

Summary of Temporary Labour Working Group Activities in past two years

The tragic and shocking deaths of 23 migrant cockle pickers at Morecambe Bay in February 2004 intensified public concern about the activities of 'gangmasters' or labour providers. The lack of effective controls on these employers has meant that unscrupulous operators and even criminal gangs have been able to present themselves as legitimate businesses. Few of the workers they employ are aware of their rights, many have limited English and all are vulnerable to exploitation by unscrupulous employers. ETI has been co-ordinating a project to tackle this problem, with measurable success.

In September 2002, after consulting over 100 UK organisations, we convened a cross-industry working group, known as the Temporary Labour Working Group, to press for change in the situation of temporary workers in the food and agricultural industry. Membership of the Group is shown below. The consensus was that the abuses of temporary workers and fraudulent activities of unscrupulous employers were getting more frequent and new statutory controls were needed to check the problem. The Group lobbied the Government for the establishment of a national licensing and registration scheme for labour providers that would provide a guarantee that each was a legal and responsible employer.

The new licensing scheme

On 8 July this year our goal of *legislation* was realised and the Gangmaster (Licensing) Act became law. The legislation arose from the Private Members' Bill of Jim Sheridan MP. It was sponsored by the Transport and General Workers Union and was supported by our Group through the UK Parliament. A new authority will now be established with powers to issue and withdraw operating licences to all employers of temporary workers in the agricultural sector. Four new offences have been created to support these measures. We hope that the national register of licensed labour providers will introduce fair competition between the legitimate operators and, by placing the responsibility on labour users to ensure that only their services are used, the worst employers will be driven out. Workers will benefit as the protection of their rights will be made a condition of doing business and their employment conditions will be routinely scrutinised.

Temporary Labour Working Group members	Representing/function
ASDA, The Co-operative Group (CWS) Ltd, Marks & Spencer, Safeway Stores Plc, J Sainsbury Ltd, Somerfield Stores Ltd, Tesco, Waitrose	Retailers
Premier Foods	Food manufacturing
Fresh Produce Consortium	Packers, wholesalers, importers, retailers
National Farmers' Union	Growers
Trades Union Congress Transport and General Workers' Union	Trade unions Agricultural workers
Fusion Personnel Association of Labour Providers (from May 04)	Labour providers
Ethical Trading Initiative	Group co-ordination and expertise in the application of codes of labour practice
Participating government departments	Lead responsibility/function
Department of Environment Food and Rural Affairs	Regulation of agriculture and food
Department for Work and Pensions	Prevention of benefit abuse and lead on Joint Agency Working
Home Office	Migration and immigration matters
Health and Safety Executive	Inspection of health and safety in workplaces

How gangmasters have avoided scrutiny

- Legal loopholes – ability to blur their identity as employers and so avoid responsibilities to workers
- Complex sub-contracting arrangements – hard to track them down
- Sophisticated document forgery - difficult to find out who is operating illegally
- Many migrant workers – more vulnerable and so easier to exploit
- Enforcement activity focused on revenue recovery rather than protection of workers rights

Supporting best practice

The Group developed a *code of practice* that includes minimum standards for labour providers. The entire industry and government now support this code. We developed a system of independent audit and conducted field trials that showed that code violations can be reliably detected and resolved. Temporary Labour Working Group members have now joined a government consultative committee which considers our code of practice to be a starting point of the conditions of the licence and the audit technique to be a signpost towards compliance checks.

Tougher enforcement is needed but is not the only answer. Labour providers also need *best practice tools*, support and advice. About 25 businesses recently formed the Association of Labour Providers to promote better practice in the industry and they have made compliance with the code of practice a condition of membership. The project also developed a 'toolkit' to help labour providers implement the code.

A staged approach to legal controls

August 2003

The Group produces a draft code of practice for labour providers

We design field trials to test the code and an inspection method

Our publicity raises the issue in broadcast and print media

September 2003

Government enforcement officers are seconded to develop trial audits

October 2003

The Group designs a method of code inspection

We draft management tools to help gangmasters to implement the code

November 2003

Field trials of code implementation commence

The Group supports TGWU plans to sponsor legislation for a Gangmaster Licensing and Registration scheme. We start to lobby the Government

February 2004

23 cockle pickers drown in Morecambe Bay. National media attention increases and the issue races up the political agenda

Field trials of code implementation are completed

Encouraged by the Group, leading labour providers set up an Association of Labour Providers

July 2004

The Gangmaster (Licensing) Act becomes law

We finalise the code of labour practice for gangmasters, an audit method and the gangmaster 'toolkit'

The Group agrees new a workplan to communicate the code of practice to the industry

Our achievements

- Licensing for gangmasters from 2006
- A national register of licensed labour providers from 2006
- A code of practice for labour providers
- A system for auditing compliance with code provisions
- Labour provider toolkit

A report on the project, *A licence to operate: new measures to tackle exploitation of temporary workers in the UK agricultural industry* is available on [wwwlink](#) !

Activities of the Working Group

The table below summarises the activities of Group members from April 2002 to July 2004.

Objective	Key activities	Outcomes to date
<ul style="list-style-type: none"> • Establish a cross-industry Working Group with a common work programme. 	<ul style="list-style-type: none"> • Research and consultation in the sector. • Two public seminars. 	<ul style="list-style-type: none"> • Over 100 organisations consulted and priorities identified (April-June 2002). • Working Group established (September 2002). • Terms of reference agreed, detailed work plan approved and resources raised (September 2002-April 2003).

<ul style="list-style-type: none"> • Lobby for the licensing and registration of labour providers. 	<ul style="list-style-type: none"> • Lobby Ministers. • Awareness raising through the media. • Campaign for legislation. 	<ul style="list-style-type: none"> • Gangmaster (Licencing) Act 2004 provides for a licensing and registration scheme. • Heightened public awareness of the problems associated with temporary labour provision in the sector.
<ul style="list-style-type: none"> • Develop code of practice for labour providers. 	<ul style="list-style-type: none"> • Draft code and consult industry stakeholders. 	<ul style="list-style-type: none"> • Draft code tested in field trials and consultation (April 2003-February 2004). • Code of practice agreed July 2004.
<ul style="list-style-type: none"> • Develop system of independent audit of compliance with the code. 	<ul style="list-style-type: none"> • Draft and review audit protocol and tools in a series of six field trials. • Consult industry stakeholders. 	<ul style="list-style-type: none"> • Audit protocol developed and tested in field trials (September 2003-March 2004). • Auditor toolkit and procedures developed. (September 2003-July 2004).
<ul style="list-style-type: none"> • Develop tools to assist labour providers to implement the code. 	<ul style="list-style-type: none"> • Research current practice and identify best practice. • Develop tools and pilot in trials. • Consult industry stakeholders. 	<ul style="list-style-type: none"> • Tools developed for use by labour providers, such as checklists, documentation and management controls (April 2003-February 2004). • Computer software designed to reduce administrative burden of controls on labour providers (under development January – October 2004).
<ul style="list-style-type: none"> • Contribute to the setting up of an association of labour providers willing to promote responsible practice in the industry. 	<ul style="list-style-type: none"> • Identify labour providers willing to engage. • Host workshop to discuss challenges and solutions in the sector. 	<ul style="list-style-type: none"> • Association of Labour Providers launched in February 2004 with the declared intention of promoting observance of the code of practice.

Next steps for the Temporary Labour Working Group (September 2004 onwards)

The Temporary Labour Working Group came together two years ago in order to improve labour practices and achieve better protection for temporary workers in the industry. The passing of the Act represents a considerable success for us and all those who have called for these new measures.

Group members now accept their responsibilities to assist Defra in establishing the Gangmasters Licensing Authority and play their part to help it to become an effective regulator. But our work does not stop there. We intend to take the following steps to help pave the way for the implementation of the Act:

- distribute the Code widely and encourage labour providers to implement it now;
- organise a programme of regional workshops for labour providers and labour users to inform them of the changes in the industry and what they must do;
- establish a means by which labour providers can place themselves on a (temporary) voluntary register and have their businesses assessed against the standards in the code of practice;
- train auditors in the use of the assessment technique and make these service providers known to the industry.

The unique experience gained in delivering this programme will be used to advise Defra and the Gangmasters Licensing Authority on issues such as the conditions of a licence and the audit provisions.

The code of practice is not a 'compliance mechanism' as such and our Group will not offer a certificate of approval. We will promote it as a way to help labour providers understand what practices they must adopt in order to prepare for the introduction of licensing. We hope to encourage as many labour providers as possible to adopt best practices between now and June 2005 (or when the Authority begins a comprehensive audit programme) in order to sustain the momentum for change within the fresh produce industry.

Update – see press release Nov 17, 2004