

17 April 2009

## **EMPLOYMENT AND RECRUITMENT IN THE MEAT AND POULTRY PROCESSING INDUSTRY**

### **SUBMISSION BY THE ASSOCIATION OF LABOUR PROVIDERS TO THE EHRC ENQUIRY**

Contact:

Mark Boleat – Chairman

Telephone: 07770 441377

Email: [mark.boleat@btinternet.com](mailto:mark.boleat@btinternet.com)

David Camp – Director

Telephone: 07855 57007

Email: [david@alliancehr.co.uk](mailto:david@alliancehr.co.uk)

#### **Introduction**

The Equality and Human Rights Commission (EHRC) has decided to conduct a formal enquiry into employment and recruitment in the meat and poultry processing industry. The terms of reference limit the enquiry to “*Atypical workers*”, defined as all those without permanent employment status. Submissions to the enquiry are invited by 17 April 2009.

This paper sets out the views of the Association of Labour Providers (ALP). The Association was formed early in 2004 by 18 labour providers. It now has over 200 members and is recognised as the representative voice for those labour providers that serve the agricultural and food industry. (Full information about the Association and its work is available on its website: [www.labourproviders.org.uk](http://www.labourproviders.org.uk)). Labour providers supply workers to the meat and poultry processing industry as part of their provision of labour for the food packing and processing industry generally. This enquiry is therefore relevant to a number of members of the ALP, albeit only to a relatively small part of their business.

#### **Executive Summary**

The enquiry is in respect of a sub-sector of a wider industry that has little different characteristics from the rest of the industry. The food packing and processing industry as a whole has been subject to a number of enquiries on employment practices, and is now the most heavily regulated sector of the economy in respect of employment. In these circumstances it is difficult to see the purpose of the enquiry.

Employment practices in the meat and poultry processing industry, like those in any other industry, depend on the economics of the sector. It is a highly competitive industry in which customers exert powerful downward pressure on prices. It follows that unskilled work tends to be at or near the minimum wage. It is difficult to find British workers willing and able to take on this work, so much of it is done by migrant workers, mainly from Eastern Europe.

Labour providers recruit where the available labour is. In respect of unskilled work pay rates for “*Atypical*” workers and other workers and between the nationalities are identical. The work ethic of migrant workers can have a helpful beneficial effect on domestic workers where they work alongside each other.

The use of migrant workers has helped to keep business in the UK that otherwise would move abroad, and has therefore benefited local communities.

Generally there are good relations between migrant workers in the meat and poultry processing industry and local workers. However, contact between the two groups is often limited as they may not work or live closely together.

There is little action that needs to be taken to improve equality of opportunity and good community relations in respect of workers in the meat and poultry processing sector. There is nothing that is specific to this sector.

## **The Context**

The EHRC has asked a number of specific questions to which it would like interested parties to respond. However, to confine the submission to those points would be of little value. Employment in the meat and poultry processing sector needs to be understood in the wider context of the economy generally and the food industry more specifically. For this reason the bulk of this submission covers these wider issues before answering the specific questions.

The sector chosen by the EHRC for its study is artificial. Meat and poultry processing is not a discreet sector with characteristics that differentiate it from other sectors. Those labour providers that provide workers to meat and poultry processing plants also provide them to fruit and vegetable processing and packing, and in some cases also to non-food industries, such as packing and processing books and CDs. The same workers can work in a number of different sub-sectors of the food industry or the wider economy. They are generally not specifically recruited to work in meat and poultry processing, but rather are recruited to be part of the labour force of the labour providers. In terms of the nature of the work, meat and poultry processing are obviously fairly close to each other in some respects. However, there are also significant differences, with poultry processing being more of a standard activity, and therefore similar to packing and processing fruit and vegetables. Meat processing does involve some more skilled activity. This is reflected in wage levels. In the poultry sector most of the employment is at minimum wage whereas in the meat sector skilled workers can earn more than the minimum wage.

Workers in the meat and poultry processing sector benefit from the full range of employment protection legislation, but also are in the food processing and packing industry, which is regulated by the Gangmasters Licensing Authority (GLA). The GLA is able to deploy massive resources to regulate the employment of agency labour in the food industry, whereas minimal resources are available to regulate direct employment by farmers and food businesses and agency labour in other sectors such as catering, hospitality and construction. While it is logically surprising that the EHRC should have chosen a heavily regulated sector to study, this follows a well known pattern of regulators and interest groups busily pursuing themselves in a small area of the economy while other sectors are left untouched.

Related to this point is that regulated sectors are heavily researched. A list of some of the relevant research reports is appended to this report. The Commission will no doubt wish to approach individual labour providers, but they must expect a reaction to do with "*research fatigue*" given the number of researchers who have been knocking at their doors. The Association will encourage its members to co-operate.

One would have expected the decision to conduct an enquiry to be based on research that indicated that there was a specific problem that needed to be addressed. The ALP

has been unable to find any evidence that such an analysis has taken place, and it seems that the sector has been chosen either at random or because of political pressure from particular interest groups. It is normal for regulatory bodies to publish the criteria they use for assessing the basis on which they will start enquiries. This also helps to give respondents some guidance on the submissions that would be helpful to the Commission. It is unfortunate that this is not the case.

The timing of the enquiry is not ideal. It follows on from a number of other enquiries on the use of temporary labour in the food industry and while consultation is underway on the implementation of the Agency Workers Directive which has to be implemented by the end of 2011. Given the need to give proper notice of the new requirements under the Directive, the Government intends to complete the consultative process fairly quickly with final decisions being taken early in 2010. It seems unlikely that the EHRC enquiry will be concluded in time to inform this work, and when it is subsequently published it will, in policy terms, have been largely overtaken by events.

A final point in this introductory section relates to the use of the term "*Atypical worker*", which has implications that are either pejorative or imply some sort of second class citizen. The enquiry says that "*Atypical employment*" will be taken to include agency workers, workers defined, by their contracts as "*self employed*", temporary workers, and any other workers without permanent employment status. This suggests that typical employment is a permanent employed status with everything else being somehow unsatisfactory. A high proportion of the labour force does not have permanent employment status. The relative success of the British economy over the last 20 or so years, as successful governments have pointed out, has depended to a large extent on the flexibility and adaptability of the labour force, able to take advantage of new opportunities quickly and efficiently, and not restricting progress by outmoded working practices. It is also the case that the difference in practice between agency work and permanent employment can be very modest, as many "*permanently*" employed workers are currently finding out. If the business is not there and their wages cannot be paid they will lose their jobs regardless of their status.

Employment law rightly gives substantial protection to all workers, whatever their status. Whether workers are employed on supposedly permanent contracts or as agency workers depends on the economics of the industry, business practices and personal choice. If the Commission was determined to study employment in meat and poultry processing it would have been preferable for it to cover all employment in this sub-sector of the economy rather than pick on "*Atypical workers*".

### **The Economics of Employment in the Meat and Poultry Processing Industry**

Employment practices in meat and poultry processing result directly from the economics of this industry. The sector is highly competitive. There are many businesses in the sector that compete strongly with each other. Meat and poultry also compete with other consumer expenditure. The sharp increase in the price of some meat during 2008 led to a significant reduction in demand. Competition comes not only from within the UK. The meat and poultry that consumers buy passes through the hands of one or more intermediaries including retailers and wholesalers as well as the packing and processing plants. Generally, British consumers, for all the occasional noise to the contrary, are indifferent as to where their meat and poultry come from, and accordingly the buyers for the retailers will look to pay the cheapest price for a given quality of product. If this means buying meat or poultry from Denmark, Thailand, New Zealand or Argentina then they will not hesitate to do so.

The retail sector is dominated by the supermarkets who are able to, and who do in practice, exert substantial downward pressure on the prices they pay to their suppliers.

In these circumstances it is not surprising that unskilled work is at or near the National Minimum Wage level. In the poultry sub-sector there is very little skilled work, but in the meat sector, which is more diverse, there is a demand for more skilled labour which is paid more than the National Minimum Wage.

Generally, British workers are unwilling to do the unskilled work in the food and processing industry, as a consequence of which it is migrant workers who are employed. It is sometimes argued that all that needs to be done is for workers to be paid more than the minimum wage such that British workers would be willing to take on the work, and consumers would be happy paying a little bit extra for their food knowing that low paid workers were benefiting. The argument is facile in a number of respects. Firstly, there is no evidence that even if pay was increased from the minimum wage of £5.73 an hour to say £7 or £8 that there would be a huge increase in the number of British workers willing to take on the work. There is no evidence that in fact the huge migration from Eastern Europe has led to a reduction in wage levels. Reviewing the evidence, the Government's Migration Advisory Committee concluded that "*A8 immigration has not been shown to have a significant impact upon labour market outcomes and prospects for existing workers*". Although it did go on to note "*However, although unobserved, the possibility of impacts at the low wage end of the distribution remains*".

There is also the more fundamental point here which relates to the internationally competitive nature of the industry. The meat and poultry processing industry in Britain remains internationally competitive because of the workforce that is currently employed. If that workforce was not available then the industry would be less competitive, and rather than employing British workers at higher wages the effect would be that much of the business would move overseas, with a higher proportion of meat and poultry being imported.

### **Current Practices and Equality of Opportunity**

Meat and poultry processing factories frequently decide to outsource their employment needs because it is economically sensible for them to do so. This particularly applies where work is seasonal (turkeys being the obvious example).

The May 2007 Ergon Associates report "Agency labour in the UK poultry sector found the reasons for employing agency workers as follows: -

Short term production requirements unpredictable	74%
They cover seasonal peaks	70%
Permanent workers are not available	67%
They provide holiday cover	67%
They provide weekend cover	44%
They are willing to do shifts during anti-social hours	33%
They are hardworking	26%
They are the only people willing to do the work	11%
They are cheaper to employ	4%
They are more skilled	4%
They are more careful and have fewer accidents	4%

In practice some businesses outsource the whole of their labour requirements to a managed service provider as part of a recruitment process outsourcing strategy. This

provides benefits to the producer such as greater flexibility, lower costs and enables a greater focus on technical and commercial matters.

The widespread use of agency staff from eastern European countries in the food industry generally has had significant benefits to the UK economy. In addition to the impact on economic growth (which the MAC has concluded is small but significant), the use of migrant workers has preserved business in the UK that might otherwise have moved abroad, and in a minor way has contributed to holding down the price of food.

The opportunities for employment in the UK have offered huge benefits to workers from Eastern Europe. They have been able to earn substantially more than they could in their home countries, although this differential is now easing as a result of changes in exchange rates and increases in wages in their home countries. They have also been able to experience working and living in a different country and for many, particularly younger, workers they have had the opportunity to improve a language which will help them in their chosen career in the longer term. It has never been the case that waves of Eastern European workers came over here to settle and now some of them are returning. Rather, it has always been the case that there has been a substantial two way flow with the workers from Eastern Europe generally not wishing to settle here but wishing to work here for a time, either to earn more money than they could in their home country and/or to improve their English to help their career prospects. Many of the workers from Eastern Europe have gone back to their home countries with greater skills and knowledge, and many have moved on to better jobs in Britain.

The influx of workers from Eastern European countries has also exposed British workers, to the extent that they do work alongside each other, to different working practices and a different work ethic. To a limited extent this may have rubbed off on some British workers. The work ethic of Eastern Europeans is generally accepted throughout the country and there are any number of anecdotal stories of people praising the productivity of workers and where they work in the retail sector of their attitude to customers which can contrast with that of native workers.

In terms of equality of treatment, where pay is at the minimum wage then there is equality of treatment. For more skilled work in the meat processing industry it may well be the case that the pay of temporary workers is below that of permanent workers. This reflects market conditions and is not unusual in other sectors. Conversely in some sectors, for example nursing, the pay of agency workers can be above that of permanent workers. The relationship between the pay of permanent and temporary workers depends on a complex range of factors, some of which are historic. For example it is possible that the pay of permanent workers might be above a reasonable market level.

The Agency Workers Directive addresses these issues and its implementation in the UK should ensure equality of treatment between permanent and temporary workers. However, in practice for some workers this will be a difficult concept as there may well be no permanent employees with whom a comparison can be made.

The terms of reference ask whether treatment is directly related to the country of origin of the workers. As far as labour providers are concerned the answer to this question is "no". Labour providers recruit where the labour is. They do not pick countries at random and then try to recruit. Clearly, the Eastern European countries are by far the most attractive, as there are no restrictions on their nationals working in the UK and wage levels in those countries are substantially below those in the UK.

In order to attract workers from Eastern Europe labour providers may have to provide a range of services that may well not be available to any locally employed workers. These may include assistance in travelling to the UK, assistance in providing accommodation, and assistance in completing the necessary formalities to obtain work in the UK, including obtaining National Insurance numbers and registering with the Worker Registration Scheme. Some labour providers also provide translation facilities to help their workers settle in the UK.

### **Good Relations between Different Nationalities**

Since 2004 over 800,000 workers from Eastern Europe have come to the UK to work. This number far exceeds any other comparable migration in British history. It has happened with virtually no social tensions and almost no criticism. This may be contrasted sharply with the immigration of a more limited number of Kenyan and Ugandan Asians in the 1970s. The workers have not come here to claim benefits. The vast majority do not have dependants, and the call they make on the taxpayer is more limited than domestic workers. They are not able to "*jump the queue*" for council housing, and indeed most would probably not wish to live in council housing. The large concentration of such workers in some areas may have stretched some public services and put upward pressure on parts of the housing market, but those communities would much rather have the business continuing than factories being closed down.

Where workers from Eastern Europe work alongside native British workers then the good work ethic of the Eastern Europeans can rub off on their British counterparts. However, in practice in many areas contact between the migrant workers and the resident population is limited. The workers work in factories which may well be outside of the major urban areas, and in those factories there are virtually no British workers. Some of the workers may live in caravans provided by their employer, in which case again they would have limited contact with British workers. Often, however, the workers do live in the local towns, some of them becoming landlords for their fellow citizens. They probably compete with students for housing at the bottom end of the market. However, there is no evidence of significant social tensions and by all accounts the workers have integrated very well.

### **Action to Promote Equality of Opportunity and Good Community Relations**

Given the analysis in this evidence it is difficult to see what action can be taken to promote equality of opportunity and good community relations as there is not currently a significant problem that needs to be addressed. The Agency Workers Directive will address the equal treatment issue in respect of employment matters. However, the point has been made in this submission that in some factories there are only agency workers, and in this case the Directive will have limited effect. Indeed, there is probably a risk that some businesses will decide that the cost of treating workers the same is such that they would be best to rely wholly on agency workers rather than a mixture of permanent and agency staff.

It is wrong to assume that good community relations depend on actions taken by central and local government, although they do have a modest role to play. Good community relations depend essentially on people. There is little evidence to suggest that migrant workers in the meat and poultry processing industry have caused any social problems and anything other than good workers and good neighbours.

## **Appendix**

### **Research on employment in the food sector**

*Temporary workers in UK agriculture and horticulture*, Precision Prospecting, Defra, 2005

*The business process applicable to all parties using and supplying temporary labour covered by The Gangmasters (Licensing) Act 2004*, IBM, Defra, 2005

*Secondary Processing in Food Manufacture and Use of Gang labour, the Gangmasters (Licensing) Act 2004*, Precision Prospecting, Defra, 2005

*Gangmasters Licensing Authority Annual Review 2007*, GLA, 2007

*Gangmasters Licensing Authority Annual Review 2008*, GLA, 2009

*Migrant workers in the East of England*, Sonia McKay and Andrea Winklemann-Gleed, East of England Development Agency, 2005.

*The impact of migration from the new European Union Member States on native workers*, Sara Lemos and Jonathan Portes, DWP, 2008.

*The labour market impact of relaxing restrictions on employment in the UK of nationals of Bulgarian and Romanian EU member states*, Migration Advisory Committee, 2008.

*Migrant workers in England and Wales – An assessment of migrant worker health and safety risks*, Sonia McKay, Marc Craw and Deepta Chopra, HSE, 2006.

*Agency labour in the UK poultry sector: A research report for the Ethical Trading Initiative* Stuart Bell, Marc Craw, Steve Gibbons, Sonia McKay, Ergon Associates & Working Lives Research Institute, 2007.