Section One
Background

Introduction

We are getting increasingly used to headlines that condemn the number of migrants coming to the country. What goes unreported, however, is the terrible conditions that these migrants often face at work which is a symptom of a growing trend by employers to race to the bottom on pay and conditions, sometimes using migrants to undercut other workers.

Unfortunately there are no accurate figures on the number of migrant workers who are killed, injured or made ill through work. However many migrant workers do face specific difficulties and this guide from the TUC has been written to help safety representatives and other union activists work with migrant workers to make sure that their rights and safety are protected.

Who are “Migrant Workers”? 

This booklet covers the safety of people who come to the UK from abroad and who work, whether permanently, temporarily or seasonally. It covers both those who appear on official statistics, such as those from the European Union, those with work permits and those on working holidays and also those who work without the protection of legal status.

Estimates of the number of migrant workers are notoriously unreliable, but the most recent figures from the Government show that there are currently 6.2 million people of working age who were born overseas. The proportion of those in employment that were born overseas was 15.2% and 9.3% of the workforce had foreign citizenship. For the latest year available, 601,000 people entering the UK applied for a national insurance number. Of those 363,000 were from Europe.

60% of all migrant workers are concentrated in the South East of England, mainly London (36% of foreign born workers in the UK work in London).

Most migrant workers are not low-skilled, although many do low skilled jobs. The sectors with the largest proportion of their workforce being migrants are those that are low paid such as unskilled factory work where 43% of the workforce are migrant workers, and food processing and clothes manufacturing. Over 30% of cleaners and 25% of health care professionals were born overseas. A large number are found in construction, and in some regions the vast majority of construction workers are from
elsewhere in Europe, but most of them are treated as self-employed by their employer (see section on employment status). High numbers are also found in low paid work in agriculture. Many higher skilled professions, including IT and medicine have a high proportion of migrant workers.

Recent migrant workers are more likely to work with other migrant workers from the same country or region. One of the reasons for this is that migrant workers often feel more comfortable when they are part of a community. Another is the way that some employers recruit using word of mouth, recruitment agencies, or “gangmasters”. Many industries which depend on migrant labour use labour providers (Gangmasters) or recruitment agencies who specialise in a particular industry or nationality.

What risks do they face?

Many migrant workers face no, or very little, increased risk. They speak fluent English, may have worked in the UK for many years and have the same working conditions and security as non-migrant workers.

On the other end of the scale are those who have no rights and are effectively victims of slavery. The Home Office estimated in 2014 that there were 10,000 to 13,000 modern slavery victims working as domestic servants, agricultural workers or in illegal sweatshops, although many other industries have been implicated ranging from nail bars to fishing.

However migrants are more vulnerable to exploitation. A TUC-supported Commission on Vulnerable Employment estimated that around 2 million workers were vulnerable because employers were using gaps in employment protection to deprive them of rights to a permanent job, contract of employments or, of course, health and safety protection. In 2014 the TUC Decent Jobs Deficit report also mapped the increase in precarious employment since the recession, including the growth in zero-hours contracts.

Migrants are more likely to be employed on precarious contracts. This is because they are often worried they will not be able to keep their jobs if they raise safety complaints. In 2014, the Equalities and Human Rights Commission produced a report on the meat sector, where migrants make up 70% of the agency workforce on which the industry relies. This revealed commonplace abuses of health and safety rights which included pregnant women being forced to lift heavy loads and stand for extended periods, under threat of losing their jobs.

No figures are available on how many migrant workers are killed or injured every year but, as migrant workers are found in significant numbers in the agriculture and construction sector, and these have significantly higher risks, it is likely that any statistics would show that migrant workers were much more likely to be injured or killed. Unfortunately, given the nature of migrant work, there is significant underreporting when injuries do occur.

The HSE conducted research on the position of migrant workers a number of years ago. It interviewed 200 migrant workers and found that:

- Most had received no, or little, training, even if this was required for the work they do, such as scaffolding or food handling. This was also the case with health and
safety training with a third receiving absolutely none and most of the rest simply getting a short induction session.

- Because many migrant workers only intended to stay in the UK for a limited period of time and their main aim was to make money and then return home they were more likely to work when ill, and if they became ill for a long period would usually return to their country of origin. This meant there was a serious underreporting of illness and injury.

- Many migrant workers worked over 60 hours a week. This was particularly bad in agriculture, catering and processing and packaging. Often overtime was not paid.

- Very low wages and long hours were more common among undocumented or unauthorised workers who worked under greater fear of dismissal and deportation.

- Around half of these interviewed had difficulties with English, although many tried to hide it from their employer for fear of not getting work. Because they were working long hours and spent most of their time within a migrant community, many migrant workers had no time or opportunity to improve their English.

- Many migrant workers reported discrimination, harassment or racism, either from supervisors or co-workers.

- Women workers were more likely to report that they had received no training, that their health was being compromised by the work they were doing and that they suffered from discrimination.

Other issues that have been raised either by this research or by trade unions working with migrant workers have included:

- Lack of adequate protective clothing. Frequently, migrant workers are asked to provide their own protective clothing, not told about the need for protective clothing or issued with inappropriate or inadequate protective clothing and equipment. Often protective clothing is second hand, and there is little training in how to use it.

- Lack of welfare provision. Where workers are employed through agencies they are often given accommodation by the agency, the cost of which is taken from their wages. There have been appalling reports of overcrowding, totally inadequate toilet washing and cooking facilities, lack of heating, privacy or security.

- Cultural diversity. Many unions have reported that employers are completely failing to address issues of cultural diversity, including conflict between tradition or religious dress and health and safety clothing.
Section 2
Issues for trade unionists

Given that organised workplaces have half the serious injury rate of those without trade unions or consultation, one of the best ways to protect migrant workers is to ensure they are members of a trade union. Clearly there are obstacles to recruiting migrant workers, which include a fear of victimisation, language issues, the low level of organisation in some of the areas where migrant workers are most common and the fact that many are seasonal or temporary. Nevertheless there is no evidence that migrant workers, where they are approached and supported, are less likely to join a trade union than other workers.

Many trade unions have been very successful in organising and supporting migrant workers, in some cases even setting up separate migrant workers’ branches. Recruiting and organising migrant workers prevents employers using migrants to undercut local workers and means decent conditions can be secured for all.

Unions have also found that organising around health and safety issues, or providing language training, has been a very good way of involving migrant workers. However those unions that have been most successful have been ones that have encouraged migrant workers to become active through holding a position such as safety representative. Where union representatives come from within the migrant community itself they are likely to be far more successful.

Employment status

Workers have the same legal right to a safe and healthy working environment regardless of their country of origin or legal status. The HSE have made it clear that health and safety regulations are there to protect all workers, whatever their immigration status.

However in practice, the fact that many migrant workers are employed through agencies or gangmasters, or are listed as “self-employed”, means that many employers do not feel that they have any responsibility for the safety of the workers who actually work for them. This is not the case. Where someone is employed by an agency both the agency and the person controlling the work have joint responsibilities for the person’s health and safety. In addition the Conduct of Employment Agencies and Employment Business Regulations (2003) specifically states that the agencies must make reasonable enquiries and hirers must inform agencies about any health and safety risks and steps which have been taken to control them. They also have to ensure that those they place in work are suited in terms of experience and qualifications.
In agricultural work that includes the processing and packaging of products derived from agriculture work and also gathering shellfish, agencies are covered by the Gangmasters Licensing Act (2004). Under this law agencies have to be licensed and must ensure that workers receive their legal rights and that labour providers (“gangmasters”) comply with health, safety and welfare provision.

While gangmasters and agencies are very common within the agricultural sector and in some parts of construction, there is also widespread abuse of “self-employment” in the employment of migrant workers in these, and other sectors, with employers claiming that their workforce are actually self-employed rather than directly employed. However safety responsibilities cannot be contracted out and this applies equally to those who are self-employed. Responsibility for providing a safe place to work remains with the employer or contracting organisation.

Clearly there is a need for measures to discourage the development of an informal sector, and prevent dubious self-employment, persistent temporary contracts, hiring by the day and so on.

**What safety representatives can do.**

- **Ensure that both workers and employers are aware of the legal requirement of the employer to ensure the health, safety and welfare of the worker regardless of their employment status. In some cases equality and anti-discrimination legislation will also apply.**

- **Make it clear that the Health and Safety at Work Act provides an absolute duty on employers to ensure the safety of employees and anyone else who might be harmed. They are not exempt from legal responsibility just because a worker is not directly employed, or has no legal employment status.**

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**CASE STUDY**

Domestic work in private houses has been a neglected and hidden area with little protection available (for example from enforcers) as the Health and Safety at Work Act does not cover those who are employed “as a domestic servant in a private household”.

A health and safety course was developed by the Workers’ Education Association (WEA) in partnership with Unite and Justice for Domestic Workers (J4DW) as an induction course for domestic workers who are new health and safety representatives and for union members who are considering taking on the role. The 6 day course was run on successive Sundays in the autumn of 2014, fitting in with the students’ one day off per week.

The course included sessions on the trade union approach to health and safety, organising around health and safety, health and safety law, employment status, working time, bullying and harassment, hazardous substances and representing members.
Risk assessment

The key to dealing with most issues around the health and safety of migrant workers is exactly the same as for other workers. The law states employers must ensure that there is a full and adequate risk assessment, and as a union representative it is important that you make sure that your employer has done this. The process of drawing up an adequate risk assessment will, in itself, ensure that the mind of the employer is focused on the real issues necessary to create a positive health and safety environment within the workplace.

Few migrant workers report knowing of a risk assessment having been done for their job and it is quite clear that, in many industries where migrant workers are concentrated, risk assessments are rare. Even where a risk assessment has been done, it is unlikely that it has covered many of the issues that might be specific to migrant workers such as cultural differences or language problems. Falls in the number
of health and safety inspections by local authorities and the HSE mean that the lack of risk assessments are unlikely to be discovered or prosecuted.

**CASE STUDY**

*In the Meat Hygiene Service, Unison has raised concern over the fact that many migrant workers in abattoirs are provided by agencies and have no training, and no specific risk assessments. Unison asked the MHS to carry out its duty under the Management Regulations to work with the providers of agency meat inspectors (mainly European migrant workers) to jointly assess risks to the directly employed meat inspection workforce and to the migrant agency inspectors. They have concerns that agency workers are being asked to work dangerous shift patterns, thereby placing both these workers and other MHS workers in danger from fatigue and resultant workplace accidents. They have also asked the MHS what contract compliance arrangements exist with the agencies in respect of joint health and safety responsibilities.*

The lack of any tradition of risk assessment or safety policies within many of the areas where migrant workers are most likely to be found may mean the safety representatives will have to tell the employer where they can go for advice. For most employers the HSE guidance “Risk assessment: A brief guide to controlling risks in the workplace”, is the best starting point although the risk assessment should also specifically address the presence of migrant workers, in particular issues around previous work experience, perceptions of risks, language and literary skills, the applicability of current training and safety materials, and whether training methods need to be tailored to different groups of workers.

**What safety representatives can do.**

- **Safety representatives should ensure employers produce risk assessments and that migrant workers see them and can comment.**

**Accident reporting**

There is evidence of considerable underreporting within those industries where migrant workers are concentrated.

The primary reason for that is the failure of employers to record injuries and near misses. Some migrant workers will be unaware of the requirement to report incidents unless they have specifically received training on the need to do so, or will simply be afraid that they will be blamed or sacked if they do. Furthermore, a lack of access to sick pay also means that, in many cases, a migrant worker sees no reason to report their injury and simply do not turn up for work again, thus their employer has no record of the injury.

There also may be underreporting of injuries as some migrant workers, especially after a serious injury, will choose to return to their home country for treatment.
What safety representatives can do.

Make sure that workers are aware of the importance of reporting any illness, injury or near miss, ensure that accident books are regularly checked, and seek information from management on what steps they are taking to investigate any reported injuries. This is best done by ensuring that training programmes are available and properly designed to cover this.

Body mapping, along with risk mapping, has proved to be extremely useful tools for safety representatives who are seeking to work with migrant workers and find out what health problems they are experiencing. For more information on body mapping see http://www.hazards.org/tools/

Welfare and first aid provision

Employers often have to be reminded that the Health and Safety at Work Act covers not only health and safety but also welfare and there are legal requirements on them to ensure the welfare of their staff. Many of the specific requirements on an employer can be found in the Workplace (Health, Safety and Welfare) Regulations 1992, including the rules around toilets and washing facilities, drinking water, facilities for rest and eating, temperature, space, lighting and ventilation. The HSE research on migrant workers showed that this was a major issue for many of those surveyed.

Many migrant workers complained of extremes of heat and cold, in particular in catering or processing and packaging, a lack of breaks and, particularly in agriculture, problems with accommodation. In addition there have been a number of press reports of appalling and squalid working conditions and accommodation forced upon migrant workers, in particular within agriculture.

However, where the accommodation is provided by the employer, the migrant workers are often put off from complaining about it in case improvements in the standards of housing means that they will

CASE STUDY

In a Northern Ireland meat factory, it was very cold. No formally scheduled rest breaks were provided to enable workers to warm up, and migrant workers in particular were not aware that they should take breaks. The union Unite circulated information about this translated into the different languages of the workers in each workplace, and a collective action was organised whereby all workers went off for their break after 3 hours. It then became established that they should take breaks after a reasonable time. RSI was also a problem. The employer ran the lines very fast and members were suffering from swollen hands and arms. A collective action was organised so that everyone suffering from RSI immediately reported this in the accident book, at least one person a day. This resulted in the lines being slowed down.
be faced with increased accommodation costs.

**What safety representatives can do.**

- **✓** *Raise welfare problems with employers to make sure the rules in the Workplace (Health, Safety and Welfare) Regulations 1992 are followed.*
- **✓** *Refer migrant workers to local advice centres, such as the Citizens Advice Bureau to seek assistance in housing or welfare matters.*
- **✓** *Ensure that migrant workers have access to first aid provisions.*
- **✓** *Ensure there are adequate arrangements for fire safety and, where appropriate, they have access to occupational health advice and support.*

**Personal protective equipment**

Many migrant workers have reported that either they have not been given any protective clothing, even when clearly required, or they have been charged for it, or what they have been given is inadequate or inappropriate.

The HSE research into migrant workers showed that while the majority of workers said they had been given basic protective clothing, such as overalls, those working outdoors were far less likely to receive protective clothing, such as footwear and, even where this was available, workers were often charged for it. Those working through agencies were more likely to claim they had not been provided with appropriate protective equipment.

The TUC has received reports of people being given second hand shoes and gloves, and being charged a weekly laundry fee for protective overalls. This is illegal. All workers are entitled to personal protective equipment where they are exposed to any kind of hazard where the risk cannot be removed or reduced by other means. It must be provided free of charge and the employer has responsibility for maintaining, cleaning and replacing it. They also have to ensure that it is suitable for use.

Personal protective equipment does not just cover things like safety helmets and safety boots but is also such things as aprons, gloves, ear protection, and outside clothing in cold weather or when working in cold stores. Often agencies and employers will argue about who is legally responsible for providing protective equipment, however the law says that they are both responsible in most situations and safety representatives should ensure that they do not get involved in a squalid argument between employers and agencies over who should be providing safety equipment.

**What safety representatives can do:**

- **✓** *Ensure that all workers are provided with free and suitable protective clothing or equipment, and trained how to use it.*
- **✓** *Negotiate with employers and agencies to establish who is responsible for providing safety equipment for workers.*
Training and information

Some migrants may have difficulty with speaking and understanding English which is a significant barrier to ensuring that they are suitably trained and informed on health and safety.

Unions have also reported issues relating to drivers from abroad being unaware of health and safety requirements and about UK road traffic law. Where incidents do happen it is invariably the driver that gets prosecuted rather than the employer, however it is the employer who is responsible for ensuring that the worker is competent and qualified.

The Management of Health and Safety at Work Regulations 1999 states “Every employer shall provide his employees with comprehensible and relevant information on health and safety risks, and preventive and protective measures”. The guidance to these regulations says that employers should make special arrangements for people with little or no understanding of English, or who cannot read English.

It is important to note that ensuring that materials on safety are produced in other languages is not, by itself, an adequate response to the specific needs of migrant workers. Some migrant workers will be less familiar with basic safety concepts so may need to have these explained to them.

That means that employers have to look at other ways of ensuring that staff are informed and trained. Training should ideally be available within the first language of the worker where there is any doubt as to their ability to understand English. Many migrant workers are reluctant to admit that they have problems understanding English and therefore will not make their needs known to their employer, or to any training provider. While assessment is a way of ensuring that the worker has understood at least some of the training, assessment methods are very uncommon outside of construction.

Where safety is compromised by poor language or literary skills, the employer has a responsibility to look at other ways of communicating with the worker on safety issues. In situations where there may be migrants with low levels of literacy, employers should provide non-verbal methods of training such as demonstrations, picture guides and pictorial signs.

The European Health and Safety Agency produces simple DVDs and guides called “Napo” that do not require language skills. http://www.napofilm.net

CASE STUDY

A mail order company employed large number of workers from Eastern European countries. At a health & safety committee meeting Unite union representatives raised concerns regarding whether many of these individuals understood what was contained within Risk Assessments, Health & Safety Procedures and many other documents. The company now employ a full time Polish trainer who assists in inductions and other areas where it is necessary to either translate or interpret.

The Management of Health and Safety at Work Regulations 1999 states “Every employer shall provide his employees with comprehensible and relevant information on health and safety risks, and preventive

http://www.napofilm.net
Whatever training method is used, it is important to check that the worker has fully understood what is being communicated to them.

**CASE STUDY**

*Prospect brokered access to English language lessons for Amey’s migrant facilities management staff working at the National Physical Laboratory using TUC UnionLearn. Staff such as cleaners, porters, business management and maintenance staff, whose first language is typically Polish, Spanish, French or Portuguese, have 2 hours a week during paid work time with a TESOL (Teaching English to Speakers of Other Languages) teacher; and having achieved Level I are now heading towards gaining a Level II qualification. Working closely with the teacher, Amey provided relevant risk information, recognising the opportunity the lessons provide for information and instruction in, for instance, the safe use of chemicals or the application of revised work procedures.*

Unions play an important role in providing language skills in the workplace through the Unionlearn education arm of the TUC, however millions of pounds of cuts have made it harder for unions to deliver this training.

Unions have also been instrumental in ensuring that migrant workers are offered access to language training outside the workplace, or, better still, through an on-site resource centre. Often the language training has been linked to giving workers access to internet, email, etc. In many cases unions have used the language training, and the internet facilities to help introduce concepts of health and safety to the worker by tutoring them about safety as part of the language training.

Unionlearn has also collaborated with the British Council and unions to produce an interactive pdf learning module for reps on ESOL awareness and supporting colleagues in the workplace. https://www.unionlearn.org.uk/publications/esol-english-life-and-work-module-reps. This includes videos, such as the one for McVities, where management speak about the benefits of ESOL learning to health and safety.

**What safety representatives can do.**

- Communicate with migrant workers in the most appropriate way possible. Ideally this will be done through bilingual safety representatives or union officers.
- Ensure that materials are available for migrant workers – using the resources at the end of this guide. The most successful union material has been written specifically within the language of the migrant workers rather than simply being a translation of standard union material in English.
Enforcement

The main reason that many migrant workers face increased risks to their health, safety and welfare is simply the lack of adequate enforcement of existing regulations.

Employers who fail to conduct risk assessments, do not provide PPE, ignore training needs, do not provide adequate welfare facilities, ignore the working time regulations and pay below the minimum wage, should all be prosecuted, yet we know this is not happening. Many small employers will never receive a visit. The number of health and safety inspections conducted by local authorities fell by over 95% between 2010 and 2015. The HSE also stopped doing proactive inspections in a large number of workplaces.

The fact that many employers are operating illegally also means that it is difficult for regulatory authorities to trace them. It is therefore hardly surprising that so many employers feel confident that they can continue flouting the law. Tragically, we are more likely to hear a report of a migrant worker being killed or injured than an employer being prosecuted for failing to undertake a risk assessment.

There should be substantial fines and/or custodial sentences for employers when they consistently do not comply with the requirements of employment law or health and safety law.

The TUC has been calling for much greater resources to be put into enforcement of the those areas where migrant workers are concentrated, and the support for migrant workers themselves.

While there have been some positive moves towards improving enforcement of migrant workers' rights, such closer working relations and joint inspections and enforcement by enforcement agencies and the passing, after union pressure, of the Gangmasters Licensing Act, this has hardly even scratched the surface of the problem.

CASE STUDY

In the Midlands distribution depot of a large supermarket, the majority of the staff, both warehouse workers and drivers, are migrant workers. Union membership is high among the migrant workers and there is a full quota of shop stewards and health and safety reps. Usdaw safety representatives have ensured that all the signage in the warehouse is now in English and Polish. They are also using the union learning centre to run ESOL courses so that workers can understand health and safety briefings when they come out. In addition they made sure that all the HGV drivers go through the same theory test and site-specific training for deliveries, wherever they come from. The company uses translators from the shop floor whenever there is a problem involving someone who does not have much English. They are all in the union and they know to get the safety representatives involved.
What safety representatives can do.

☑ Although safety representatives should normally ensure that any abuses of health and safety law, or the working time directive are reported they may wish to discuss the matter with their full time official first.

☑ It is good practice to ensure that, before a complaint is made to an enforcing authority, you have fully involved the workers themselves, who may fear that any intervention by the authorities could lead to either their jobs disappearing as the operation is closed down or, if their immigration status is in doubt, them being deported.

Working with others

The most successful campaigns by trade unions on health and safety rights and achieving equal treatment for migrants and local workers have been those that have involved working with local community groups or migrant workers’ support groups. Support organisations exist within most towns and cities with a significant migrant worker population. Where these do not exist, often local churches, temples and mosques act as focal centres for migrant workers.

Trade unions have often found that approaches to these bodies have been welcomed and are a useful way of identifying potential activists as well as getting across basic information on people’s rights. This is particularly the case with health and safety information.

In addition a number of unions have made contact with trade unions abroad and are developing joint resources which are available either on their union website, or from the union movement in the home country. The TUC has recently worked with trade unions in Hungary, Italy, Poland, Portugal and Romania to provide information for migrant workers from these countries.
Section 3
Resources.

Please contact your union for assistance in addressing any of the issues raised in this guide. In addition many unions produce materials specifically for migrant workers or in languages other than English.

The TUC website includes a section on health and safety and migrant workers at: [http://www.tuc.org.uk/migrantworkers](http://www.tuc.org.uk/migrantworkers). It includes a link to ‘Your health, your safety: A guide for workers’ in 20 languages which was produced by the TUC and the HSE.

The TUC also launched the new interactive ‘Working in the UK’ guide in 13 languages to essential workplace rights which includes a section on health and safety. [https://www.tuc.org.uk/workingintheUK](https://www.tuc.org.uk/workingintheUK)

HSE Migrant Workers pages are at: [http://www.hse.gov.uk/migrantworkers/](http://www.hse.gov.uk/migrantworkers/)

The HSE website has a number of publications which have been translated into 30 languages other than English. In addition, the HSE offers a telephone interpreting service. For more information go to the HSE website at [http://www.hse.gov.uk/languages/index.htm](http://www.hse.gov.uk/languages/index.htm)

Unionlearn with TUC Education aims to help unions to become learning organisations and runs courses for safety representatives across the UK. For more information see: [http://www.unionlearn.co.uk](http://www.unionlearn.co.uk)

They have also produced a fact file on Migration and Refugees at [http://www.tuc.org.uk/extras/factfileref.pdf](http://www.tuc.org.uk/extras/factfileref.pdf)

The TUC has produced the guide ‘Working in the UK’ which provides information in 13 language on essential rights at work: [www.tuc.org.uk/workingintheuk](http://www.tuc.org.uk/workingintheuk)

The website for Hazards Magazine has a range of articles and news items on migrant workers at [http://www.hazards.org/migrants](http://www.hazards.org/migrants)


The HSE research on migrant workers can be found at: [http://www.hse.gov.uk/research/rrpdf/rr502.pdf](http://www.hse.gov.uk/research/rrpdf/rr502.pdf)


The report of the Commission on Vulnerable Employment is at: [http://www.vulnerableworkers.org.uk/](http://www.vulnerableworkers.org.uk/)

Find out more

For more information about the campaign, go to:
tuc.org.uk/workplace-issues/health-and-safety/migrant-workers

Follow the campaign on Facebook at:
facebook.com/TUChealthandsafety