on that.

Q345 Ms Atherton: Have you met the T&G?

Mr Pond: I have met with them and I have had lengthy discussions with them round the Bill before the discussions with Jim himself.

Q346 Ms Atherton: We might pursue that further at another time. I pleased you think it is an important contribution. Could I ask you Beverley Hughes for your Department's view?

Beverley Hughes: We supported the Bill from the start and we felt that the Government should support it, I felt so and the Home Secretary also made his views clear in the process of discussions amongst ministers and views being expressed as to whether the Government would support it. We did so from the outset. Once the tragedy in Morecambe Bay took place we were also concerned that on the face of it it was not at that point necessarily clear that it would extend to fisheries, and again the Home Secretary made his views known that he thought in supporting the Bill we should make sure that it extended to that sector as well.

Q347 Ms Atherton: You both support it. Presumably you will be arguing for the Government to make parliamentary time to secure it going through before we rise for summer recess?

Mr Pond: When Mrs Organ said "when and not if" the Bill becomes law I have to say that is because the Government is supporting it. It will become law.

Q348 Ms Atherton: I am delighted to hear that. Lord Whitty who is leading the policy would not give that commitment this morning. If there has been a revision in the course of the morning we are absolutely delighted but I suspect that is not the case. You two ministers sitting here now are telling us that you will make sure that Jim Sheridan's Private Member's Bill becomes law and that time will be made in the Commons and the Lords to make sure that it goes through.

Beverley Hughes: It is a Private Member's Bill and it is going through the Private Member's Bill process and obviously everyone understands what that involves. As far as the Government can give this Bill a fair wind we are giving it a fair wind and we want to support it.

Q349 Chairman: Can we just pin you down, these are all lovely words, giving it a fair wind and supporting it, it is slightly different from a rather clearer set of words which says, if the time is available. If the private members process runs out will the Government take this over as a Government measure? Have you discussed that?

Beverley Hughes: I cannot give you that commitment today and that is probably the point at which Lord Whitty could not give a commitment because that will depend on business managers and the way parliamentary time is allocated. What we want to see is this bill will become law through the private member's bill process. Unless anybody puts any obstacles in the way I cannot see any reason why that should not happen.

Q350 Chairman: That is still sidestepping ever so slightly the question because it will have been considered in the legislative committee as to what

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the Government's attitude would be if by any chance it runs into some problems in either this House or the Upper House.

Beverley Hughes: If everybody, including the Government, but also including other people, supports this Bill I cannot see any reason why it will not go through on the Private Member's Bill process.

Alan Simpson: Having had considerable experience of trying to get various Private Members' Bills through the House I know that many of them survive or fail according to the Forth principle—the Member for Bromley and Chislehurst—all it needs is one Member of Parliament to decide to play silly buggers with it and the Bill gets talked down. I think it is important that Committee members press Ministers here about an early statement about the extent of government support because I think it changes the nature of the debate which will take place round the Jim Sheridan Bill. If all Members of the House understand that if the Bill is frustrated by any individual Member or chicanery the Government will step in and will pick up that Bill. I think it will change the nature of the discussions round the Sheridan Bill. It is a plea for the Ministers to take this away and to be in discussion with their colleagues such that there is that clear sign put out.

Q351 Chairman: The Ministers are champing at the bit to give you the answer that you want.

Beverley Hughes: I was simply going to make the point that the commitment of the Government and all Government departments for this Bill could not be clearer, it is absolute, we want to see this on the statute book. There is also an onus on every political party to make sure that the process that it has now embarked on through the Private Member's Bill process is not thwarted by any individual. It seems to me that individual parties have a responsibility because this is the best way to get this Bill on the statute book at the earliest opportunity.

Mr Pond: Given that the Bill has Government support, given it has support from both sides of industry, given it clearly has support out there in the country by the public I think any individual Member that tried to use the tricks and chicanery of the parliamentary process to block this Bill would have more than either the Government or the Committee to worry about in terms of the response they got.

Q352 Chairman: If somebody did do these dreadful things to which you just referred would you pick it up?

Mr Pond: That is a matter which will have to be determined by the business managers, it is not something that either Minister sitting in front of you can give a commitment to do this morning.

Q353 Chairman: Would your respective Departments make a recommendation that your secretaries of state fought for it to be picked up if it trips over?

Beverley Hughes: We have an opportunity to get this on the statute book now with process that it is in. It would not be right to give a commitment to say that

if somebody fouls up that process when they do not need to the Government will give parliamentary time and affect another part of its parliamentary programme in advance.

Chairman: I think it is clear you have not or you are not able to make that recommendation.

Q354 Mr Lazarowicz: In our report last year we were concerned about migrant gang workers knowing their rights. In the first Government report and the follow up report the only practical examples given are some leaflets in Portuguese and some work in a CAB¹ in South Lincolnshire, what steps are you taking to try and assure these migrant workers have rights when they are here legally, for example material in foreign language?

Mr Pond: As you know a number of voluntary organisations, especially Citizens' Advice have been taking a very constructive approach with our support to make sure that people know what their rights are. There was the question that Ms Atherton asked about what happens before people get here. Members will recognise this is really quite a significant task to disseminate the information in the countries of origin to people who are not yet here. In that respect I think we would have quite a job on our hands to try to do that. We have to make sure that through the voluntary organisations already doing this job to some extent, through our own departmental mechanisms, particularly the guidance which I mentioned the Health and Safety Executive is issuing to people working in that industry about the safety requirements, just to remind them about some of the basic precautions which they may know about but may have forgotten, those are the measures that are likely to be most effective.

Q355 Chairman: Could I just ask you, one of the things which worried me is because there are a lot of people in the United Kingdom who ought not to be here—some of them are here for all kinds of reasons we do not know about—when you arrest people in connection with one of your prosecutions—I see Minister in Annex A says “54 people interviewed”—do you do an analysis of their status, first of all, to know for what reason they are in the United Kingdom?

Mr Pond: I am advised this would depend on the reason they were arrested in the first place.

Q356 Chairman: I am just interested in the cases which have come to court to get some idea of the background as to why those people were here, for example were they overstaying or were they brought in especially to be illegal immigrants and therefore vulnerable to exploitation by gangmasters; whether they were United Kingdom nationals who did not want to be recognised officially, and so on and so forth, to understand a little more about the vulnerability that leads those individuals who become involved in this activity to be vulnerable in the ways that they are? Would it be possible to have

¹ Citizens Advice Bureau.

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some statistical analysis done in respect of those cases which have come to court so that we might get a better idea of the profile of the people who are the subject of the these illegal forms of employment?

Mr Kitchen: I feel obliged to talk about Annex A which relates to *Operation Christmas* and to explain the process. We have through *Operation Gangmaster* an intent to create operations which bring together enforcement agencies in cases where they would not otherwise be done because they would not be done by the individual departments under their own compliance agenda. At the point of which you undertake the operation the people are interviewed to find out firstly whether they are able to work in the United Kingdom, secondly whether they are on benefit, and this is the employees, the two major issues are unemployment benefit of some form of another or the right to work. If they are “right to work” cases then it is usually passed to the Immigration Service to deal with those issues which properly lie within. The whole point of a gangmaster operation is to have the right resource, with the right skills, the right legal background—

Q357 Chairman: The reason I asked that question, and I am still seeking after the facts, the Minister of State made it very clear and indeed the Under-Secretary made it clear that you are about focusing your resources where you are going to get the most effect. This is a big and a complicated subject, I was after getting some idea of the background. I do not

mind how the information is shuffled up and down the line but it would be helpful for the Committee to have some kind of breakdown in respect of those cases where successful prosecutions have enabled you to interview the people who were being illegally employed. I would like to know whether they were, for example, brought into the United Kingdom to be exploited, arrived here and fell on hard times and were exploited or whatever? I could do with some background.

Mr Kitchen: I am sure we can come up with some analysis of the background of the people who are dealt with through *Operation Gangmaster*. I am equally confident we could do something similar on the wider DWP activity, I do not know about the other departmental activity.

Q358 Chairman: Perhaps you can use the *Operation Gangmaster* mechanism to ensure that between DWP and the Home Office we might get a comprehensive answer to that question. Ministers and officials, may I thank you most sincerely for your patience as we have gone through a lot of questions. We are grateful to you for coming before us. If after you have reflected further on what we said there is anything else you would like to add in addition to that which we have requested we would be very happy to receive it. Minister of State, I am not certain we will have time to come and look with the clarity that you wish at some of the architecture but if there is any wish then we will communicate directly to the Home Office. Thank you very much.

Supplementary memorandum submitted by the Government

What work programme, agendas, timetables and deadlines were set for the Gangmaster Coordination Group?

1. As we explained in our Reply to the Select Committee’s report the main forum for coordinating enforcement operations, including “Operation Gangmaster”, remains the Informal Economy Steering Group chaired by Inland Revenue (see section 5 of the notes to Annex B). However in recognition of the inter-relationship between enforcement issues and the development of policy on labour provider activity in the agriculture sector, the Informal Economy Steering Group invited Defra in July 2003 to convene a Gangmaster Coordination Group. No specific timetable or deadlines were set when the group was established.

2. The Gangmaster Coordination Group involves senior officials from departments with an interest in agricultural gang labour issues (see section 2 of the notes to Annex B). It is normally chaired by a Defra official and reports to Defra’s Food and Farming Minister to ensure proper coordination of both enforcement operations and policy development relevant to agricultural labour providers. The purpose of the group is to review progress on all relevant activities and to report to the Food and Farming Minister at regular intervals.

3. Since the publication of the Select Committee’s report on 18 September the Gangmaster Coordination Group (chaired each time by Defra except on 19 December when it was chaired by Cabinet Office) has met on four occasions. Details of the issues discussed at these meetings and those attending are set out at Annex A.

What deadlines were set when the evaluation began for delivery of the report evaluating Operation Gangmaster?

4. Following the initial inquiry by the EFRA Select Committee into Government activity against illegal gangmasters in September 2003, Chris Pond requested that a full evaluation of Operation Gangmaster be completed by 31 March 2004. A draft of the report was presented to the Informal Economy Steering Group at their meeting on 22 March 2004. Additional contributions from other Government Departments will be incorporated into the final report.

When will a copy of the interim report of the evaluation of Operation Gangmaster be available?

5. Chris Pond explained to the EFRA Select Committee on 23 March 2004 that the report of the evaluation of Operation Gangmaster is being presented to him at the next meeting of the DWP Fraud Steering Group on 5 April 2004. This report will be presented to the Committee shortly after this meeting. This evaluation will then feed into an annual report for 2003–04 which will include finalised results from all participating departments up to 31 March 2004.

Details of formal and informal meetings of Ministers about gangmasters and related issues since September 2003; the agendas of those meetings; and particularly for information about meetings related to the incident in Morecambe Bay

6. Details of meetings attended by Ministers to discuss Gangmasters and related issues since September 2003 are set out below:

- 7 October 2003—Lord Whitty met representatives of the Ethical Trading Initiative to discuss the ETI's code of best practice for labour providers, the forthcoming forum for labour providers (held on 9 October) and the report of the EFRA Select Committee's inquiry into the activities of gangmasters.
- 16 October 2003—Beverley Hughes met Lord Whitty to discuss the immigration matters raised in the EFRA Select Committee's report on gangmasters.
- 20 October 2003—Telephone call between Lord Whitty and Chris Pond about the role of DWP in enforcing and coordinating Gangmaster activity in response to the EFRA Select Committee report on gangmasters.
- 11 November 2003—Lord Whitty (Defra) met Beverley Hughes (HO), Dawn Primarolo (HMT), Chris Pond (DWP) and Gerry Sutcliffe (DTI) to discuss the Government's response to the EFRA Select Committee report on Gangmasters.
- In January Alun Michael was asked to take the lead on the Gangmasters Bill in response to Jim Sheridan. Since then Lord Whitty and Alun Michael have met frequently to discuss the issue of gangmasters in general and/or Jim Sheridan's Bill. In particular they had formal meetings on 12 and 13 January (the latter with Jim Sheridan MP), 2 and 25 February (the latter with Margaret Beckett) and 22 and 24 March. Lord Whitty and Alun Michael also discussed the same issues by phone on a variety of occasions including extended conversations on 16 January and 23 and 24 February.
- Alun Michael also had a number of informal discussions with several Ministers about Jim Sheridan's Bill. These include Gerry Sutcliffe (DTI) on 26 January, Chris Pond on 2 February (by phone), Beverley Hughes on 2 February, Douglas Alexander (Cabinet Office) on 4 February, Dawn Primarolo (Treasury) on 6 February and Keith Hill (ODPM) on 6 February. The Bill was also the subject of correspondence between Margaret Beckett and Ministers from other Government departments.
- 2 February 2004—Illegal Working Steering Group chaired by Beverley Hughes and attended by Gerry Sutcliffe (DTI). The Group provides the main formal mechanism for consulting employer groups and other key stakeholders, such as the TUC, CBI, HSE and CRE, in illegal working issues. Information about the agendas of these meetings are contained in the note to Annex B.
- 9 February 2004—Chris Pond, Lord Whitty and Alun Michael met Jim Sheridan MP and other supporters of his Private Members Bill, including TGWU.
- 12 February 2004—Chris Pond met Andrew Miller MP and Geraldine Smith MP to discuss DWP involvement in Operation Gangmaster.
- 25 February 2004—Illegal Working Steering Group chaired by Beverley Hughes and attended by Gerry Sutcliffe (DTI).
- 8 March 2004—Lord Whitty and Alun Michael met Zad Padda and Dr Jennifer Frances to discuss the code of best practice project for labour providers and the newly formed Association of Labour Providers.
- 17 March 2004—Gangmasters was an agenda item at a bilateral between Margaret Beckett and Patricia Hewitt.
- 18 March 2004—Lord Whitty, Beverley Hughes and Chris Pond met to discuss the Government's memorandum which was submitted to the Select Committee on 22 March 2004.
- Gangmasters were discussed at a meeting with trade unionists attended by Lord Whitty and Alun Michael on 15 March 2004. Alun Michael also held meetings with the NFU and TGWU on 24 and 29 March and he met Mark Boleat from the Association of Labour Providers on 22 March.
- 31 March 2004—Alun Michael and Chris Pond met a delegation of the Standing Committee for the Gangmaster Licensing Bill

- Chris Pond receives monthly oral updates on Operation Gangmaster activity and wider action against illegal working in the Informal Economy from DWP officials through the Fraud Steering Group Meetings. These meetings took place on 9 September 2003, 23 October 2003, 18 November 2003, 16 December 2003, 19 January 2004, 10 February 2004 and 8 March 2004. He visited Cornwall on 23 September 2003 to meet officials who work on Operation Twin Stem. In addition, Chris Pond had a number of informal contacts with Members of the House immediately after the tragedy in Morecambe Bay, but no record was kept of these contacts.
- Lord Whitty has received regular oral and written progress reports from officials on gangmaster issues including Operation Gangmaster and the development of the ETI Code of Best Practice for labour providers. Alun Michael is holding frequent meetings with his officials on the Private Members Bill.
- Beverley Hughes received regular updates on a bi-monthly basis from the Immigration Service on illegal working enforcement operations. She also received detailed advice on planned major UKIS operations before they took place, and reports of the outcomes of such operations. She frequently met officials to discuss illegal working policy issues.

7. Following the Morecambe Bay tragedy Ben Bradshaw, Minister for Nature Conservation and Fisheries, had a number of discussions and meeting about the tragedy with other Ministers, MPs officials and representatives of external organisations. The dates of the meetings were as follows:

- 10 February 2004—Mr Bradshaw met Defra officials.
- 12 February—Mr Bradshaw met Geraldine Smith MP and Andrew Miller MP with Defra officials in attendance.
- 17 February—Mr Bradshaw met Defra officials.
- 24 February—Mr Bradshaw met Defra officials.
- 24 February—Mr Bradshaw spoke to Geraldine Smith by telephone.
- 24 February—Mr Bradshaw spoke to Chris Pond in the margins of a Joint Ministerial Committee (Europe) meeting.
- 25 February—Mr Bradshaw spoke with Bill Callaghan, Chair of the Health & Safety Commission, about whether health and safety law could be used to close Morecambe Bay.
- 26 February—Mr Bradshaw visited Morecambe Bay where he met Geraldine Smith MP and representatives of the North Western and North Wales Sea Fisheries Committee, Lancaster City Council, Government Office for the North West, Health & Safety Executive, Bolton Le Sands Parish Council and Lancaster County Council.
- 26 February—Mr Bradshaw attended a meeting organised by the North Western and North Wales Sea Fisheries Committee. Also in attendance were representatives of Bolton Le Sands Parish Council, DWP, English Nature, Environment Agency, Fire Service, Health & Safety Executive, Immigration Service, Inland Revenue, Lancashire County Council, Lancashire Fire Service, Lancashire Police Authority, Lancaster City Council, Maritime & Coastguard Agency, Morecambe Bay Partnership, National Asylum Support Services, North Western and North Wales Sea Fisheries Committee, Silverdale Parish Council, South Lakeland District Council and Warton Parish Council.
- Ben Bradshaw also had a number of informal contacts with members of the House of Commons between the dates of the Morecambe Bay tragedy and the visit to Morecambe Bay but no record was kept of these contacts.

8. Beverley Hughes met Geraldine Smith MP on 12 February. She also had a number of meetings with Immigration Service officials to discuss the incident.

9. Chris Pond had two conversations with Alun Michael over the weekend of 7 February to discuss Morecambe Bay. He also had a conversation with Jack Dromey of the TGWU. Chris Pond also received an update of the situation at briefing for oral questions on 9 February and the Fraud Steering Group on 10 February.

What Government expenditure is provided to support the work of Operation Gangmaster?

10. The DWP operational activity within the Informal Economy is funded via a budget of £4.8 million per year which stems from the Grabiner report into the Informal Economy published in March 2002. The DWP's direct interest in Operation Gangmaster for benefit fraud takes an ever-changing percentage of this budget, dependent on the value of information received and of the individual operations initiated in concert with wider Informal Economy compliance activity across the Department.

Organisational chart setting out the responsibilities of the Illegal Working Steering Group, the Informal Economy Steering Group and Working Groups, the Gangmaster Coordination Group and the regional forums of Operation Gangmaster and the relationship between them

11. This chart is attached at Annex B.

What enforcement activity was undertaken by Home Office and DWP in the Morecambe Bay and the surrounding area in relation to cockle-picking during 2003 and up to February 2004?

12. This information is contained at Annex C.

Examples of other Immigration Service illegal working enforcement activity

13. This information is contained at Annex D.

What meetings did Chris Pond hold with the TGWU about the Jim Sheridan Bill—when were the meetings held and what was their nature?

14. Chris Pond spoke on the phone to the TGWU several times during the weekend of 7 February. TGWU were also present at the meeting on 9 February with Lord Whitty, Alun Michael and Chris Pond.

What plans does the Inland Revenue have to increase the size and number of specialist teams over the next few months?

15. The Inland Revenue currently has 18 staff working in the two specialist Labour provider/Gangmaster teams in Southern and Central England. The Inland Revenue is committed to tackling the problem vigorously and the government has provided £5 million over the next three years to create a national network of specialist teams.

16. From April 2004 an additional 50 staff will start to tackle non-compliant Labour providers/Gangmasters and another 20 staff will join them a year later. These will be front line investigators tackling Corporation Tax, Income Tax and PAYE irregularities. The teams will be based in regional locations to ensure local intelligence and information is gathered and acted upon. They will work closely together and with other government departments under the umbrella of Operation Gangmaster.

What was the immigration status of those affected by the Operation Gangmaster enforcement actions where court proceedings have been concluded?

17. Operation Gangmaster has not resulted in any immigration-related court proceedings. However, as recent press reports have shown the Immigration Service has been actively involved in supporting police investigations resulting in the prosecution of a number of gangmasters involved in committing serious immigration and money-laundering offences. In March this year, two British nationals, two Ukrainians and two Latvians based in the Cambridgeshire area were found guilty of money-laundering and using false documents and replica immigration stamps to provide illegal workers to farms and factories. Their sentences are awaited on 2 April but the foreign nationals are all likely to be deported on completion of their sentences. In addition, a British father and son from Norfolk were found guilty at a separate trial of facilitation, fraud and forgery offences at Canterbury Crown Court following a two-year police-led investigation. They have each been sentenced to seven years imprisonment. Serious criminal investigations into the activities of two other gangmaster operators based in Norfolk and Sussex are also ongoing.

What research has been undertaken since September 2003 looking at the size, scope and scale of the problem of illegal gangmasters?

18. As is explained at paragraphs 3–5 of the Government's memorandum and during the evidence given by Lord Whitty on 23 March 2004 Defra and Home Office are evaluating the tender received for a project to research into the use of seasonal and casual labour in the agriculture and related food processing and packaging sectors.

19. Health and Safety Executive is considering whether to commission a complementary study into specific health and safety issues related to activity in the Informal Economy. Defra and HSE are considering whether scope exists for including the study within the proposed contract for the research described at Paragraph 18 or whether the study should be undertaken separately on the basis of information produced by the Defra/Home Office research.

Question 334 of the transcript of the evidence session—In relation to paragraph 20 in the memorandum provided to the Committee, Mr Tipping asked what is the total projected saving of benefit fraud in the current financial year in general, and what proportion is £1.1 million of that?

20. The Department for Work and Pensions does not set an annual target of savings against benefit fraud. The DWP Public Service Agreement Target 10a aims to reduce loss due to Fraud and Error for people of working age in Income Support and Jobseeker's Allowance, with a 33% reduction by March 2004 and 50% by 2006 and in Housing Benefit, with a 25% reduction by 2006. The Department is on track to meet this target. The Government is committed to a long term real reduction to Fraud and Error rather than a commitment simply to annual targets.

21. The majority of working age loss is currently thought to be in the Formal Economy although a small percentage is certainly due to illegal working in the Informal Economy. The figure quoted in the memorandum of savings of £1,117,753 in the period April 2003 to January 2004 is due to action against the employees of labour providers under routine compliance activity in the labour provider industry, and includes Operation Gangmaster initiatives. Over the same period the total benefit fraud savings were £135,750,033. It should be noted that these figures may be subject to change as results are finalised.

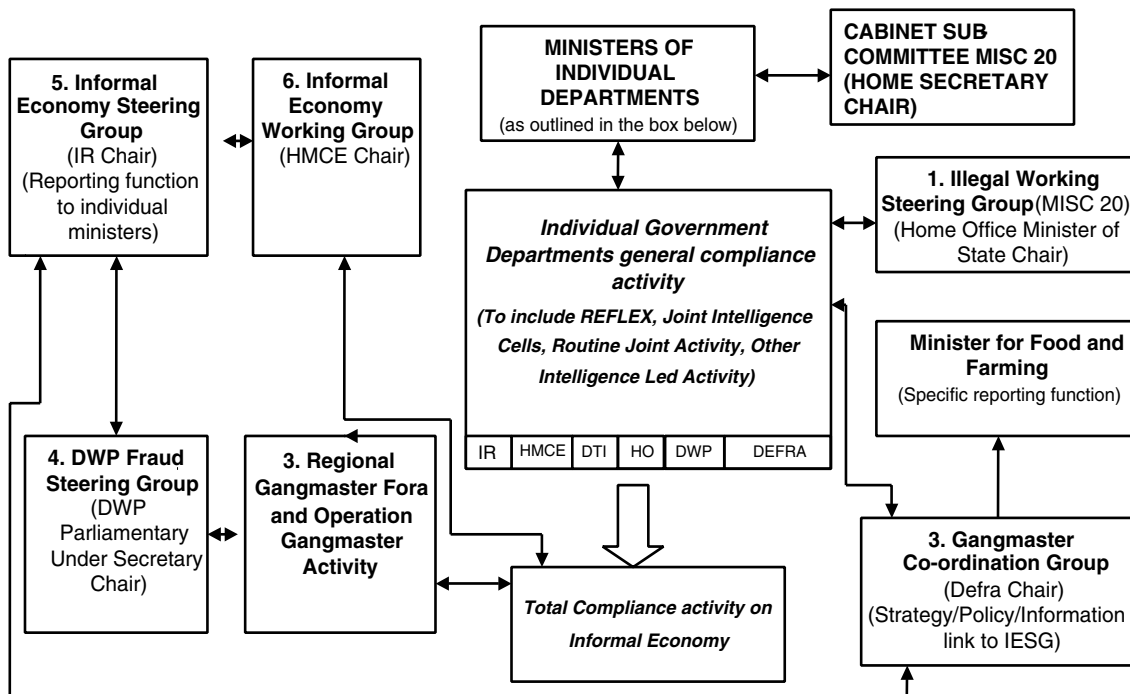
2 April 2004

Annex A

Details of meetings of the Gangmaster Coordination Group since September 2003

<i>Date</i>	<i>Agenda</i>	<i>Attendees</i>
21/10/2003	<ol style="list-style-type: none"> 1. Labour provider Code of Best Practice 2. Operation Gangmaster 3. Preparation by DTI of leaflets for Portuguese workers in the UK 4. Outcome of the consultation by Home Office on the requirements of Section 8 of the Asylum and Immigration Act 5. Government response to the report of the EFRA Select Committee 	Officials from Customs & Excise, HSE, Inland Revenue, DTI, Cabinet Office, DWP, Home Office and Defra
19/12/2003	<ol style="list-style-type: none"> 1. Statutory registration scheme—a discussion paper tabled by Defra 2. Jim Sheridan's Private Members Bill 	Officials from Cabinet Office, Defra, DWP, Home Office, HSE, Inland Revenue, DTI, Treasury
1/3/2004	<ol style="list-style-type: none"> 1. Second Reading of Jim Sheridan's Bill 2. Morecambe Bay 3. Labour Provider Code of Best Practice 4. Preparation of the Government's memorandum to the Select Committee 	Officials from Customs & Excise, Inland Revenue, HSE, DTI, Cabinet Office, DWP, Home Office, Treasury and Defra
18/3/2004	<ol style="list-style-type: none"> 1. Update on Jim Sheridan's Bill 2. Enforcement and prosecution of offences under the proposed labour provider licensing scheme 3. Information sharing provisions under the proposed licensing scheme 4. Way forward 	Officials from Customs & Excise, Inland Revenue, HSE, DTI, Cabinet Office, DWP, Home Office, Treasury and Defra

The architecture of Government activity against illegal working in the Informal Economy
 (Further Explanation of each numbered forum is given below)



Annex B (continued)

Explanation of Forums identified on the previous diagram “The architecture of Government activity against illegal working in the Informal Economy”.

FORUMS

1. *Illegal Working Steering Group*

(a) The Illegal Working Steering Group was established in November 2002. The group is chaired by Home Office Minister of State, and also attended more recently by the DTI Parliamentary Under Secretary of State. The group’s purpose is to discuss the prevention of illegal working and linked issues and to propose ideas for tackling illegal working to the Government. Bodies represented on the group are:

- Confederation of British Industries
- Trades Union Congress
- Health and Safety Executive
- Commission for Racial Equality
- Government Small Business Service
- National Farmers Union
- Construction Skills Certification Scheme
- Recruitment and Employment Confederation
- British Chambers of Commerce
- British Hospitality Association
- NHS Employment Branch
- J Sainsbury

(b) The Group's recent meetings were on 22 October 2003, 2 February 2004 and 25 February 2004. The following table summarises agenda items and main points discussed at these meetings:

<i>Date</i>	<i>Agenda items</i>	<i>Other business discussed</i>
25 Oct 03	Initial feedback from consultation on changes to documents acceptable as evidence of entitlement to work under section 8 of the Asylum and Immigration Act 1996 (the law for employers on preventing illegal working).	Enforcement and prosecution activity to tackle illegal working; Legal definition of employer for the purposes of section 8.
2 Feb 04	Discussion on methods of disseminating information on changes to section 8 to UK employers; Revised guidance for employers on preventing illegal working; Forward work programme of the IWSG (to include research into illegal working and developments in relation to gangmasters).	Planned changes to section 8; Mention made of the Private Members' Bill to introduce licensing system for gangmasters, then under consideration by the Government. IWSG agreed to include item on gangmasters in its future programme of work
25 Feb 04	EU enlargement and illegal working; Q&A on the Workers Registration Scheme for nationals of eight accession states; Finalised strategy for communicating changes to the law on preventing illegal working to employers.	None.

2. *Gangmaster Co-ordination Group*

(a) The Gangmaster Co-ordination Group was set up following an invitation by the Informal Economy Steering Group in July 2003 for a specific forum to be established, to discuss policy and enforcement issues relating to agricultural gangmasters.

(b) The forum is chaired by a Defra official and reports to the Defra Minister for Food and Farming.

(c) The forum is attended by senior officials from Defra, the Department for Work and Pensions, The Department for Trade and Industry, Inland Revenue, Customs and Excise, the Home Office, the Health & Safety Executive and the Cabinet Office.

3. *Regional Gangmaster Fora*

(a) The Department for Work and Pensions has the operational lead for Operation Gangmaster and is responsible for the regional fora which use intelligence gathered and initiate new operations under the Operation Gangmaster banner.

(b) There are currently eight fora all of which are chaired by DWP. In all cases, DWP arrange dates and venues of meetings (normally quarterly) and provide full secretariat. In effect, DWP set the agenda, produce minutes, arrange invitations and provide any other support and advice required. The DWP facilitate but do not impose operations on each fora. Using intelligence led approach decisions are taken as to whether a multi agency approach is the most appropriate response to the information held.

(c) Attendance at the Gangmaster Forums and participation varies depending upon perceived interest for individual agencies. However core attendees who are invited to all forums and participate in most operations are DWP, Inland Revenue, Customs and Excise, Defra, Department of Trade and Industry, Health and Safety Executive, Local Authorities, National Asylum Support Service, UK Immigration Service, National Criminal Intelligence Service and the Police.

4. *Fraud Steering Group*

(a) Operation Gangmaster is discussed at each meeting The Fraud Steering Group is a regular monthly meeting held between the PSC with responsibility for fraud matters. Operation Gangmaster is a standing item at these meetings.

5. *Informal Economy Steering Group*

(a) The Informal Economy Steering Group is chaired by the Inland Revenue and is comprised of officials from Customs, DWP, Defra and the Home Office. The group was established to implement the recommendations of Lord Grabiner in his report of March 2000 in tackling illegality in the Informal

Economy. The recommendations of that report have been fully implemented and the group has turned its attention to other strategic issues and threats within the Informal Economy. Operation Gangmaster activity is reported to the Steering Group, which in turn reports, when appropriate, to their individual Ministers.

6. *Informal Economy Working Group*

(a) The Informal Economy Working Group is chaired by Customs & Excise and is attended by IR, DWP, Defra and Home Office (IND). The Working Group supports the Steering Group and is concerned with operational issues. In order to do this, the Working Group regularly reports to the Steering Group.

Annex C

Enforcement activity in and around Morecambe Bay in relation to cockle picking during 2003 and up to February 2004

BACKGROUND

Cockle gathering is a multi-million pound industry. Commercial beds of edible cockles are found in the Wash, Thames Estuary, Morecambe Bay, Dee Estuary and Ribble Estuary in England, the Bury Inlet South Wales and the Solway Firth Scotland. In 1997 more cockles were landed in Britain than any other mollusc. Although mechanised methods of gathering are available they have the potential to over fish the cockle stocks. Some Sea Fisheries Committees in England and Wales specify the type or design of equipment used and in some areas hand gathering is the only permitted method. This applies in Morecambe Bay where hand raking is the method used to gather the cockles.

In addition to the professional fishermen and women who are involved in this industry there are significant numbers of other unskilled gatherers who engage in this activity. Cockle gatherers are often paid 'cash in hand' by the purchasers for each bag of cockles they collect. The purchasers then sell the cockles on to professional buyers and processors. This arrangement does not involve the supply of labour by a gangmaster in the conventional sense although gangmasters may be instrumental in bringing together gangs of "self-employed" workers.

Although a permit scheme has recently been introduced by the North West & North Wales Sea Fisheries Committee to control the gathering of cockles in Morecambe Bay the exclusion of gatherers without a permit is not legally enforceable.

DWP OPERATIONS INTO COCKLE GATHERING ACTIVITIES¹

Operation Exodus

- During May and June 2003, allegations were received that persons in receipt of benefits were working as cockle gatherers at Pilling Sands in Morecambe Bay. The DWP led a multi agency operation on the 19 June 2003 to interview the workers as they left the beds. In addition to the DWP, the agencies involved were Lancashire Police, HM Customs & Excise (Road Fuel Testing Unit) and the Vehicle Inspectorate. The exercise resulted in 68 persons being interviewed of whom 18 were found to be in receipt of benefits.

Operation Omega

- In June 2003 the DWP were invited to a meeting with the Environment Agency to discuss similar problems on the Dee estuary. As a result on 6/8/03 the DWP led a multi agency operation on the River Dee estuary. The agencies involved in this exercise in addition to the DWP were the Merseyside Police, HM Customs & Excise (Road Fuel Testing unit), DVLA, Vehicle Inspectorate and UKIS. 420 people were interviewed of whom 76 were found to be in receipt of benefits. All the persons seen on both this operation and operation Exodus represented themselves as self-employed cockle gatherers.

FURTHER ACTION BY DWP

North Wales Sea Fisheries Committee permit scheme

- 17/11/03 a DWP representative attended a multi agency meeting in Lancaster organised by the North West and North Wales Sea Fisheries committee. A police officer seconded to UKIS also attended. This was a multi agency meeting to discuss the implementation of a permit scheme for cockle gathering for Warton Sands in Morecambe Bay. DWP asked for copies of permit applications made in order to identify persons where benefits were in payment.

¹ Neither Operation Exodus nor Operation Omega were under the "Operation Gangmaster" umbrella. Both were locally organised and executed multi-agency operations.

- Dec 2003–January 2004 details of 750 permit applications were received and checked. Around 200 were identified as in receipt of benefits of which around half were in receipt of incapacity benefit. There were around 35 applications from Chinese. None of the NINO's provided by the Chinese applicants appeared to be valid.
- Jan 2004. With the identification of large numbers of benefit recipients amongst the permit applicants at Morecambe Bay, DWP put in train plans for a further large scale, multi-agency, operation to take place in March or April 2004. These plans have been put on hold following the tragedy on 5 February.

UKIS ACTION IN MORECAMBE BAY IN 2003 AND 2004

30 July 2003 Morecambe

- UKIS Liverpool received information from Lancaster Police regarding 22 Chinese nationals they had encountered on 29 July at a residential address in Morecambe. No arrests were made.

4/5 August 2003 Morecambe

- 37 Chinese cockle pickers arrested by the police in Morecambe Bay. Police led activity with UKIS assistance.

23 September 2003 Morecambe

- One Chinese national arrested in Morecambe whilst travelling with 25 other Chinese males and taken to Fleetwood Police Station. He stated that he was intending to work as a cockle picker.

OTHER UKIS ACTIVITY CONNECTED WITH COCKLE-PICKING IN 2003 AND 2004

26 July 2003 Liverpool

- UKIS attended police call out to 17 Chinese nationals arrested by Merseyside Police.

29 July 2003 Liverpool

- 10 Chinese cockle pickers arrested by Merseyside Police.

30 July 2003 Gathurst

- Motorway stop on M6 at Gathurst of 17 Chinese cockle pickers. UKIS attended.

6 August 2003 Wirral

- Operation Omega, a DWP led operation at Thurston, Wirral, targeting cockle pickers working on the River Dee. UKIS attended. No foreign nationals were encountered on the day and no one arrested for immigration related offences.

31 August 2003 Skelmersdale

- 13 Chinese nationals found in mini bus during roadstop by Lancashire Police. Seven arrested.

12 October 2003 Scotland

- 21 Chinese nationals arrested at Crammond Island by Lothian & Borders Police whilst cockle picking. UKIS attended.

1 January 2004 Morecambe

- A Chinese national was arrested for driving offences. Taken to property in Morecambe where police found documents relating to cockle picking.

12 January 2004 Ulverston

- UKIS attended police call out to Ulverston, Barrow in Furness resulting from a road traffic accident involving three Chinese nationals and a Malaysian. They were all on route to Ulverston beach to work as cocklers.

12 January 2004 M6

- UKIS attended police call out to a vehicle stopped at a service station on the M6. Chinese nationals encountered who had been harvesting cockles on Morecambe Bay.

THE MORECAMBE BAY TRAGEDY & SUBSEQUENT DWP ACTION

- Lancashire Police contacted DWP officers in the early hours of 6 February 2004. A DWP investigator attended Morecambe Bay police station to assist by providing an overview of how the cockle gathering industry operated and the role of “Gangmasters”. Intelligence held by CFIS relating to Gangmaster activity was passed to the police and the police were provided with contact details for persons from other agencies who could potentially assist with their investigations.
- On 9 February DWP provided the Police with details from the “Operation Gangmaster” intelligence database and, later that week an intelligence analyst was provided to assist the police team with documents and computers taken up in the course of their enquiries.
- The Health and Safety Executive (HSE) has also been assisting the police-led investigation and have prepared some emerging guidelines for safe work in tidal estuaries, in conjunction with HM Coastguard, the North Western and North Wales Sea Fisheries Committee, the Shellfish Association and experienced local fishermen. The guidelines can be viewed on HSE’s website and will be widely distributed to those working in tidal estuaries, and used as a basis for inspections. This approach is already underway in Morecambe Bay.

Annex D

IMMIGRATION SERVICE ENFORCEMENT ACTIVITY IN 2003

During 2003 the UK Immigration Service reported carrying out a total of 446 illegal working operations, of which 27 operations targeted farms and packhouses. It is not possible to confirm whether gangmaster-supplied labour was involved in all these operations but, given the nature of the employment, it is likely that the vast majority of them would have done. These operations resulted in the detection of 399 illegal migrant workers, of whom 324 were removed in the immediate aftermath of the operations, causing inevitable disruption to any gangmasters involved. In addition, one group of gangmasters involved in these operations are now the subject of an ongoing investigation with the police where other serious charges are under consideration. The same group is due to be summonsed shortly to face 24 counts of employing an illegal worker under section 8.

SPECIFIC CASE STUDIES

Some good examples of large-scale operations undertaken by IND during 2003 include:

Operation New Mexico—This involved an enforcement operation to a biscuit factory in Surrey in August 2003. There were 101 arrests in total. Those detected were mainly, Ukrainian, Lithuanian and Brazilian nationals working in breach of their conditions or overstayers or deceptive illegal entrants. 75 of the offenders were removed immediately after the operation and further removals took place at a later stage as any barriers to removal were overcome.

Operation Ives—This operation took place at a flower farm in Sussex in October 2003 to target a gangmaster. It resulted in the detection and removal of 45 illegal workers, one person was charged and four others were bailed at the time pending further enquiries. In addition, over £34,000 was seized under the Proceeds of Crime Act as the money was linked to organised crime. As a result of our further enquiries, some small-scale operations also took place in Yorkshire, Essex and Hampshire and sufficient evidence has now been gathered to bring 40 summonses for prosecution under section 8. Additional more serious charges are still being investigated.

Operation Fielding—This operation involved a visit to The Conran Bluebird restaurant in London in May 2003. 13 illegal workers were detected of mainly Central and South American origin. Six were immediately removed and one claimed asylum. The operation received widespread media coverage in both the press and television and as a result of our working with the Conran Group, they have developed stricter recruitment practices.

Operation Sibelius—this involved an enforcement operation to a farm in Lancashire in May 2003. 56 Brazilian and Bolivian illegal workers were detected: all of whom were removed.

Operation Pyenix—this involved an enforcement operation to a Building site in Hampshire in October 2003. 19 illegal workers including four failed asylum seekers were detected. They were mainly of Eastern European origin and all were successfully removed.

Examples of **Joint Operations** with other government departments:

Operation Humbug:—From the end of November 2003 until just before Christmas 2003 immigration officers from Boston assisted DWP fraud investigators from their Agricultural Investigation Team by conducting joint visits to 14 farms and packhouses. 121 illegal workers were detected by IS and DWP detected 167 people who were wrongly in receipt of benefits.

Operation King Edward:—this was an IS-led operation on a potato grower in the Boston area which was based on information supplied by the DWP's Agricultural Investigation Team who also took part. 22 illegal migrant workers were detected by UKIS: 20 of whom were removed immediately after the operation. From a DWP perspective no benefit fraud was uncovered.

Operation Tigermoth:—this was a joint operation with DWP stopping cars and vans on their way to work in the Southampton area. 25 illegal workers were detected: 10 of whom were failed asylum seekers. 14 were removed immediately after the operation and two new asylum claims were generated. No benefit fraud was established.

Further supplementary memorandum submitted by the Government

On 2nd April Defra sent a supplementary memorandum to the Clerk of the Efra Committee containing the additional information you sought from Chris Pond, Beverley Hughes and myself when we gave evidence to the Committee on 23 March.

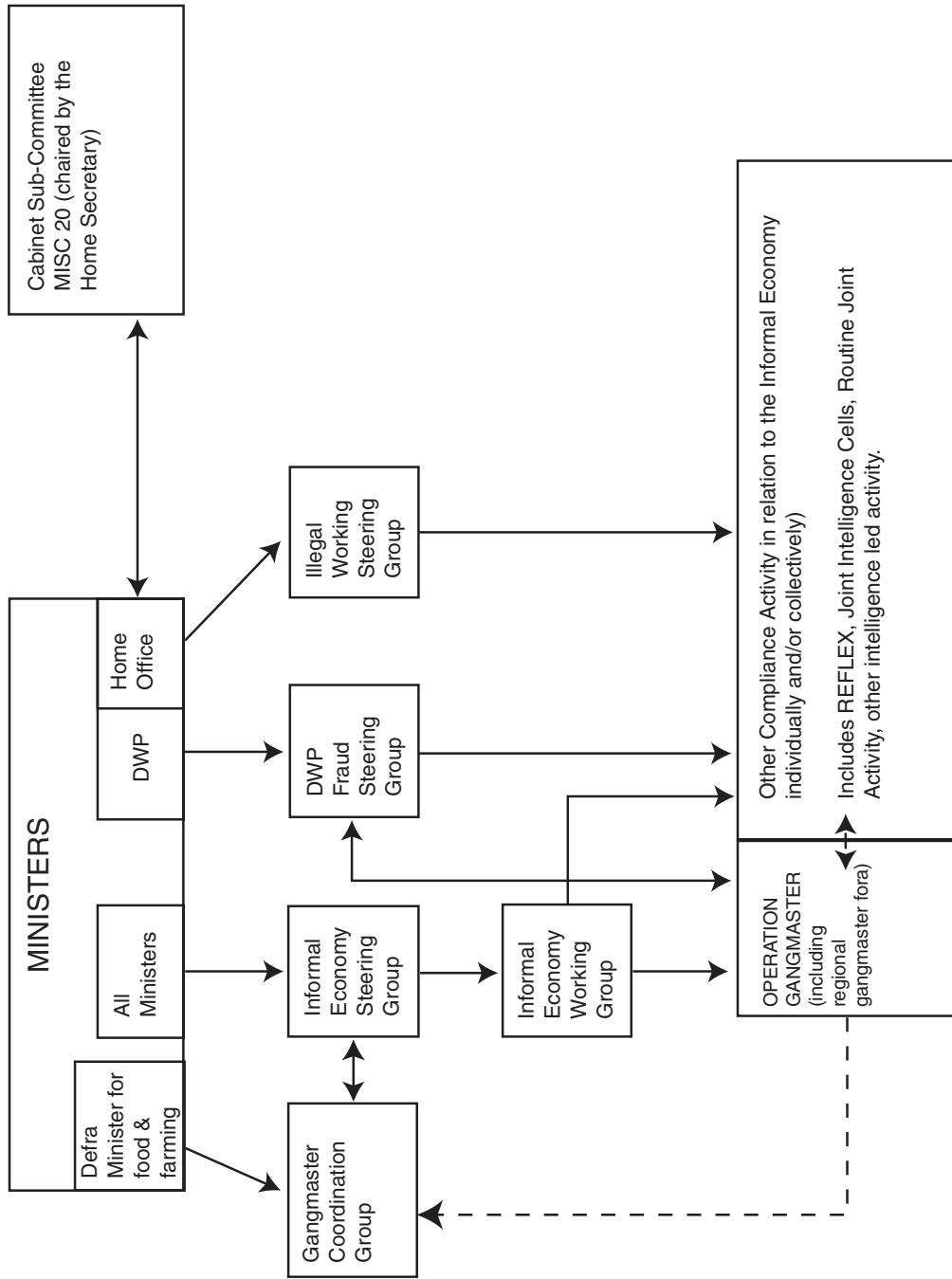
At Annex B to that memorandum we provided a diagram (titled “the architecture of Government activity against illegal working in the Informal Economy”) illustrating the way in which Government activity against illegal working in the Informal Economy is organised. This diagram was accompanied by a note which described in more detail the functions of each of the organisations shown.

This diagram gave a central focus to compliance activity. It did this by placing this activity at the centre of the diagram and arranging the organisations involved in enforcement around that focus.

On reflection I think that it would be helpful to members of the Committee to have a second diagram that illustrates more clearly the command structure involved in managing and directing the Government's enforcement efforts in relation to gangmaster activities:

THE ARCHITECTURE OF GOVERNMENT ACTIVITY AGAINST ILLEGAL WORKING IN THE INFORMAL ECONOMY

(Further explanation of each of the Groups and Committees shown below is given on the next page)



Cabinet Sub-Committee
MISC 20 (chaired by the
Home Secretary)

Annex B (continued)

Explanation of Forums identified on the previous diagram “The architecture of Government Activity against illegal working in the informal economy

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25 Feb 04	EU enlargement and illegal working; Q&A on the Workers Registration Scheme for nationals of eight accession states; Finalised strategy for communicating changes to the law on preventing illegal working to employers.	None.

2. *Gangmaster Co-ordination Group*

(a) The Gangmaster Co-ordination Group was set up following an invitation by the Informal Economy Steering Group in July 2003 for a specific forum to be established, to discuss policy and enforcement issues relating to agricultural gangmasters.

(b) The forum is chaired by a Defra official and reports to the Defra Minister for Food and Farming.

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26 April 2004

Written evidence

Memorandum submitted by the Association of Labour Providers

SUMMARY

1. The Environment, Food and Rural Affairs Committee of the House of Commons published a report on gangmasters in September 2003. The Committee is following up this report by monitoring the action taken by government and assessing whether there is a need for further action.
2. The Association of Labour Providers is the newly established trade association for labour providers—“gangmasters.” This evidence is based on the practical experience of members.
3. The main developments since September 2003 are:
 - No strengthening of enforcement action against disreputable gangmasters and no visible evidence of a more joined-up approach.
 - Progress in establishing a code of practice for labour providers.
 - The establishment of a trade association to represent the interest of labour providers.
 - The beginning of the process to establish a statutory licensing regime.

THE ALP

4. The Association of Labour Providers was established in February, initially by 18 companies that wish to help improve standards in the industry further and also to have a voice in the many public policy discussions about their industry. Currently the Association has 23 members. While there is considerable interest in the Association is not proving easy to sell the concept of a trade association to this group of organisations.

ENFORCEMENT OF EXISTING LEGISLATION

5. The activities of labour providers which cause public concern are illegal under present legislation. The tragic incident at Morecambe Bay has served to highlight the issues. However, Morecambe Bay also illustrates the problem of addressing the issues. In this case the workers appear to have been working for the person selling the cockles and who therefore was not a “gangmaster” but rather a farmer or fisherman. Clearly, there was a breach of the law but little progress seems to have been made in bringing the perpetrators to justice.
6. Regulatory bodies tend to pursue regulated institutions and the formal parts of the economy and are not well placed to tackle the major abuses, particularly where there is no fixed place of work. Dealing with unscrupulous labour providers requires multi-agency, intelligence-driven and innovative approaches to enforcement rather than the traditional “inspection” approach by individual government departments.
7. Members of the ALP can see no evidence of any change in the government approach since last September. Indeed, in some respect enforcement activity has diminished because of lack of resources. Generally, the resources available to tackle the problems are hopelessly inadequate, and individual enforcement agencies are not inclined to make resources available for initiatives from other bits of government. Members also report that enforcement agencies are more inclined to go after “soft” targets rather than major problems.
8. Members continue to be squeezed, on the one hand through supply chain attempts to drive prices down, and on the other by being undercut by labour providers who operate illegally. A labour provider evading VAT and income tax and paying less than the minimum wage can easily have a 40% price advantage over a legitimate operator. Combined action by the Inland Revenue and Customs and Excise against tax evasion is essential if the illegal gangmasters are to be put out of business. The reputable labour providers have the greatest interest in driving disreputable operators out of the industry.

CODE OF PRACTICE

9. Work continues to establish a code of practice under the auspices of the Ethical Trading Initiative. This will be a voluntary arrangement. However, if packhouses, farmers and supermarkets ensure that they and their suppliers use only labour providers that subscribe to the code then this should help drive the unscrupulous labour providers out of business.
10. It is important that this initiative is not slowed down by the prospect of legislation. It will take at least two years to introduce a statutory licensing regime if the usual standards apply, and the problems must be tackled in the meantime. The experience with the code should also help to inform the details of the licensing regime when this is introduced.

11. Members of the ALP agree to be bound by the terms of any code of practice endorsed by the Executive Committee; it is the intention to endorse the code being drawn up under the auspices of the ETI. In the meantime the Association is considering introducing a basic version of the code, sufficient to help ensure that the legal requirements are being met. The Committee will be kept informed of progress on this.

LEGISLATION

12. The Gangmasters Licensing Bill has now been taken over by the government and will be enacted. The legislation can be justified only if it facilitates the enforcement of existing legislation by the existing enforcement agencies. This requires additional resources and inter-agency co-operation. These cannot be secured through the gangmaster legislation. Unless this is addressed the legislation will achieve nothing and will draw attention away from the real issues.

11 March 2004

Memorandum submitted by the British Retail Consortium

1. The British Retail Consortium (BRC) welcomes the opportunity to comment on the Environment Food and Rural Affairs Select Committee's follow-up inquiry into the activities of "gangmasters" in the agricultural and horticultural industries. While many employment agencies operate entirely within the law, we continue to share the concerns that have been raised about some operators who have been found to have employed illegal immigrants and benefit claimants, and who have failed to comply with the requirements of the Working Time Directive and the National Minimum Wage.

2. The BRC was concerned by many of the Committee's original conclusions and recommendations in its initial report on gangmasters, given the huge efforts the retail sector has made to eliminate illegal activities within its supply chains over the years. Existing procedures designed to prevent the use of illegal practices within their supply systems include:

- (i) The use of "Supplier Approvals." These are designed both to assess the technical capability of a supplier and the 'responsibility' of a supplier in a wider sense.
- (ii) Specifications and Terms and Conditions require retail suppliers to adhere to all UK and EU legislation.
- (iii) Many retailers also regularly remind their produce suppliers of their obligations under employment legislation, including the need for them to play a role in ensuring that illegal labour is not used (by checking National Insurance Numbers, Work Permits, etc).
- (iv) Many food retailers are carrying out social assessments of suppliers (often based on the Ethical Trading Initiative Code, SA 8000 and ILO standards); part of these assessments cover Health and Safety and Working Time Directive requirements.
- (v) Food retailers may require that their suppliers use only agencies "approved" by the Department of Trade and Industry when sourcing overseas casual labour. All such suppliers are required to pay at least the minimum agricultural wage as determined by the Agricultural Wages Board.
- (vi) Working with the Department of Work and Pensions' Agricultural Investigation Unit, to help them with their raids, and to increase the effectiveness of their visits on the supplier base.
- (vii) Specific training for buyers to help them identify and address illegal labour issues.

3. The Committee will also be aware that a number the BRC's members (ASDA, The Co-operative Group, Marks & Spencer, Sainsbury, Tesco and Waitrose) are members of the broad alliance of business and trade union organisations working with government under the auspices of the Ethical Trading Initiative to tackle illegal practices operated by unscrupulous employers and criminal gangs. The ETI group has developed a draft code of practice for labour providers and is trialing the feasibility of an inspection system to monitor the implementation of this. The ETI hopes that this could become the basis for a registration scheme with relevance to other industries.

4. In light of the significant efforts made by food retailers to eliminate illegal activities within their supply chains, we believe it would be useful for the Committee to consider the true nature of the modern British food economy. With over 60,000 food-retailing businesses and over 35,000 businesses operating restaurants, bars and cafes, consumers have access to food and drink from a huge range of outlets. Eating out, now accounting for around 28% of all our spending on food and drink, is continuing to grow. The largest nine multiple food retailers account for 43% of food spending, co-operatives around 6%, and convenience stores 12%. The remainder covers discounters, specialist shops and smaller supermarkets. The huge range of food outlets underlines the need for policy makers to take a holistic approach to the food supply chain. The "round the clock" culture and constant consumer demand has resulted in a growing requirement for temporary seasonal labour, a demand that is likely to increase. It is therefore key that each level in the supply chain work in co-operation with labour providers and Government to prevent the exploitation of temporary and seasonal workers.

5. There are very few farmers who sell direct to retailers, or indeed to those other consumer-facing points in the food chain, caterers and restaurateurs. Before raw agricultural products reach the retailer—or indeed the caterer—they have to pass through a variety of stages; grading, sorting, cleaning, processing, packing, distribution. We therefore caution against the use of simplistic price comparisons, as they fail to account for the number of stages in the food chain that add value. In reality those engaging in illegal activity do so to generate economic surplus for themselves.

6. The BRC would support the introduction of legislation requiring the compulsory registration of businesses providing temporary labour as we recognise the need for public policy measures to address the issues of illegal practice. Compulsory registration will require Government agencies to work together to enforce existing legislation and stamp out the current fraudulent activity. However, we would caution that the debate needs to be about the most effective means of securing the desired outcome of preventing illegalities. We believe that, as far as possible, existing enforcement systems and entities should be utilised to monitor businesses, and that most effort should be directed on enforcement of existing legislation by the relevant authorities and agencies. Above all, any systems of registration must not impose burdens on reputable businesses that are simply ignored by unscrupulous operators.

10 March 2004

Memorandum submitted by Quality Assured Personnel Ltd

Companies utilising the advantages of temporary labour must also be aware of the dangers associated with the recruitment methods. Recent publicised evidence warns that those providing temporary labour are increasingly operating outside legislative frameworks and best practice procedures. The result is that users of temporary and contract labour will suffer if they assume that such standards are in place.

The degree of risk for users of temporary labour from dysfunctional labour providers is very damaging. For illustration, users are exposed to brand name damage, product quality deterioration and public health offences; accidents; legal claims; compensatory claims and de-motivating their permanent employees. Ultimately, the result is a loss of business and profits.

It is the industry's responsibility to sanitise and indemnify themselves to ensure the correct calibre of staff. This is made increasingly difficult when employment laws are for ever changing and ever more complicated. However, it is obvious that such a task is time consuming for management and does distract resources away from core activities.

The DTI is responsible for ensuring compliance although inspections are few and far between as they do not have the manpower to deal with such a large scale operation. Usually, they react to complaints which need investigating rather than taking a proactive role in regulating the industry.

The clients of the gangmasters must take much greater responsibility to ensure that they are dealing with reputable professional and legally compliant labour providers. This would protect not only them but their client and workers from potential dangers, both physical and financial. This would in turn eliminate the competitive advantage that unscrupulous labour providers currently enjoy over their professional and legally compliant counterparts, driving up standards and driving out rogue labour providers.

Legislation has become one of the key challenges for the recruitment industry over the past five years.

Employment Agencies Act 2003 . . . Working Time Directive 1998 . . . Minimum Wages Act 1998 . . . European Directive in Agency Workers (Forthcoming).

The Questions are has the industry benefited? Have the end users of this Labour benefited? Have the workers benefited?

The answers to these questions should be "Yes", but without a proactive approach to policing the Labour supply industry and with nothing currently stopping people from trading in a non-professional or even illegal manner the benefits are seriously diluted. The potential for obtaining a financial competitive advantage by flouting the regulations or engaging people who do not have the right to work in the UK poses a serious threat to the industry's professional standards.

The answer has to be in the hands of the Government to apply robust legislation to the issues to ensure minimum standards are clear. However without the ability to audit these standards the issues will never be resolved.

In conclusion: It is clear that since September nothing of note has been implemented by the Government to ensure compliance to the regulations. Policing is the only answer to ensuring compliance.

March 2004

Memorandum submitted by the National Farmers' Union

1. The NFU welcomes this opportunity to submit new evidence to the Efra Committee into the activities of gangmasters an issue which has gained new prominence since the Committee published its report on the subject last September. As we said last April, the whole area of seasonal/casual-type workers, including those supplied by gangmasters is of immense importance to members of the NFU, particularly those involved in horticulture.

2. The Committee has invited specific evidence on the effectiveness of the Government's activities since September last year in dealing with the activities of illegal gangmasters in the areas covered by Defra (including agriculture, horticulture and fisheries), and whether there has been any change in the Government's approach.

3. Overall we believe that the level of knowledge and understanding in the industry about Operation Gangmaster remains lamentably low. Of course it is appreciated that some of the activities we are assured that it carries out have to be covert to be effective. Nonetheless much more needs to be done by Defra and the enforcement agencies to keep the industry informed and to encourage its support and assistance in reducing abuses by some gangmasters in respect of workers' rights and in relation to compliance with the law on employment, taxation, health and safety etc.

4. The growing concern about the gangmaster issue was underlined by the large attendance (over 160 from across South Lincolnshire and Fenland businesses engaged in growing, packing and processing food) at a half day seminar on contract labour run by the NFU in Spalding in January. As well as the conclusion on Operation Gangmaster referred to in paragraph 3 above, the seminar concluded—

- There was merit in principle in a scheme for licensing gangmasters to assist enforcement, subject to any new obligations on employers being reasonable.
- Better information and understanding was needed of the Seasonal Agricultural Workers Scheme requirements, and how SAWS workers interact with the contract labour market.
- The draft Code of Practice for Labour Providers sets out the basic standard of employment practice that responsible labour providers should achieve, together with a system of auditing compliance with the standard set out in the Code. A tool kit (eg checklists and standard contracts) is being developed to help responsible labour providers to meet the standard. The process of auditing against the standard in the Code is currently being trialed with a number of labour provider businesses and their customers in the South Lincolnshire area, who have volunteered to take part. The need to ensure publicity and adoption in the area will be particularly important.
- More work needed to be done on the social aspects of gang labour, including housing accommodation in the areas where such labour is supplied. Local authorities need to be closely involved in this.

5. We welcome the Government's recent decision in the light of Jim Sheridan's Bill and well publicised incidents to support the principle of introducing a licensing system for gangmasters—though we regret that it is likely to be confined in the first instance to the agricultural, horticultural, and shellfish industries. We will comment on the details of a scheme when Jim Sheridan is in a position to table amendments to the Bill which are acceptable to the Government. In the meantime we, together with the TGWU, have made plain to Defra ministers that we do not believe it would be appropriate for the Government to devolve responsibility for a licensing scheme to a prescribed industry body, as the industry has little experience of running a licence operation backed up by enforcement by official agencies and criminal offences. Moreover the government machine is best placed to take direct responsibility for a function of this kind and to ensure the necessary co-ordination of the various official agencies with an interest in delivering more effective enforcement of the law. The industry is however committed to making a licence scheme work successfully and stands ready to play its part in providing advice and facilitating the activities of the licensing body, whether this be an in-house Defra operation, or a new statutory authority set up for the purpose.

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