

Migrants' Workplace Deaths in Britain

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“I wish that employers would pay as much attention to the health and safety of their employees as they pay to results of their work. The constant pressure of achieving best results, improper work management, not taking health and safety regulations seriously result in tragic situations like this. We need to remember that human life is priceless. For many, Janusz’s death is just another statistical case. For me, it is an irreversible tragedy that has changed my life forever. I have lost a loving husband and I am still suffering from the consequences of the loss. The accused companies should be absolutely found guilty. Perhaps this will prevent other accidents from happening.”

Grazyna Trybala, wife of Janusz Trybala, who died while at work on a Waste Energy Plant in Maidstone, Kent, on 19 July 2005

EXECUTIVE SUMMARY

This report focuses on the numbers, circumstances and causes of deaths of migrant workers in Britain whilst at work.

UK published research shows that migrants are more likely to be working in sectors or occupations where there are existing health and safety concerns and that their status as new workers may place them at added risk – for example due to lack of language skills. Research in France, Germany, Italy and Spain strongly suggests that migrant workers are more likely to suffer workplace injuries than expected by their numbers within the workforce – although other research suggests that the rates of injuries between migrant and non-migrant workers within any particular sector is similar. No similar research has been undertaken in the UK.

Numbers of migrant workers: There are no official figures for the numbers of migrant workers in Britain. The Health and Safety Executive's (HSE) own commissioned research, published in 2006, concluded that in 2005, 3.8% of the UK workforce comprised migrant workers. However, this figure now appears to have been an under-estimate. Later in 2006, the Office for National Statistics (ONS) published a paper concluding that 5.4% of the 2005 UK workforce comprised migrant workers and it is this figure which is now considered to be the 'best estimate'.

HSE's commissioned 2006 research suggests that most migrant workers are in the health and social welfare sector – and the ONS has not published any alternative figures for migrant workers by sector. Estimates for the percentage of migrant workers in the construction sector range have ranged from 2.4% to 8%.

Numbers of Migrant worker deaths: Until April 2008, the HSE did not collect information on the nationality of workers who died – and the nationality of those who have been injured remains unrecorded by the HSE. Following a series of Freedom of Information Act (FOIA) requests, the HSE has, however, released documents that show that since the year 2005/6 the HSE has undertaken manual trawls of its files to identify migrant workers who have died. In the construction sector, the documents show that manual trawl happened since 2002/3.

The FOIA-obtained documents show that whilst in 2005/6 and 2006/7 the total number of migrant worker deaths were not disproportionate to the number of migrant worker deaths within the entire working population, this changed in 2007/8 where a disproportionate number of migrant workers did die: there were 8 deaths of migrant workers (7.9% of the workforce) when only about 5 (that is, 5.4% of the workforce) would have been expected.

The situation in the construction sector is however starker. In 2005/6, 55% of all the migrant deaths involved construction workers; in 2006/7, this proportion increased to 62%, and in 2007/8, this increased to 66%. Also notable is the significant increase of migrant worker deaths *within* the construction sector itself. Whilst in 2002/3 only 3% of construction deaths involved migrant workers, by 2007/8 this was 17% - almost a fifth of all recorded construction deaths.

Estimates for the number of migrant workers in the construction sector range from 2.4% to 8%. The 12 migrant worker deaths figure in 2007/8 – representing 17% of the total - is at the very least twice what should be expected, and may be many more times if the actual number of migrant construction workers is less than 8% of the total construction workforce.

Number of Migrant worker injuries: There is very little information on numbers and level of injuries to migrant workers, but one study by the HSE in the South West region - using only the surnames of injured workers with a reported injury as a marker of nationality - indicate that as many as 11% of reported injuries might be suffered by migrant workers. If this turned out to be an accurate figure, it would be double the expected level.

Circumstances of migrant worker deaths: This report looks at the circumstances of 46 migrant workers' deaths in England and Wales that the Centre for Corporate Accountability has collected over a seven-year period. Although this is not comprehensive, it gives an indication of the circumstances of how many migrant workers come to die at work. The workers who died came from 24 different countries (most of them East-European ones: 16 from Poland and 2 each from Ukraine, Romania and the Czech Republic). Most of these workers (31) were under 40 years of age, and 18 were 30 or younger. Most of these workers (24) died in the construction sector - although 11 died in the services sector, and 6 in the agricultural sector. The part of the country with most deaths is London, where there were 16 deaths – 36% of the total.

State response to migrant worker deaths: In 37 of the 46 deaths a full inquest has been completed – with 28 of these deaths resulting in an accidental death verdict. In 5 cases there were narrative verdicts, in 3 there were verdicts of 'misadventure'; and there was 1 open verdict. There were no verdicts of unlawful killing.

Coroners' officers were asked whether or not the bereaved families had legal representation at the full inquest. Of the 15 cases about which we were able to obtain this information, 9 families (60%) did not have legal representation. This would be of particular concern if this percentage reflected the overall lack of representation of families at inquests following migrant worker deaths.

This report also looked at the number of migrant worker deaths that have resulted in a prosecution for health and safety or manslaughter offences. Out of the 32 deaths where prosecution decisions had been made, 14 deaths – 44% of the total – had resulted in a decision to prosecute for health and safety offences. This is higher than the 30% of all workplace deaths that are estimated to result in legal action. The increased level in the number of migrant deaths that result in a prosecution could well indicate that their deaths – compared to most worker deaths - are the result of more culpable failures on the part of employers or others. It could also, however, show that the HSE are more willing to find reasons to prosecute following a migrant worker death, or it may simply be because the deaths monitored by the CCA do not include other migrant workers deaths that did fail to result in a prosecution.

This report also shows that the Health and Safety Executive failed to issue a press release following 7 out of 10 convictions that have resulted from these prosecutions.

Since the deaths of 21 Chinese cockle pickers at Morecambe Bay in February 2004, the HSE has given considerable attention to migrant worker health and safety. It has made it clear that migrant workers – whether documented or not – have equal rights to adequate protection under health and safety law. It has dedicated inspector time to focus on the issue, ensured that reported incidents involving migrant workers in particular sectors are always investigated, and taken efforts to improve its communication to both employers and migrant workers themselves. However the recent increased reports in the number of migrant worker deaths indicate that more work – and in particular resources - need to be put into this issue.

The report recommends that increased research needs to be undertaken to determine the extent of the increased risk to migrant workers. The HSE must also collect information on the nationality of those *injured* at work, not just those that die at work: without collecting this information it will never be possible to look at whether migrant workers are at greater risk of injury. Particular focus needs to be given to the construction sector – and the Gangmasters (Licensing) Act 2004 should be amended to cover the construction sector.

CHAPTER ONE

INTRODUCTION

This report is concerned with deaths of migrant workers during the course of their work in Britain. It looks at how many migrant workers have died, the circumstances of their deaths, the nationality of those who died and whether the numbers of migrant worker deaths is higher than expected when compared to their number within the total working population.

The report also looks at the state's response to migrant worker deaths - both how the investigative and prosecution bodies have responded to particular migrant worker deaths (as reflected in the Coroner's Court verdict, the decision on whether or not to prosecute, and the extent to which they have publicised the conviction) as well as how the Health and Safety Executive (HSE) has responded in policy terms following the deaths of 21 Chinese workers at Morecambe Bay in February 2004.

Working Conditions Faced by Migrant Workers

When in June 2004, following the tragedy in Morecambe Bay three months earlier, the HSE looked at whether migrant workers faced particular health and safety problems, it stated that:

“At present, we have no firm evidence that migrant workers account for a significant or disproportionate number of accidents. This, however, may well be due to RIDDOR not recording information on race or ethnicity (or other background personal data). It is also quite possible that there is under-reporting of incidents involving migrant workers, especially those whose employment or residency status may be insecure.”¹

The HSE went on to say that despite the lack of evidence,

“There is, nevertheless, strong anecdotal evidence to suggest that migrant workers with low English language skills and/or poor knowledge of local circumstances are at risk. Unscrupulous employers who take advantage of migrant workers' ignorance and lack of economic or social influence to skimp on training and adequate health and safety provision may compound such problems. Workers whose employment or residency status is of doubtful legality will be still more vulnerable.”

In February 2005, the TUC published a report on “Forced Migration and Labour to the UK”. It provided more anecdotal evidence supporting these concerns – whilst emphasizing that little research had been undertaken:

“While some attention has been paid to the vulnerability of migrant workers to violence and threats exercised by individuals in positions of power over them, the physical dangers posed by working conditions and disregard to health and safety matters have gone unexamined. The fact that the multiple deaths that have hit the headlines have been treated as “gangmaster” tragedies has possibly distracted attention from the working conditions experienced by migrants and the associated health and safety issues.

Yet the media has reported more than one case where migrant workers were

¹ p. 3, para 6, HSC 04/61, “Migrant Workers” Paper by HSE to HSC

experiencing grossly substandard living and working conditions. One week after the deaths at Morecambe Bay in February 2004, 40 people were stranded near the site of the disaster, again caught by the tide. In December 2003 Morecambe Bay had been the site of a huge rescue operation when 30 cockle pickers became cut off after a tractor broke down. The deaths at Morecambe are by no means the only fatalities. In October 2002 two Polish workers in their twenties suffered horrific injuries and died when they became entangled with a rope reeling machine. They had been dismantling polythene tunnels used to grow strawberries and raspberries for supermarket selling. In July 2002 a young Hungarian woman working on a farm near Basingbourn died after being trapped beneath a fork lift truck. In February 2001 Ionut Simionica, a 22 year old from Romania was killed while working on a construction project at a church in Westminster.²

The report focused how the language barrier can be a significant health and safety issue. It stated:

“After the Morecambe Bay tragedy for instance, commentators were quick to point out that the Chinese victims did not have local knowledge of the language to be able to read warning signs. Employers have a duty to explain and train around health and safety issues in a way that is accessible to the employee, but this obligation is not always met. Some elements of the care and construction industries are making efforts to deal with this including through making health and safety information available in different languages. ... The relevance of the language barrier to health and safety concerns has been identified in other sectors, including agriculture and manufacturing, but little progress has been made. Arrangements to ensure effective communication of health and safety information often seem to be inadequate, not least because employers may not know the nationality or language group of their casual employees.”

The report also noted the practical difficulties there can be in obtaining supporting evidence of their working conditions, “as co-workers can be frightened to speak out because of their immigration status and dependence on their employer. Indeed, migrants have been reported as running away from HSE inspectors who are seen as an arm of the state, and therefore policing immigration status. This is so even for the victims of accidents as workers report stories of the victims of industrial injuries who have to go to hospital and are never heard of again, the implication being that they have to leave the UK.”³ It also noted that it has been known for employers to check seriously injured workers into hospital under false names and then deny any knowledge of them.

In October 2006, the HSE published a report it had commissioned from London Metropolitan University. This was based on 200 field work interviews with migrant workers in six sectors supplemented by interviews with employers, other bodies and HSE inspectors. It found that migrant workers were more likely to be employed in sectors or occupations where there were existing health and safety concerns, and that their status as new workers may place them at added risk. It found that few checks were made on migrant workers’ skills and qualifications for undertaking the work they were doing. Even in cases where workers were performing skilled and potentially dangerous work, like scaffolding, work was being offered to individuals who had no previous experience in the task. In food production and in catering most workers were not tested for their knowledge of food hygiene, and only a minority was offered training. As a consequence, some workers were handling food products without an awareness of the steps they needed to take

² p. 40, “Forced Migration and Labour to the UK”, Bridgit Anderson and Ben Rogaly (TUC, 2005)

³ p.52

to avoid contamination. Those working with chemicals in general had little knowledge of what they were composed of, and formal training was not necessarily sufficient, especially where technical language was required to explain the nature of the risk. Of the 200 migrants interviewed, a relatively high proportion (one in four) had either themselves experienced an accident at work or had witnessed accidents involving migrant co-workers. It concluded that:

“Some workers, not just migrants, are exposed to risks at work, due to the nature of their work. Thus the research does not claim that the risks inherent in a particular type of work of necessity only present themselves in relation to migrant workers. However, what it does reveal is that migrants are more likely to be working in sectors or occupations where there are existing health and safety concerns and that it is their status as new workers that may place them at added risk, due to their:

- Relatively short periods of work in the UK;
- Limited knowledge of the UK’s health and safety system;
- Different experiences of health and safety regimes in migrants’ countries of origin;
- Motivations in coming to the UK, particularly where these are premised on earning as much as possible, in the shortest possible time;
- Ability to communicate effectively with other workers and with supervisors, particularly in relation to their understanding of risk;
- Access to limited health and safety training and their difficulties in understanding what is being offered, where proficiency in English is limited;
- Failure of employers to check on their skills for work and on their language skills;
- Employment relationships and unclear responsibilities for health and safety, in particular where workers are supplied by recruitment agencies or labour providers or are self-employed; and
- Lack of knowledge of health and safety rights and how to raise them, including knowledge of the channels through which they can be represented.”⁴

Research published in 2007– involving the interviewing of 67 migrant workers in the Grampian region of Scotland - supported these concerns. This found out that whilst overall, the majority of participants stated that they had received some basic training in health and safety and food hygiene, as well as other job-related training, for example in handling machinery at work, in most cases it was delivered in English and 11 migrant workers in the food processing industry described the health and safety training as being very basic to 'nonexistent'. In addition, 12 of the 87 migrant workers reported that either they or someone they knew had suffered from a workplace injury or ill health problem.⁵ The publication of the report of the Commission on Vulnerable Employment in the UK, established by the TUC, gave further support to the concerns set out in previous research.

In the same year, the European Agency for Safety and Health published a review of academic research into occupational ‘accidents’ amongst migrant workers. There were no UK studies involved in this review – reflecting the lack of UK research in this area.⁶ The report found contradictory findings. It concluded that “existing data suggest a higher accident rate for migrant workers” - though it also concluded that “in those studies where migrants and natives worked in the same jobs and in the same organisations, no differences in occupational accidents were found.”

⁴ p. v, “Migrant Workers in England and Wales” (HSE)

⁵ p. 45, “A study of migrant workers in Grampian: A Report to Communities Scotland”, Philomena de Lima, Maariyah Masud Chaudhry, Robert Whelton and Rowena Arshad, University of the Highlands and Islands (2007).

⁶ No UK academic studies looking at comparative injury levels amongst migrant workers and native workers were referenced in any of the literature looked at as part of research into this report.

- In France, migrant workers were found to be disproportionately represented in French industrial accident rates – with more than 30% of industrial accidents leading to permanent disability happening to non-French workers.⁷
- in Italy, a study showed that in the total active population there was one accident at work for every 23 people, but this proportion increased to one out of 16 for non-nationals.⁸
- in Ireland a report showed that the fatality rate per 100,000 workers is 5.6 among non-nationals, compared with 3.0 for Irish workers.
- in Spain, a report by the Spanish National Institute for Safety and Hygiene at Work revealed that in 2005 migrant workers suffered 8.4% of all accidents and 9.9% of fatal accidents - above their share in the Spanish working population (7.6%). The sector breakdown of accidents reflects that construction, which employs 22% of migrant workers in Spain, concentrates more than one third (37%) of all migrants' accidents.⁹
- Germany also reports higher rates of occupational accidents among immigrant than among native workers. Immigrants working in the metal processing industry and in the sector of waste treatment, waste materials and cleaning were overrepresented in accident rates.¹⁰ Another study also confirmed that twice as many occupational accidents happen to foreign workers than to German ones.¹¹
- A Swedish study at an automobile and truck factory found no support for the view that immigrants are at greater risk than nationals for occupational accidents.¹²
- Preliminary results among bus drivers in Finland show that foreign-born bus drivers were slightly but not significantly more often involved in occupational accidents than Finnish-born drivers.¹³
- A study on the deaths of Mexican workers in the United States revealed that Mexicans were 80% more likely than US-born workers to die due to workplace accidents.¹⁴ Also in the US, research argues that immigrant workers are at a higher risk of being killed or injured at work

⁷ Gliber, M: Migration and Health in France. In Country Reports on Migration and Health in Europe (eds. A Huismann, C Weilandt & A Geiger) Wissenschaftliches Institut der Ärzte Deutschlands e V, Bonn, pp. 106–155, cited in Carballo, Manuel, Divino, Jose Julio & Zeric, Damir, Migration and health in the European Union, Tropical Medicine & International Health 3 (12), 936-944.

⁸ European Foundation for the Improvement of Living and Working Conditions 2007: Employment and working conditions of migrant workers <http://www.eurofound.europa.eu/docs/ewco/tn0701038s/tn0701038s.pdf>

⁹ 133. Instituto Nacional de Seguridad e Higiene en el Trabajo, 'Avance de Siniestralidad Laboral: Julio 2005-Junio 2006

¹⁰ Uske H, Heveling-Fischell M and Mathejczyk W 2001: Risiko Migration. Krankheit und Behinderung durch Arbeit. Duisburger Institut für Sprach- und Sozialforschung: Duisburg.

¹¹ Korporel J 1990: Zur gesundheitlichen Situation der ausländischen Bevölkerung in der Bundesrepublik. Psychomed, 2(1), 11-16.

¹² Döös M, Laflamme L & Backström T 1993: Invandrare och arbetsolyckfall. En jämförande studie av olyckfall bland utländska och svenska medborgare. [Migrants and occupational accidents. A comparative study on accidents among migrants and Swedes]. Arbetslivsinstitutet, Arbete och hälsa 1993:33.

¹³ Salminen S, Vartiainen M & Giorgiani T 2006: Do Immigrants Have More Accidents than Finnish Workers? Paper presented at the European Productivity Conference, 30.8.-1.9. Espoo, Finland.

¹⁴ Pritchard J 2004: Mexican Worker Deaths Rise Sharply Even as Overall U.S. Job Safety Improves. The Associated Press, March 14, 2004.

http://fmmac2.mm.ap.org/polk_awards_dying_to_work_html/DyingtoWork.html

than native workers. This is linked to their likelihood of being employed in high-risk occupations, in the unregulated and informal economy and their fear of reporting workplace injuries. The study mentions that even though foreign-born employment in the US increased by 22% between 1996 and 2000, the share of fatal occupational accidents for this group rose by 43.¹⁵

However, none of this literature answered the question whether migrant workers in the UK *actually* suffered a higher level of injury or death than other workers.

In November 2008, the HSE produced a paper for its Executive Board which stated that, following its 2006 research report, the HSE had commissioned further research from Edge Analytics Ltd to try and discover whether migrant workers were at greater risk of accident than other workers. It stated that:

“essentially a though literature review, the research concluded that ‘studies have typically not found conclusive evidence of a higher incident or injury or illness to migrants in the workplace’. It noted however that failure on the part of migrant to report accidents and limited coverage of some surveys, has affected such studies.”¹⁶

As a literature review, this report only looked at existing published research. It did not look at HSE’s own records of deaths of migrant workers and assessed whether these numbers were higher than expected – as this report has done.

¹⁵ AFL-CIO: Immigrant Workers at Risk – The urgent need for improved workplace safety and health policies and programs; Washington 2005; http://www.aflcio.org/aboutus/laborday/upload/immigrant_risk.pdf

¹⁶ p. 5, “Vulnerable (including migrant) workers: an update”, HSE/08/79, meeting date 26 November 2008

CHAPTER TWO

ARE MIGRANT WORKERS AT GREATER RISK OF DEATH THAN OTHER WORKERS?

What is a “Migrant Worker”?

There is no universally accepted definition of who is a migrant worker. A commonly used definition in the past has been the one used by the International Passenger Survey, which defines a migrant worker as ‘a person who has resided abroad for a year or more and who states on arrival the intention to stay in the UK for a year or more.’¹⁷ In 2004, however, the HSE commented that “This definition may be both too broad (e.g., in covering large numbers of EU nationals who have been well established here for many years) and too narrow (e.g., in excluding students and seasonal workers who enter the UK under schemes designed to facilitate much shorter periods of work but who, nevertheless, remain for longer).” In addition it noted that the definition excludes, seasonal workers who genuinely only stay in the UK for less than a year and also unauthorized workers.

In an HSE commissioned report published in 2006 (see below), the authors defined migrant workers as those “who have come to the UK within the last five years specifically to find or take up work, whether intending to remain permanently or temporarily and whether documented or undocumented.”¹⁸

How many migrant workers are there in Britain?

In January 2005, the Health and Safety Executive (HSE) told the Health and Safety Commission (HSC)¹⁹ that:

“we have found that there is a dearth of information and evidence regarding the number of migrant workers employed in the UK, and the nature of that employment. Whilst information pertaining to foreign workers within the labour market is not difficult to access, currently within the UK there is no register of migrant workers and schemes designed to collate information regarding the characteristics of the UK labour force, such as the Labour Force Survey, do not differentiate between migrant workers and foreign workers per se. At best, we can draw inferences from trends in general migration (and not that specifically work-related), from the Work Permits and National Insurance number schemes, and from information regarding foreign worker population stocks and flows. Any estimates currently achievable are likely to be gross underestimates of actual numbers as there is no consideration given to the illegal economy in official estimates.”²⁰

In a number of papers written for the HSC throughout 2004 and 2005, the HSE estimated that about 10% of the workforce comprised migrant workers. This figure was taken from a Department of Work and Pensions analysis that estimated 3.6 million people of working age were

¹⁷ Also see HSE/04/61, P.12, HSE Paper to the HSC, “Migrant Workers by John Furlong and Jason Cole”

¹⁸ “Migrant Workers in England and Wales (HSE), 2006, p. 15

¹⁹ In April 2008, the HSE and the HSC merged into a single regulatory body, known as the HSE, which is managed by the HSE Board (the former HSC).

²⁰ HSC/05/04, “Migrant Workers: A progress Report” Annex A, p. 4 of HSE paper to HSC.

born overseas.²¹

HSE Commissioned Research: In October 2006, the HSE published research that it had commissioned from London Metropolitan University. The report's authors argued that the Labour Force Survey (LFS) was "the only comprehensive source of data on migrants working in the UK, irrespective of their immigration status or route of entry to the UK".²² They did though note that the LFS had weaknesses – including its relatively small sample size and its emphasis on surveying private households which they said underestimated the number of migrants living in caravan accommodation, where many workers in the agricultural industry live.

The HSE commissioned report looked at data from the Autumn 2005 quarterly return of the LFS. This suggested that there were 1.405 million migrants of working age who had first arrived in the UK in the last five years - constituting 3.85 per cent of the 36.497 million people in the UK of working age.

As Table 1 below shows, according to this research, the largest source of migrant workers in 2005 was Africa (of which South Africa, Zimbabwe and Nigeria were the main contributors). South Asia (India, Pakistan and Sri Lanka, Bangladesh) was the next largest. The EU10 (which includes the 8 Accession countries²³ plus Malta and Cyprus) provided over 200,000 workers, of which Poland was the main contributor, with over 100,000 workers.

Table 1: Regions of origin of recent migrants

	Number	% of total migrant population
Africa	281,200	20.0%
South Asia	243,000	17.3%
EU10	211,200	15.0%
Other EU15	167,600	11.9%
Rest of Asia	134,600	9.6%
Americas and Caribbean	12,1000	8.6%
Other Europe (including Russia)	72,100	5.1%
Australia and New Zealand	60,300	4.3%
Middle East	48,400	3.4%
Unknown	63,000	4.5%
Total	1,404,900	

Source: p. 22, *Migrant Workers in England and Wales (HSE)*, Table 2.3.2A

Analysis of the LFS also showed that about 40 per cent of migrants of working age were located in Greater London, where they constituted 11.8 per cent of the total working age population. The HSE report added that "time-series data from the LFS also suggests that incoming migrants are now spreading themselves geographically across the country, more widely than was previously the trend."²⁴

Table 2 shows that, according to the same report, the sector with the most *number* of migrant

²¹ HSC05/77, "Migrant Workers: a report on further progress", para 4: HSC 04/61. "Migrant Workers: A paper by John Fulrong and Jason Cole", p. 12

²² It is a large randomised household survey of people of working age, from which estimates can be derived in relation to the total population.

²³ The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia

²⁴ *Migrant Workers in England and Wales (HSE)*, p. 23

workers was ‘health and social work’, although the two sectors with the highest *proportion* of migrant workers were ‘domestic household’ (reflecting the large number of migrants carrying out domestic household work) and ‘hotels and restaurants’. This research suggested that only 2.4% of construction workers were migrant workers.

The research report stated that numbers of migrant workers in four sectors - including that of agriculture - were too “few to provide a statistically reliable sample”.²⁵

Table 2: Labour Force Survey: migrant workers by sector

	UK Total	Migrant Worker total	% of Total
Agriculture, hunting & forestry	340,900	*	*
Fishing	14,300	*	*
Mining, quarrying	107,400	*	*
Electricity gas & water supply	166,200	*	*
Private households with employed persons	110,300	11,200	10.15%
Public administration & defence	1,957,500	27,400	1.40%
Financial intermediation	1,222,400	37,700	3.08%
Other community, social & personal	1,479,300	39,900	2.70%
Education	2,417,000	48,700	2.01%
Construction	2,193,200	52,100	2.38%
Transport, storage & communication	1,897,800	56,600	2.98%
Hotels & restaurants	1,151,500	91,400	7.94%
Wholesale, retail & motor trade	4,058,700	101,800	2.51%
Manufacturing	3,587,600	124,000	3.46%
Real estate, renting & business activities	3,088,900	124,600	4.03%
Health & social work	3,335,200	166,000	4.98%

Source: p. 24, *Migrant Workers in England and Wales (HSE) Table 2.3.2D*

Although the research itself was commissioned by the HSE, even after the report’s publication the HSE confusingly, used different figures from those presented in the report. In a paper to the HSC discussing the report’s findings, the HSE stated that there were “500,000+ migrant workers”,²⁶ and the minutes of the meeting state that this number should be compared with a “labour force of 25 million.”²⁷ It is not clear where either of these figures came from – and they significantly under-estimate the proportion of migrant workers to the overall workforce.

Office for National Statistics Research: In 2006, the Office for National Statistics (ONS) published a detailed paper on migrant workers and concluded that in 2005, migrant workers comprised 5.4% of the total number of workers in employment (1.5 million out of 27.9 million).²⁸ In an internal memo written by the HSE in 2007 (and obtained through a Freedom of Information request), it is clear that HSE is now relying on this figure - since it stated that the “best estimate figures ... suggest migrant workers make up at least 5.4% of the total working population.”²⁹

²⁵ The survey underestimates the number of migrants living in caravan accommodation, for example many workers in the agricultural industry.

²⁶ HSC/06/36, “Further HSE/E work on the protection of migrant workers health and safety”, para 5

²⁷ HSC/06/M07, Minutes of HSC meeting held on 4 July 2006, para 4.2

²⁸ “Foreign Labour in the United Kingdom: Current patterns and trends”, by John Salt and Jane Millar, Migration Research Unit, University College London, Labour Market Trends, Office for National Statistics, October 2006

²⁹ “July 2007 Internal Briefing on fatal accident to migrant workers for launch of 2006/7 fatal accident statistics”, obtained through a FOIA request.

It is not clear why the HSE commissioned research report on the one hand and the ONS figures on the other differ so considerably – when they were both based on Labour Force Survey figures. It may, however, be because the ONS figures looked at a whole year of data, whilst the HSE research looked only at one quarter.

Other sector-based estimates: Unlike the HSE commissioned research, the ONS paper did not contain any information of the number of migrant workers by sector. There have however been some other estimates. Whilst the HSE commissioned research had suggested that the number of agricultural workers were too small to estimate accurately, the Department of Environment, Food and Rural Affairs in 2006 said that “a best guestimate” would suggest that in late 2004/early 2005, between approximately 235,000 and 345,000 migrants (55% of the total agricultural workforce) were employed to harvest and process fresh produce in Britain.³⁰

In relation to the construction sector, a construction trade survey estimated that in January 2003 there were 88,000 non-UK workers employed in construction³¹. This is higher than the 52,000 migrant workers that the HSE commissioned research had found – and would, if correct, mean that 4% (rather than 2.4%) of construction workers may be migrant workers.

In 2005, the HSE reported in a paper to the HSC that “the 2005 construction survey covering England and Wales and Scotland, shows that of a sample of construction workers interviewed, in London, approximately 25% were foreign, in Midlands 5-6% were foreign and in the South East 3% were foreign.”³² It also reported that no other region had a significant number of foreign workers. The paper did not state what percentage these regional estimates even out to nationally.

However, more recently, in November 2008, the HSE reported in a paper to its board that “Construction Division’s omnibus survey shows an increasing proportion of workers who have come here from abroad to work – now some 8% of all those surveyed, as opposed to 6%, 18 months ago”. However, “just over half of those who said that they had come here from abroad to work had been here for more than 5 years” – and so would not fit within the definition most recently used by the HSE to define ‘migrant workers’.³³ The HSE does go on to say that “the number of migrant workers in the survey is almost certainly an underestimate of the true proportion of migrants because the survey is a household survey (many migrant live in temporary accommodations, often shared), language difficulties and suspicion of authority figures.”³⁴

Number of Deaths of Migrant workers

There is very little information on the number of migrant workers who have died in Britain at work over the last decade – and whatever information there may be has not been published. The main reason for this is that Health and Safety Executive (HSE) never collected information on the nationality or migration status of workers when they died – something that has only started in April 2008. Indeed, the HSE still do not collect information on the nationality of workers whose *injuries* are reported to it.

³⁰ “Migrant workers: Injury and Ill Health statistics in Agriculture”, Agriculture Industry Advisory Committee (AIAC 290601), 2006

³¹ Trades Survey, Construction News Jan. 2003

³² HSC/05/77, “Migrant Workers: A report on Further Progress”, June 2005

³³ This is the one which is defined in HSE’s 2006 report and is set out in the text above.

³⁴ Paras 10, 11, HSE/08/79, “Vulnerable (including migrant) workers: an update”

However, through a series of Freedom of Information Act (FOIA) requests, the Centre for Corporate Accountability found that in recent years HSE has undertaken a *manual* trawl of its death records to estimate the numbers of migrant worker deaths.³⁵

These documents show that the HSE collected information on migrant deaths *in all sectors* since 2005/6. As Table 3 below shows, in the last three years there has been a doubling in both the number of migrant deaths (from 9 in 2005/6 to 18 in 2007/8) and in the proportion of migrant deaths to the total number of worker deaths (from 4.1 to 7.9% in the same interval).

The HSE has been collecting information on deaths in the construction sector since 2002/3. This shows that the number of migrant deaths has risen six fold in six years, from 2 to 12. Not surprisingly, the proportion of migrant worker deaths to the total number of construction worker deaths has increased substantially as well – from 2.9% to 16.7%.

Table 3. Number of migrant worker deaths out of the total worker deaths

	All sectors			Construction Sector		
	Migrant worker deaths	All worker deaths	% of deaths - migrant workers	Migrant worker Deaths	All worker deaths	% of deaths - migrant workers
2007/8	18	229	7.9%	12	72	16.7%
2006/7	13	241	5.4%	8	77	10.4%
2005/6	9*	217	4.1%	5	60	8.3 %
2004/5	-	-	-	5	69	7.2 %
2003/4	-	-	-	3	71	4.2 %
2002/3	-	-	-	2	70	2.9 %

Source: Compiled from HSE document obtained following Freedom of Information Request

* This figure does not include deaths in local authority enforced premises.

These are not official figures – since the HSE has not, during this period, formally collected information about nationality. In relation to 2006/7 and earlier data, the HSE have acknowledged that the numbers were only a ‘best estimate’ involving a ‘manual trawl of records and sector knowledge’. In 2007/8, HSE’s identification of migrant worker deaths appears to have been more systematic.

It should also be noted that, in relation to the year 2006/7, an HSE trawl of deaths had initially found only 10 deaths – and it was only through further inquiry in the construction sector that another 3 migrant worker deaths were identified. However, the HSE does not appear to have then re-examined the death records in the other sectors to see if cases had been missed. The figure of 13 in 2006/7 could therefore well be an under-estimate.

In relation to the year 2007/8, the HSE’s documents state that other than the 12 deaths in the construction sector, there are “6 further confirmed cases of deaths to migrant workers” This included 2 cases in waste recycling, 1 in agriculture, 1 in the security industry, 1 window cleaner and 1 in the Local Authority enforced sector.”³⁶ There was also a further non-reportable death in

³⁵ Information was sent by the HSE on 7 April 2008 and 31 October 2008, and comprised the following key documents: “July 2007 Internal Briefing on fatal accident to migrant workers for launch of 2006/7 fatal accident statistics”, “March 2008, Construction Fatal Accident Statistics” and letters from Richard Church on both these dates. See www.corporateaccountability.org/migrants/main

³⁶ Letter to CCA from HSE on 29 October 2008, following a FOIA request.

the agriculture sector that was not included in the tally of 6. The HSE say that there was a further death of a public transport worker who may have been a migrant worker, and enquiries are still being made about this death.

It should also be noted that, other than construction sector data, these figures do not include “those who are transiently in the UK, such as seafarers, those on business trips and drivers delivering in the UK from abroad”, and that none of these figures include deaths in shipping sectors enforced by the Maritime Coastguard Agency.

Do more Migrant Workers die than expected?

All deaths: In 2005/6, the 9 migrant worker deaths accounted for 4.1% of all HSE reported worker deaths, in 2006/7 the 13 migrant worker deaths accounted for 5.4% and in 2007/8, the 18 migrant worker deaths accounted for 7.8% of all deaths.

As explained in chapter 1, there is no universally accepted figure for the number of migrant workers in Britain. However, the figure that appears to be accepted most widely is that estimated by the ONS – suggesting that 5.4% of all workers in Britain are migrant workers. It would therefore be expected that 5.4% of all deaths would comprise migrant workers.

The number of deaths in 2005/6 and in 2006/7 therefore represent a proportionate number of deaths. In 2007/8 the 18 (and maybe 19) deaths of migrant workers (representing 7.8% of the total number of workplace deaths) is in excess of the 5.4% of deaths that would be expected.

Construction deaths: The high number of migrant workers deaths involving workers in the construction sector is particularly notable. In 2005/6, 55% of all the migrant deaths involved construction workers; in 2006/7, this proportion increased to 62%, and in 2007/8, this increased to 66%.

Also notable is the significant increase of migrant worker deaths *within* the construction sector itself. Whilst in 2002/3 only 3% of construction deaths involved migrant workers, by 2007/8 this was 17% - almost a fifth of all recorded construction deaths.

Is this a higher percentage that one would expect? In 2006/7, the 8 migrant worker construction deaths accounted for 10.4% of all construction deaths, and in 2007/8 the 12 migrant worker deaths for 16.7% of the total.

The Labour Force Survey provides the only official estimate for the number of migrant workers in the construction sector. HSE’s commissioned research estimate that 2.4% of construction workers are migrant workers – though a 2003 survey found that 4% of construction workers were ‘non-UK citizens’³⁷ and HSE’s own internal documents suggest as many as 8%.

It would therefore be expected that between close to 8% of all construction deaths would involve migrant workers. The 12 deaths of migrant workers in the construction sector in 2007/8 (representing 17% of the total) therefore represents at least twice the number of deaths than would be expected.

³⁷ The trade union UCATT estimate that the figure of migrant workers maybe higher.

Number of Injuries to Migrant workers

There is very little information on numbers and level of injuries to migrant workers, but documents obtained as part of FOIA requests showed that HSE's Field Operations Division had conducted a study in the South West region in which all reported injuries were scrutinised to see how many were migrant workers. This was undertaken by simply looking at the surname of the worker as a possible marker of nationality - and the HSE recognise that some (or indeed many) of these may refer to indigenous workers. This research found that 11% of these workers "may have been" migrant workers.

If this turned out to be an accurate figure, this would clearly be double the expected level.

CHAPTER THREE

CIRCUMSTANCES OF MIGRANT WORKER DEATHS IN BRITAIN

The Health and Safety Executive (HSE) does not provide details of the names and circumstances of reported deaths.³⁸ It is therefore not possible to publish a comprehensive list of the names of migrant workers who died, and the circumstances of their deaths. However, since 2001, the Centre for Corporate Accountability (CCA) has been monitoring workplace deaths in England and Wales (not Scotland)³⁹ – and collecting information about as many of them as it can, through internet searches and contacting coroners courts and police press offices on a regular basis.⁴⁰

For the purposes of this report, the CCA went through seven years of its records – and using the name of the deceased worker as a marker - tried to identify migrant workers. Having identified these cases, the CCA then contacted the Coroner's Court responsible for the inquest into the death to obtain further confirmation of the migrant worker status of the deceased worker, further details about the circumstances of the death and the outcome of the inquest, and whether or not the family had legal representation. We then undertook further internet searches to obtain any further reported information on these deaths, attended the coroner's inquest in three cases, and clarified, where possible, with the HSE whether or not a decision on prosecution had taken place. It should be noted that we have not included work-related road traffic deaths and we have not included the deaths of the 21 cockle pickers in Morecambe Bay in 2004.

The amount of information that was obtained on each death depended on whether local newspapers covered the death when it happened and then subsequently the inquest. In a significant number of cases, there was no media attention at all and so we were only able to obtain basic details.

Analysis of CCA identified cases

Table 1 shows that in this seven-year period the CCA identified a total of 46 migrant worker deaths – over half of them involving the construction sector.

Table 1. Migrant workers' deaths – by sector

	Total	Construction	Manufacture	Agriculture	Service	Extraction	Shipping
07/08	6	3	1		2		
06/07	14	8	1	2	2		1
05/06	8	2	1		4	1	
04/05	7	5		1	1		
03/04	4	3			1		
02/03	5	2		3			
01/02	2	1			1		
Total	46	24	3	6	11	1	1

³⁸ Following a decision from the Information Commissioner in Summer 2008, this has very recently changed. However, this report has not been able to make use of this new situation.

³⁹ The HSE records will have included Scotland. The CCA has not been monitoring deaths in Scotland as it proved much more difficult to find information.

⁴⁰ See: www.corporateaccountability.org/Deaths/MainCounty.htm

Table 2 shows that London was the region with the most deaths.

Table 2. Migrant workers' deaths – by region

Region	Nos of Deaths	Region	Nos of Deaths
London	16	North West	3
South East	6	West	1
South West	6	East	3
West Midlands	4	Wales	1
North East	4	East Midlands	2

Table 3 below shows, the identified workers came from a total of 23 countries, though most of the deaths involved workers from East European countries: 16 from Poland, and 2 each from Ukraine, Romania and the Czech Republic.

Table 3. Migrant workers' deaths – by country

Country	Nos of deaths	Country	Nos of deaths
Poland	16	Holland	1
India	3	Kosovo	1
Ukraine	3	Guinea	1
Czech Republic	2	Belgium	1
Romania	2	Bulgaria	1
Germany	2	France	1
Italy	2	Nigeria	1
Slovakia	1	Libya	1
Georgia	1	Turkey	1
Macedonia	1	Russia	1
Latvia	1	Iraq	1
Portugal	1		

Table 4 below shows that most of the migrant workers which the CCA identified were aged under 35.

Table 4. Migrant workers' deaths – by age

Age Range	Number of Deaths
16-20	1
21-30	17
31-40	13
41-50	11
51-60	4

List of Deaths monitored by the CCA

Name of deceased	Country of origin	Age	Date of incident	Sector	Region	Full Inquest Date/verdict	Legal Representation at Inquest	Prosecution/ Conviction
Martin Pejril	Czech Rep	33	Feb 2008	Manufacturing	South West	No date set	-	Not decided
Jozef Trhan	Slovakia	33	Feb 2008	Services	South West	No date set	-	Not decided
Kazimierz Solarski	Poland	49	Jan 2008	Construction	London	No date set	-	Not decided
Karl Hartmut Stolze	Germany	58	Nov 2007	Construction	London	No date set	-	Not decided
Jan Tobolski	Poland	47	Aug 2007	Construction	North West	No date set	-	Not decided
Krzysztof Wiecek	Poland	45	Apr 2007	Services	West	No date set	-	Not decided
Otari Davidovich Hudoian	Georgia	46	Mar 2007	Construction	London	Jul 08 Accidental death	No	Not decided
Marek Mikolajczyk	Poland	24	Mar 2007	Agriculture	West Midlands	Mar 08 Accidental death	Not known	No Prosecution
Patrycjusz Handzel	Poland	24	Mar 2007	Manufacture	North East	Jul 08 Narrative verdict	Not known	Not decided
Petar Filipovski	Macedonia	27	Jan 2007	Agriculture	South West	Nov 07 Accidental death	Not known	No prosecution
Zbigniew Roman Swirzynski	Poland	35	Jan 2007	Construction	North West	Jul 08 Accidental death	Yes	No prosecution
Kirpal Singh	India	30	Dec 2006	Construction	London	Aug 2007 Misadventure	Not known	No prosecution
Manjit Singh	India	35	Dec 2006	Construction	London	Aug 2007 Misadventure	Not known	No prosecution
Gurdeep Singh Deol	India	21	Dec 2006	Construction	London	Aug 2007 Misadventure	Not known	No prosecution
Ajet Krasniqi	Kosovo	24	Oct 2006	Construction	East	Jul 08 Accidental death	No	Not decided
Alexander Khamzatov	Russia	33	Oct 2006	Services	North East	April 2007 Accidental death	Not known	Conviction

Name of deceased	Country of origin	Age	Date of incident	Sector	Region	Full Inquest Date/verdict	Legal Representation at Inquest	Prosecution/ Conviction
Hendrick Tebrake	Holland	41	Sep 2006	Services	East	Nov 07 accidental death	Yes	Prosecution (ongoing)
Peter Juszczysz	Poland	21	Jun 2006	Construction	London	Jan 08 Accidental death	No	Not decided
Oleg Rozkolod'ko	Ukraine	30	April 2006	Shipping	South West	No date set	-	-
Krzysztof Begier	Poland	28	April 2006	Construction	South East	Nov 06 Accidental death	No	No Prosecution
Yuriys Skutons	Latvia	48	Jan 2006	Services	West Midlands	June 2006 Accidental death	Not known	No Prosecution
Biagio Malacaria	Italy	48	Dec 2005	Services	London	Jan 2007 Accidental death	No	Conviction
Emil Feliks	Poland	35	Dec 2005	Construction	London	Sep 2006 Accidental death	No	No Prosecution
Amadou Diallo	Guinea	34	Dec 2005	Services	London	Jan 06 Narrative verdict	Not known	No Prosecution
Lubomir Tihlar	Czech Republic	52	Nov 2005	Extraction	West Midlands	June 06 Narrative verdict	No	Conviction
Jerzy Pedja	Poland	37	Nov 2005	Construction	London	January 2007 Accidental death	Yes	Not decided
Oleksiy Prutskoy	Ukraine	32	Oct 2005	Services	East Midlands	October 06 Accidental death	No	No Prosecution
Janusz Jakub Trybala	Poland	47	Jul 2005	Manufacturing	South East	Aug 06 accidental death	Yes	Conviction
Azad Hussain	Irak	26	Jan 2005	Agriculture	West Midlands	July 2007 Open	Not known	No Prosecution
Lucian Vuta	Romania	30	Nov 2004	Construction	South East	Mar 06 Narrative verdict	Not known	Conviction
Tomasz Sarachman	Poland	27	Oct 2004	Construction	London	May 05 Accidental death	Not known	No Prosecution
Radostin Stoyanov	Bulgaria	21	Sep 2004	Construction	London	Nov 04 Narrative	Not known	Conviction
Aniello D'Urzo	Italy	53	Sep 2004	Construction	South West	May 06 Accidental death	Not known	Conviction

Name of deceased	Country of origin	Age	Date of incident	Sector	Region	Full Inquest Date/verdict	Legal Representation at Inquest	Prosecution/ Conviction
Dariusz Antosik	Poland	32	Aug 2004	Services	South West	May 05 Accidental death	Not known	Prosecution ongoing
Marc Vliegen	Belgium	45	Jul 2004	Construction	Wales	May 05 Accidental death	Not known	Not known
Hans Zdolsek	Germany	39	Feb 2004	Construction	East Midlands	No Inquest as previous manslaughter prosecution		Conviction
Olusegun Ojewumi	Nigeria	38	May 2003	Construction	London	Jun 04 Misadventure	Not known	No Prosecution
Jose Rodrigues	Portuguese	55	Apr 2003	Services	North East	Jun 03 Accidental death	Not known	Not known (LA)
Slawomir Kocon	Poland	25/6	Apr 2003	Construction	London	Oct 05 Accidental death	No	No Prosecution
Bruno Rivera	France	41	Mar 2003	Construction	South East	Nov 04 Accidental death	Not known	No Prosecution
Marcin Sebastian Skorupski	Poland	21	Oct 2002	Agriculture	South East	Jul 03 Accidental death	Yes	Conviction
Adam Borowik	Poland	27	Oct 2002	Agriculture	South East	Jul 03 Accidental death	Yes	Conviction
Eszter Nagy (F)	Ukraine	20	Jul 2002	Agriculture	East	Dec 02 Accidental death	Not known	Conviction
Abdurazak Shaban Ammush	Libya	47	Apr 2002	Construction	North West	Jul 03 Accidental death	Not known	No Prosecution
Arif Toy-Temor	Turkey	33	Nov 2001	Services	North East	Oct 02 Misadventure verdict	Not known	No Prosecution
Ionut Simionica	Romania	22	Feb 2001	Construction	London	Jun 02 Accidental death	Not known	Conviction

Case summaries of deaths

Death of Martin Perjil, Czech Republic, Manufacturing, 20 February 2008

Aged 33, from the Czech Republic, Martin Perjil died on the 20 February 2008, while working as a starch-room operator, filling gum and jelly moulds in a sweets factory, Tangerine Confectionery (also known as Parrs Quality Confectionery) in Poole, Dorset. His leg was trapped in a depositing machine and he died later from injuries.

The facility, which has seen several changes in ownership over the last decade, was acquired by Tangerine in 2006 – one of the UK's biggest independent sweet manufacturers, with other factories in Blackpool and Liverpool. The Poole factory employs 150 staff, with eight staff working the night shift which was when the incident took place. The factory was reopened the day after the incident.

Death of Jozef Trhan, Slovakia, Services, 12 February 2008

Aged 33, from Slovakia, Jozef Trhan died from massive head injuries after being hit by a burst tractor-sized tyre which flew off a loading shovel while he was working at CB Skip Hire's yard in Salisbury on 12 February 2008.

Death of Kazimierz Solarski, Poland, Construction, 31 January 2008

Aged 49, from Poland, Kazimierz Solarski died in Brent in London on 31 Jan 2008 in a construction incident.

Death of Karl Harmtmut Stolze, Germany, Construction, 28 November 2007

Aged 58, from Germany, Karl Harmtmut Stolze, died after falling 3 metres from a ladder at Skanska's Royal London Hospital building site in Whitechapel on 28 November 2007. He was taken to hospital but discharged the following day; he died a few days later. Mr. Stolze worked for PC Harrington, who said that there was currently no evidence to suggest the accident and the worker's death were related.

A spokesperson for the subcontractor said: "PC Harrington confirms that an incident occurred on the Royal London Hospital site on Wednesday 28th November 2007, the individual was admitted to hospital and discharged the next day. Tragically the individual involved has subsequently died."

Death of Jan Tobolski, Poland, Construction, 1 August 2007

Aged 47, from Poland, Jan Tobolski, died on 1 August 2007 when a metal girder which he was trying to move with a 'makeshift' pulley fell on him at a construction site in Manchester. He was employed by BS Construction.

Following the incident, the company was issued with 14 prohibition notices and 5 improvement notices and the site was closed by the HSE following Mr Tobolski's death. The HSE gave BS Construction a 5-week deadline to improve its practices.

Death of Krzysztof Wiecek, Poland, Services, 30 April 2007

Aged 45, from Poland, Krzysztof Wiecek was electrocuted to death on 30 April 2007 when a pole he was carrying touched an overhead power cable while working for a marquee company dismantling a tent used at a spring fair at Sudeley Castle. A spokesman for Sudeley Castle said the owners had nothing to do with the incident, other than providing a site on their land for the marquee. "This outside event did not involve the Sudeley team in any way." The castle is owned by Henry Dent-Brocklehurst and his mother Lady Elizabeth Ashcombe.

Death of Otari Davidovitch Hudoian, Iraq, Construction, 28 March 2007

Aged 46-year, from Iraq, Otari Davidovitch Hudoian died on the 28 March 2007, after falling from height while refurbishing a farm building at East Hall Farm, Rainham, Essex. He was employed by Lion Builders. The large house had been severely damaged in a fire and left vacant. The house owner Kemal had hired various workers to clear the site before renovation could commence.

At the inquest on 3 July 2008 HSE Inspector Helen Donnelly said the site was in very poor condition with an incomplete scaffold that should have been isolated. There were no guard rails, floor boards were missing and the general condition of site was untidy with glass and brick scattered about. She had issued two Prohibition Notices immediately. A verdict of accidental death was returned.

Mr Hudoian's nationality was initially unclear as he was known as Georgian and called Mehmet. However the client, Kemal Has, knew him as Kurdish, and eventually found Mr Hudoian's family in Northern Iraq (they were not present at the inquest). Mr Hudoian was identified by finger prints held by the Home Office.

Death of Marek Mikolajczyk, Poland, Agriculture, 27 March 2007

Aged 24, from Poland, Marek Mikolajczyk, died on 27 March 2007 while working in a farm in Offenham, Evesham. He was electrocuted when the irrigation pipe on which he was working touched an overhead power cable. He was employed by Zenith Nurseries Ltd, and was working with his brother, Tomek, when the incident happened.

At the inquest, which took place on 3 March 2008 in Worcestershire, the jury heard that no training had been given to guard against the danger of electrocution by overhead power-lines and all the signs warning against the threat were in English and totally incomprehensible to the Poles working there. The jury returned an accidental death verdict. The HSE has stated that no prosecution would be taken following this death.

Death of Patrycjusz Handzel, Poland, Manufacture, 14 March 2007

Aged 24, from Poland, Patrycjusz Handzel died on 14 March 2007, after being caught in a furnace blast at a Sheffield metals factory, Transition Metals Ltd. He was employed by DKM Labour Solutions a Nottingham based employment agency – and had worked at Sheffield Metals factory for only 4 weeks. He suffered severe burns when water got into a melting shop furnace and died from multiple organ failure three days later in hospital.

A full inquest took place on 7 July 2008. The jury was told that Mr. Handzel had been on the night shift loading scrap metal into an electric induction furnace. Mr Handzel and his colleague Mr Brough, who found the injured man, were the only staff on duty at the time. Mr Brough told the inquest that he was so concerned about health and safety issues at the factory, including the language barriers, that he had contacted his union representative for advice and written to the managing director. The inquest jury reached a narrative verdict which stated that

- Mr Handzel was not wearing any safety clothing although the company did provide it. Wearing a protective jacket and safety clothing would have significantly improved his chances of survival.
- He had not received proper training in the use of the protective clothing and there were errors in enforcing the uniform.

- Mr Handzel had not been warned of dangers of getting water or other contaminants inside the furnace and there were “conflicting oral procedures” regarding this.
- There was a dependency on verbal rather than written instructions.
- There was a lack of disciplinary procedures for flouting the rules.

Death of Petar Filipovski, Macedonia, Agriculture, 18 January 2007

Aged 27, from Macedonia, Petar Filipovski died on 18 January 2007 when a bale of straw fell on him during a storm at Elliots Farm, near Frome. He was employed as a farm labourer by Helliard Partnership. He had arrived in Frome the previous March, as part of an international exchange and lived in a mobile home on the farm with his Bulgarian girlfriend. Previously, he had been studying veterinary science at university in Bulgaria. Elliots Farm has a 300-strong dairy herd and Mr Filipovski was working to gain experience in rearing and looking after cows and other livestock. At the time of his death, it is understood he was working alone near a cow shed in the farmyard. His body was discovered by the farm co-owner David Helliard minutes after the straw bale landed on him. Mr Helliard said the young Macedonian was planning to stay at the farm for two years before returning to Bulgaria to work as a vet or with livestock on his own farm. At the inquest in November 2007, an accidental death verdict was returned.

Death of Zbigniew Roman Swirzynski, Poland, Construction, 15 January 2007

Aged 35, from Poland, Zbigniew Roman Swirzynski, died on 15th January 2007 when he was crushed in Seel Street in Liverpool as a tower crane, lifting concrete columns, had malfunctioned, resulting in a counter weight falling 30 feet on top of him. He was employed by UKR Concrete Specialists Ltd, Derbyshire, and the crane was owned by Falcon Cranes

The incident occurred on a David McClean Construction site in Liverpool City Centre, which was part of the Elysian Fields apartments project where 109 apartments were to be constructed by mid-2007. Falcon Crane Hire Ltd of Shipdam, Norfolk hired out a crane to David McClean for use on this site. At the time of the death, there were approximately 70 builders on the site.

When the 120ft crane collapsed, a 2.4-ton counterweight fell to the ground crushing six cars, seriously injuring the driver, Barry Walker, and killing Mr Swirzynski instantly. The HSE served a Prohibition Notice on Falcon Crane Hire Ltd. This stated that all Falcon cranes which had not been subject to an examination by an independent competent person were to be taken out of service. This would affect 180 cranes in use at that time. On 16th January 2007, the HSE issued an alert specifically stating that crane companies must check the high tensile bolt connections on tower cranes.

At the inquest on 8 July 2008 at Liverpool Coroner’s Court, the jury heard that it was known that tower cranes like this one could be blown backwards when vertical. The HSE inspector said that because of the strong gusts of wind, which was higher than the cranes limits, and the fact that the jib was vertical, the job was on a 'knife edge' of safety requirements. The wind meter may not have picked the wind speed up as the gusts might have been very sudden.

A verdict of accidental death was returned. The Coroner said that he would be writing to the authorities calling for the prohibition of these cranes. He said that these cranes were still being sold and used allowing for the potential of further accidents. Falcon had another crane collapse at Baratt Homes’s Site in Battersea on the 26th September 2006 where two people were killed

Deaths of Deol Kirpal Singh, Manjit Singh, Gurdeep Singh, India, Construction, 22 December 2006

Deol Kirpal Singh, aged 30, his cousin Manjit Singh aged 35, and Gurdeep Singh Deol, aged 21, all from India and living in Southall, South-West London, died of carbon monoxide poisoning on 22 December 2006. They were found dead in a storage container on a building site near Reading. A generator was found in the container with the men and a spokesman for South Central Ambulance Service said they may have been using it to keep warm in the cold weather. An inquest held on 31 August 2007 recorded a verdict of misadventure.

Death of Ajet Krasniqi, Kosovo, Construction, 24 October 2006

Aged 24, from Kosovo, Ajet Krasniqi died on 24 October 2006 when he suffered a serious head injury while working as a construction worker at a domestic property in Buckhurst Hill, Leytonstone.

At the inquest at Chelmsford Coroners court on 11 July 2008, the jury heard that his head was struck by a reinforced steel joist (RSJ) which dropped whilst a group of workers were trying to manually hoist it from a horizontal to a vertical position. The RSJ was seven metres in length and weighed about 200 kg.

Just prior to the incident, Ajet was plastering a ceiling inside the property when he was asked to come and help move the joist. He, along with other workers, was not wearing a hard hat. The workers moved the joist into the garden, propped it against the tree stump and attempted to lever it up and take it through the first floor window. The workers were able to get the RSJ to an angle of 45 degrees but the site manager, Mr Lenny Gibson – who was assisting in this manoeuvre – thought that it would not clear the telephone lines. As the men were bringing the RSJ back to the ground, the site manager slipped and the RSJ hit Ajet on the head fracturing his skull.

The HSE inspector told the jury that the HSE “wouldn’t recommend manually handling that weight at all.” Mr Krasniqi was an undocumented worker. An inquest on 11 July 2008 at Chelmsford Coroner’s Court in Essex returned a verdict of accidental death.

Alexander Khamzatov, Russia, Services, 2 October 2006

Aged 33, from Russia, Alexander Khamzatov, died on 2 October 2006, when he was struck by a vehicle called a reach stacker, which was being used to lift containers on board. As chief mate he was responsible for the loading of the vessel. An Inquest on 14 April 2007 returned a verdict of accidental death.

Death of Hendrick Tebrake, Holland, Services, 26 September 2006

Aged 41, from Holland, Hendrick Tebrake died on 26 September 2006, after he fell while loading animal feed into a lorry in Witham. He was employed by HJ van Bentum.

An inquest on 13 November 2007 at Chelmsford Coroner’s court in Essex recorded a verdict of accidental death. Mr Tebrake’s family had legal representation at the inquest.

Death of Peter Juszczysz, Poland, Construction, 30 June 2006

Aged 21, from Poland, Peter Juszczysz, drowned to death on 30 June 2006 after falling into a trench full of water on his first day at work on a house extension in Wembley. It was a private house, and he was employed by the householder.

An Inquest on 7 January 2008 at North London Coroner’s Court returned a verdict of accidental death.

Death of Oleg Rozkolod'ko, Ukraine, Shipping, 27 April 2006

Aged 30, from Ukraine, Oleg Rozkolod'ko, was crushed to death on 27 April 2006, when a large door on a ship fell on him. He was a member of crew of the cargo ship Neermoor, which was Antiguan registered. The ship immediately alerted coastguards about the incident.

In December 2006, the Marine Accident Investigation Branch published a report stating that door's bolts had not been properly secured. The door was so heavy that several crew members were unable to lift it. The report concluded that: "although of poor design the portable bulkhead system could have been operated safely if the correct lifting equipment had been available, procedures were in place and system was operated and maintained by trained personnel." Kapitan Siegfried Bojen Schiffahrtsbetrieb, the company which owns the ship, has been told to review its safety procedures. No inquest has yet taken place at Torbay & South Devon Coroner's Court.

Death of Krzysztof Begier, Poland, Construction, 12 April 2006

Aged 28 from Poland, Krzysztof Begier, was crushed to death on 12th April 2006, when a concrete wall, 8 to 10 feet high and weighing several tonnes, collapsed on top of him at a construction site in Whitelands Road, High Wycombe. He was clearing earth away from the wall at the time. Krzysztof was part of a team of Polish workers who were employed to work on a row of semi-detached houses in High Wycombe. It was believed that the use of a mechanical digger may have destabilised the foundations of the wall, which in turn may have caused it to collapse on top of Mr. Begier. A full inquest was held on 29th November 2006 at Amersham Law Courts and a verdict of accidental death was returned.

Death of Yuriys Skutons, Latvia, Services, 23 January 2006

Aged 48, Yuriys Skutons, from Latvia, died in Solihull on 23 Jan 2006 whilst involved in the maintenance and repair of a vehicle. An inquest heard on 29 July 2006 returned a verdict of accidental death.

Death of Biagio Malacaria, Italy, Services, 12 December 2005

Aged 48, from Italy, Biagio Malacaria died on 12 December 2005 from severe burns when his overalls caught fire whilst working at Alexamnders of Twickenham Ltd, an MOT service and repair business in Richmand-upon-Thames in London. He had jacked up a car in order to drain fuel from its tank so he could replace a damaged fuel tank filler hose. In so doing, fuel spilt onto his overalls which had been ignited probably by the flame of a nearby waste oil heater. The inquest on 23 January 2007 resulted in a verdict of Accidental Death.

The company was convicted of health and safety offences in June 2008 and fined £20,000. The HSE said, "This is a case where a man died as a result of serious injuries he suffered after working with woefully inadequate equipment, and it is shocking that the employer had not realised the danger created by petrol being moved and stored in open containers near obvious sources of ignition. The company failed in its duties in a number of ways including having no risk assessment for fire and explosions, a lack of safety measures for this type of work and failing to ensure that all staff were suitably trained."

Death of Emil Feliks, Poland, Construction, 9 December 2005

Aged 35 from Poland, Emil Feliks, died on 9 December 2005 when he fell from a ladder while working on the roof of a domestic property in London Road, Twickenham. The inquest on 25 September 2006 at London West Coroner's Court recorded an accidental death verdict.

Death of Amadou Diallo, Services, 8 December 2005

Aged 34, from Guinea, Amadou Diallo, died on 8 December 2005 when he fell from a bathroom window that he was cleaning in Pelham Crescent, south west London. He was working as a cleaner for a contract cleaning firm. At the inquest, the jury heard that Mr Diallo had been told not to clean windows. As a result of the fall, Mr Diallo suffered from serious injuries which later led to his death at St Mary's Hospital. The inquest on 20 January 2006 at London Inner West Coroner's Court recorded a narrative verdict.

Death of Lubomir Tihlar, Czech Republic, Extraction/Utility, 7 November 2005

Aged 52, from the Czech Republic, Lubomir Tihlar, died on the 7th November 2005, while unloading a delivery of granite slabs to Just Granite.

The inquest on 19 June 2006 heard that Mr Tihlar, who worked as a lorry driver, was delivering 54 granite slabs from Italy to Pillaton, Staffordshire. Mr Tihlar had arrived a day earlier than expected, and the usual 35 tonne unloading crane was unavailable. Instead a 70-tonne crane was used. This changed the means by which the granite slabs would be unloaded, and the improvised method was, it would seem, unfamiliar to the parties involved.

The process involved the removal by the crane of the two A-frames on which the granite slabs were affixed. The Managing Director of Just Granite, Nicholas Allen, took over the unloading process, and directed Mr Tihlar to wait in the lorry cab. The removal of the slabs combined with the slope on which the lorry was resting lead the A-frame to tilt causing a slab to slide down the lorry and crush Mr Tihlar to death. At the inquest on 19 June 2006 at Staffordshire South Coroner's Court, the jury returned a narrative verdict. Just Granite pleaded guilty to a breach of health and safety legislation at Stafford Magistrates' Court and was fined total of £10,000 and ordered to pay costs of £4,470.

Death of Jerzy Pedja, Poland, Construction, 2 November 2005

Aged 37, from Poland, Jerzy Pedja, died on 2 November 2005 at Stoneville UK Ltd in Brentford London when heavy stone slabs inside a closed container that he was helping to unload, fell towards him. A supporting wooden framework had been removed to facilitate unloading, making the slabs inherently unstable even at a small angle of lean from the vertical position. The trailer had been parked on a small incline. The inquest on 30 January 2007 resulted in an accidental death verdict.

Death of Oleksiy Prutskoy, Ukraine, Services, 26 October 2005

Aged 32, from Ukraine, Oleksiy Prutskoy, died at Immingham Docks on 26 October 2005 when he was hit by a moving vehicle. He was employed by Ferryways as Chief Officer of a ship, Humber Way.

Oleksiy Prutskoy was supervising loading and unloading operations when he was hit by a Tugmaster vehicle driven by an employee of a sub-contractor of Associated British Ports. The vehicle skidded while pulling a container off the Humber Way ship. The inquest on 4 October 2006 at North Lincolnshire and Grimsby Coroner's Court returned a verdict of accidental death.

Death of Janusz Jakub Trybala, Poland, Manufacturing, 19 July 2005

Aged 47, from Poland, Janusz Jakub Trybala died on the 19 July 2005 after falling 26 metres while installing permanent floor gratings on a boiler at Allington Waste Energy Plant in Maidstone, Kent. He was employed by the Polish sub-contractor Rafaka SA on whom the HSE imposed two prohibition notices following the incident.

He was leading a team of three men fixing a new access path to a boiler at the Allington Incinerator in Laverstock Road, Maidstone. He fell through a piece of steel grating, one of a number of walkway panels left unsecured because of a shortage of clips. The Inquest heard how the site had been 30 minutes away from being shut down because of concerns about safety procedures. Health and safety manager Harold Hodgins said that he had given contractors working on the boiler until midday to start work on fixing clips. It followed a walkabout of the site two hours before the accident when Mr Hodgins noticed workers perilously close to grating panels which appeared to have nothing holding them in place.

Janusz was sent to fix the grating. He was wearing a safety harness, but this harness was unattached. An inquest at Kent Mid & Medway Coroner's Court in July 2005 returned a verdict of accidental death. In October 2008, his employer, Rafako SA was convicted of health and safety offences and fined £80,000. The contractor, Lentjes, was fined £40,000.

Death of Azad Hussain, Iraq, Agriculture, 21 January 2005

Aged 26, Azad Hussain, from Iraq died when he was hit by a tractor whilst picking peas in Stratford-on-Avon on 21 Jan 2005. An inquest on 27 July 2007 at Warwickshire Coroner's Court returned an Open verdict.

Death of Lucian Vuta, Romania, Construction, 14 November 2004

Aged 30, from Romania, Lucian Vuta died on 14 November 2004 when he fell 25 feet through the roof light of a warehouse in Stilebrook Road, Olney, Buckinghamshire. He had been painting the external cladding of an asbestos cement roof. He had been employed by MJM Painters and Decorators.

An inquest at Milton Keynes Coroner's Court on 31 March 2006 returned a narrative verdict. Following the inquest, Michael McCarthy, director of the company, was convicted of health and safety offences and fined a total of £16,000 and £12,153 in costs.

Death of Tomasz Sarachman, Poland, Construction, 18 October 2004

Aged 27, from Poland, Tomasz Sarachman died on 18 October 2004, having fallen 8 metres onto railings from a window frame of an open window at a construction site in Hammersmith in London. He was employed by Charles Henderson Construction.

The inquest heard that Tomasz Sarachman was fitting windows at a housing development in Hammersmith. During one of his breaks, he was sitting on the window frame of an open window when he fell through it. The HSE decided that it would not treat it as an occupational incident because Sarachman was sitting in an area where he was not supposed to, for the window was not in the site on which he was employed. A full inquest was held on 29th March 2005 at London West Coroners' Court, the verdict of which was accidental death.

Death of Radostin Stoyanov, Bulgaria, Construction, 9 September 2004

Aged 21, from Bulgarian, Radostin Stoyanov, was crushed to death on 9 September 2004 while working on a large building in South West London. He was an agency worker, employed by Dollar Corporation Ltd. The client was developer William Very Facilities Management Ltd. Mr Stoyanov died in hospital two days after the incident.

An inquest held on 17 November 2004 at London Inner West Coroner's Court returned a narrative verdict. Dollar Corporation Limited pleaded guilty to health and safety offences for breach of regulation 8 of the Lifting operations and Lifting Equipment Regulations 1998. Although the company has a turnover of £9m the Judge fined the company £7,000 after accepting

that the Defendant had properly planned and supervised the lifting operation, and had trained its employees properly.

Death of Aniello D'Urzo, Italy, Construction, 9 September 2004

Aged 53, from Italy, Aniello D'Urzo, died on 9 September 2004 when he fell from the boson's chair while painting a ship, Republica di Roma, in Falmouth Docks. Mike Reynolds, port operation director for A & P Falmouth said at the time that "as a company we put a tremendous amount of effort into health and safety". An inquest held at Cornwall West Coroner's Court on 7 April 2006 returned a verdict of accidental death.

Following the inquest, in October 2007, Industria Armamento Meridionale SpA of Palermo, Italy, trading as the Grimaldi Group was convicted of health and safety offences at Truro Crown Court and fined £75,000 and ordered to pay costs of £25,000. The court heard that the company's safety management system was defective: it had failed to check the condition of the equipment; the rope was weak and possibly fraying; there was no maintenance record for the suspension equipment; and there were no regular inspections as would be expected. Judge Rucker said that the equipment was obviously defective and should have been jettisoned to the rubbish bin a long time ago. "I would not have used it (the rope) to tie up my dog, but it was used to hoist the man to a considerable height," he said. There was good, new equipment in the ship's store.

Death of Dariusz Antosik, Poland, Services, August 2004

Aged 32, from Poland, Dariusz Antosik, a fairground worker was asphyxiated to death in August 2004 when his clothes became entangled in the internal workings of a merry-go-round ride called the Chairplane owned by Philip Raymond. He had been employed at the site for less than a month.

The inquest in Penzance heard that the ride comprises chairs that are suspended on chains and rotated by a drive shaft concealed inside a central column - where Mr Antosik was entangled. The Chairplane formed part of a scale summer funfair in Marazion (a busy holiday area overlooking Mount's Bay), near Penzance under a seasonal license from the local site owner, the St Aubyn Estate.

The HSE told the inquest that the drive shaft was joined by two non-standard bolts. Two workers also gave evidence that Antosik - known to them as 'Derek' - could not speak English very well. His employer, Philip Raymond, denied this. The jury returned a verdict of accidental death. The HSE have charged Philip James Raymond with failing to prevent access to dangerous parts of machinery.

Death of Marc Vleigen, Belgium, Construction, 17 July 2004

Aged 45, from Belgium, Marc Vleigen, died on 17th July 2004 after falling 30ft inside a tower at the Castle Cement works in Padeswood, Mold, Flintshire. He was working on building a new kiln at the site, fitting steel plates. He was employed by Pirson Montage (working for Castle Cement).

The inquest at Wales North East Coroner's Court on 24 May 2005 heard that Mr Vleigen had the correct safety equipment to carry out his role, and was properly instructed. It remains unclear, however, whether his harness was attached. The jury returned a verdict of accidental death.

Death of Hans Zdolsek, Germany, Construction, 20 February 2004

Aged 39, from Germany, Hans Zdolsek died on 20th February 2004, after falling 28 feet while installing a racking system at Wilkinson's Distribution Centre in Worksop, Nottinghamshire. He was employed by the German company Fischer GMBH, the Principal contractor was Siemens

Dematic Ltd (now Oldbury (Banbury) Ltd) and the racking installation contractors were Stow (UK) Ltd.

An inquest was opened at Nottinghamshire Coroner's Court on 27 February 2004 – but no full inquest took place as David Hill, Oldbury's project manager for the site was charged with manslaughter. He was found not guilty. Stow (UK) Ltd and Oldbury (Banbury) Ltd were convicted of health and safety offences at Nottingham Crown Court and fined £80,000 and £100,000 respectively. The court heard that at the time of the incident Hans was installing a staircase to access the racking system. The temporary guardrails in place to prevent falls were not sufficiently long enough to cover the length of the racking system so some workers had used - to the knowledge of the site's health and safety officer - plastic cable ties to hold them in place. In addition, a safety consultant called in by one of the subcontractors had noticed some unsafe work practices and suggested that work in these areas should stop. He also found that the health and safety plan for the site did not address the risks of working at a height. These warnings were not heeded; when Mr. Zdolsek leaned against one of these guardrails, it gave way under his weight.

David Hill, Oldbury's project manager for the site pleaded guilty to health and safety offences and was fined £2,500. David Hastie, the health and safety officer was also fined the same amount. He admitted that he knew the plastic ties were being used but did nothing to intervene.

HSE inspector Mark Dawson stated that "site operators were aware that it had become a customary practice for people to cut down these plastic ties, load work equipment at the end of the day and replace the barriers with fresh ties. No remedial action was taken. It seems almost inconceivable that professional people should consider plastic tie wraps to be a suitable means of securing guardrails. As a direct result of this practice, Hans died."

Death of Ojewumi Olusegun, Nigeria, Construction, 23 May 2003

Aged 37, from Nigeria, Ojewumi Olusegun, died on 23rd May 2003, having fallen from scaffolding while working on former council housing in Bethnal Green. He was employed by Procontract Services Ltd.

The inquest held at London Inner North Coroner's Court on 15 June 2004, heard that Mr Olusegun was finishing off some rendering on the parapet wall of a roof garden. Scaffolding was in use to provide access to Mr Olusegun's area of work, but the evidence suggested that this was not properly used on this occasion. Instead it is thought that Mr Olusegun was using the internal stairs to reach the appropriate level within the building before transferring onto the outside. On his way back to the internal part of the property Mr Olusegun fell to his death. The inquest jury returned a verdict of misadventure.

Death of Jose Rodrigues, Portugal, Services, 23 April 2003

Aged 55, from Portugal, Jose Rodrigues, died on 23 April 2003, after becoming trapped between two articulated trucks when his lorry jack-knifed as he carried out safety checks on the cables that joined his trailer to the cab. Wakefield Coroner's Court heard how Mr Rodrigues had forgotten to put on the handbrake as he was checking the cables that joined his trailer to the cab. As he walked around the side of the vehicle to get back into the cab, the lorry rolled back and jack-knifed, crushing him against another truck parked next to his. He had 20 years driving experience. The inquest jury at Wakefield Coroner's Court, on 16 June 2003, returned a verdict of accidental death.

Death of Slawomir Kocon, Poland, Construction, 29 April 2003

Aged 25, from Poland, Slawomir Kocon, was crushed to death on 29 April 2003, when a section of a chimney fell on him at a refurbishment job in Northwood, London. He was working for Drayton Building. The inquest held at London West Coroner's Court on the 25 October 2005 returned a verdict of accidental death.

Death of Bruno Riviera, France, Construction, 28 March 2003

Aged 41, from France, Bruno Riviera was electrocuted to death on 28 March 2003, while working as a sub-contractor on the first section of the Channel Tunnel Rail Link at Folkestone. Union Railways South was the company responsible for building this part of the link.

The inquest held at Ashford / Shepway Coroner's Court in November 2004 heard that he touched a live overhead wire near Westernhanger. It returned a verdict of accidental death.

Death of Marcin Skorupski and Adam Borowik, Poland, Agriculture, 11 October 2002

Aged 21 and 27, Marcin Skorupski and Adam Borowik, both from Poland, died on 11 October 2002 when they became entangled in a rotating shaft on the tractor-mounted rope binding machine at Sheeplands Farm in Twyford. The machine winds up the lengths of rope used to secure the polytunnels which protect the fruit. Mr Borowik was decapitated and his arms and spinal cord was severed and Mr Skorupski's legs were missing from his body. They were employed by Hall Hunter Partnership Limited and Aventis Services was contracted to erect and dismantle the polytunnels.

The inquest at Berkshire East Coroner's Court on 30 July 2003 heard that it was the first time Mr Skorupski, who was feeding the rope into the mechanism, had used the machine. Farm manager Jeffery Dever said he had made it clear the rope feeder should stand at least five metres behind it, but these instructions were not followed. Mr Borowik was experienced at using the machine but did not have a very good grasp of English and Mr Dever had to ask another of the Polish workers to translate his instructions. The jury returned a verdict of accidental death.

In July 2005, the Hall Hunter Partnership, its owner Harry Hall, and his 62 year old father and fellow director Mark Hall were each convicted at Reading Crown Court of breaching 1974 Health and Safety at Work Act and the 1999 Management of Health and Safety Regulations and fined a total of £60,000 with £46,548.75 costs. Aventis Services Ltd was fined £20,000 and £15,516.25 costs. The court heard that Hall Hunter Partnership had not carried out any adequate risk assessment and that many of their over 300 workers were foreign and would not have understood the safe working practices. The court heard that the machine used was unsuitable as it did not have an automatic cut off and worker had not been adequately trained, nor made aware of the dangers posed by the task. Matthew Lee, an HSE inspector, said: "This was the worst agricultural accident I have ever seen. I have never seen injuries as severe in 30 years".

Death of Eszter Nagy, Hungary, Agriculture, 19 July 2002

Aged 20, from Hungary, Eszter Nagy, died on 19 July 2002, after becoming trapped beneath a forklift truck at Wireless Station Farm in Chestnut Lane, Cambridgeshire. An inquest held at Cambridgeshire Coroner's Court on 19 December 2002 recorded a verdict of accidental death. The farm was fined £20,000 following an HSE prosecution

Death of Abdurazak Shaban Ammush, Libya, Construction, 7 April 2002

Aged 4, from Libya, Abdurazak Shaban Ammush was electrocuted to death on 7 April 2002 while renovating a flat in Wigan. He was a highly qualified engineer.

Investigations by the HSE discovered that the electrical cable tidy was full of deadly defects – including a screw which went directly through the cable, and which was ultimately responsible for Mr Ammush’s death. At the Inquest, the HSE inspector said “There were numerous defects on what appeared to be a home-made electrical cable tidy, there was no way this was a professional, commercial item. There was a particular fault with a screw which penetrated the cable – this came into contact with a live conductor.” The jury returned a verdict of accidental death.

Death of Arif Toy-Temor, Turkey, Services, 5 November 2001

Aged 33, from Turkey, Arif Toy-Temor, died on 5 November 2001, when a large piece of tree fell on him whilst he was working as a labourer for the tree surgeon James Manchester at a Liversedge garden. Mr Manchester was up the 60ft ash tree cutting sections from it and the inquest held at West Yorkshire West Coroner’s Court on 3 October 2002 that he had instructed Mr Toy-Temor to stand well clear. The HSE inspector said he was satisfied the system of work being used was what the HSE would expect. The jury returned a verdict of misadventure.

Death of Ionut Paul Simionica, Romania, Construction, 26 February 2002

Aged 22, from Romania, Ionut Paul Simionica, was crushed to death on 26 February 2001 when he was buried under two tonnes of falling brickwork whilst undertaking refurbishment work at St Mary’s Church, Westminster.

The inquest, held at Westminster Coroner’s Court on 11th June 2002, heard that the project involved raising the height of the church to fit a stairwell. When work started, voids containing rotten wood – which could not support the walls - were discovered in the foundations. The subcontractor, Britin Construction Ltd, notified the principle contractor, David O’Keefe & Co Ltd, of this defect and the structural engineer, Mr Barr advised flooding the voids with concrete and Britin agreed to produce a method statement but this was not done. Mr Barr also had not performed a risk assessment of the underpinning work. The jury returned a verdict of accidental death.

David O’Keefe & Co, Britin Construction were both convicted of health and safety offences and were fined £25,000 each for failing to ensure the stability of a structure during construction work. They were also ordered to each pay £15,000 in costs. Mr Barr, the structural engineer was also convicted and fined £45,000 and ordered to pay £30,000 towards court costs. Barr had told the jury that Simionica should have known that the wall was about to collapse and stated that if he had not been happy about the condition of the wall, he could have stopped and told the foreman. A building expert at the trial, John Willbourne, stated that the construction companies were “incompetent” as regards the health and safety requirements, and that the work was “superficially executed”.

CHAPTER FOUR

INVESTIGATION AND PROSECUTION FOLLOWING MIGRANT WORKER DEATHS

Every workplace death, which is reportable to the authorities, will result in an investigation by three different bodies: the police, a regulatory body – usually the Health and Safety Executive, but sometimes Local Authority or the Maritime Coastguard Agency – and a coroner's inquest. The product of these investigations will be a decision on whether or not to prosecute and an inquest verdict.

The Centre for Corporate Accountability (CCA) looked at what verdicts were returned at inquests and whether or not there was a decision to prosecute, and if so against whom and for what offences.

Inquest

Out of the 46 deaths that the CCA monitored, inquests have been completed into 37 cases. Table 1 below shows that in the vast majority of these deaths, a verdict of 'accidental death' was returned.

Table 1: Inquest Verdicts

	Nos of deaths resulting in a Verdict
Accidental Death	28
Misadventure	3
Narrative	5
Open	1

Through speaking to coroner's officers, the CCA also looked at the number of families who had legal representation at the inquests. The CCA was able to find information on 15 cases and found that in nine there was no legal representation.

Table 2: Legal Representation at Inquest

	Nos of deaths
Legal representation	6
No legal representation	9
No information on whether lawyer or not	23
Too early to decide on legal representation (no date set for inquest)	8

The lack of legal representation is particularly notable – since it is likely that in most of these cases there will not be an English speaking member of the family able to represent the interests of the family at the inquest.

Manslaughter Conviction following the deaths of 21 Cockle Pickers at Morecambe Bay

On 5 February 2004, 21 Chinese cockle pickers died when they were trapped by rising tides in Morecambe Bay. All of them were undocumented workers smuggled out of China, and none of them could speak English. They were employed by Chinese born 'gangmaster' Lin Liang Ren from Liverpool. RNLI hovercraft commander Harry Roberts said: "it is the worst tragedy I have come across in my time with the RNLI. They didn't have any safety gear and some of them were naked because they had taken their clothes off to help them swim."

In March 2006, Chinese born Gangmaster Lin Liang Ren from Liverpool was convicted of manslaughter at Preston Crown Court. He was sentenced to 14 years in jail: 12 years for manslaughter and 6 years for facilitation, running concurrently; and a further two years for charges of conspiracy to pervert the course of justice. His girlfriend Zhao Xiao Qing was convicted of facilitation, perverting the course of justice and was sentenced to two years and nine months. Lin Mu Yong was convicted of facilitation and was sentenced to four years and nine months. Once they have completed their sentences the Home Office will consider deportation. Father and son businessmen David Anthony Eden Snr and David Anthony Eden Jnr were cleared of breaching immigration law by employing illegal immigrants in connection with the incident.

All the cocklers were undocumented workers smuggled out of China. Prosecuting counsel Tim Holroyde Q.C. pointed out that "some had never seen the sea until they first went cockle picking".

Mr Justice Henriques said Lin Liang Ren had "cynically and callously" exploited his countrymen and women and provided them with dreadful living conditions. He said the gangmaster had been motivated by avarice and displayed little regard for the safety of the cocklers. Lin Liang Ren had waited 50 minutes before alerting the authorities to the impending disaster. Henriques J said "Had you even then decided to evacuate the beach, there might have been no loss of life."

Det. Supt. Mick Gradwell, who led the Lancashire Police investigation, said the force was pleased with the sentences. He added that Lin Liang Ren, the gangmaster, was not fleeing poverty or persecution but "was someone of substance in China". He was a qualified accountant from a wealthy family. He came to the UK in 2000, posing as a student. He enrolled in two colleges in Manchester and London but did not attend classes. Instead he faked progress reports which were sent to the UKIS to support his visa application. He began forging cockling permits and supplying false national insurance numbers Mr Gradwell said. "There is a level of uncaring arrogance about Lin Liang Ren. I have never seen him break down in tears or even get close to it."

Ex-councillor Patricia England said there was an "element of racism" about the fact all three Chinese defendants were convicted. Gina Tam, translating on behalf of the brother of Lin Mu Yong, said the three defendants had been made "scapegoats". She said "I think the Government is responsible, they knew they were there. This looks like a racist system to me - the three Chinese all guilty."

Before the trial started, Lord Carlisle, representing Tony Eden, accused government officials of turning a blind eye to the Chinese cockle picking and allowing the illegal immigrants to remain in the UK. He said that UK Immigration Service (UKIS) and the Department for Work and Pensions (DWP) acted as "agents provocateurs" and created a situation in which cockling was an accepted part of British industry. The Home Office and the DWP said in a statement that the UKIS was aware of issues relating to illegal working in the Morecambe Bay area prior to February 2004 and took robust and appropriate action against it. UKIS also stated that in spite of action taken, it was not possible to predict what happened on February 5th 2004.

Prosecution

The CCA also looked at the number of migrant worker deaths that have resulted in a prosecution for health and safety or manslaughter offences. Most of this information was obtained by making Freedom of Information Act requests to the Health and Safety Executive. Out of the 32 deaths where prosecution decisions have been made, Table 3 shows that 14 deaths – 44% - resulted in a decision to prosecute for health and safety offences. This figure can be compared with an analysis published in 2002 that indicated that about 30% of all workplace deaths usually result in prosecution.⁴¹ The increased level in the number of migrant deaths that result in a prosecution could well indicate that their deaths – compared to most worker deaths - are the result of more culpable failures on the part of employers or others. It could also, however, show that the HSE are more willing to find reasons to prosecute following a migrant worker death, or it may simply be because the deaths monitored by the CCA do not include other migrant workers deaths that did fail to result in a prosecution.

Table 3: Prosecutions following deaths

Deaths resulted in a prosecution	14
Deaths not resulting in a prosecution	18

Table 4 provides more details about those prosecutions - where information was accessible. The lack of information available in relation to many of these prosecutions made us look at how many of the migrant worker convictions resulted in the HSE issuing a press release.⁴² This analysis showed that the HSE failed to issue a press release following 7 out of 10 convictions following a migrant worker death. This figure compares to a recent study that found 5 out of 10 convictions in 2007 following workplace deaths received an HSE press release.⁴³ The failure of the HSE to issue a press release following 50% of all worker deaths was of concern at the time; but the failure to issue a press release following an even higher number of workplace migrant deaths is difficult to explain.

Table 4: Details of Prosecutions following deaths

Name of Deceased	Who prosecuted	Fine (£)	HSE Press Release?
Hendrike Tebrake	Not known	Ongoing	-
Janusz Jakub Trybala	Rafako S A Lentjes	85,000 40,000	-
Lubomir Tihlar	Just Granite	10,000 + costs	No
Hans Zdolsek	Siemens Dematic Ltd, now Oldbury (Banbury) Ltd Stow (UK) Ltd: David Hill David Hastie	100,000 80,000 2,500 2,500	No
Aniello' D'Urzo	Grimaldi Group	75,000 + compensation to family	No
Lucian Vita	Michael McCarthy, director of MJM Painters and Decorators	16,000 + costs	No

⁴¹ "Safety Last: The Under-enforcement of Safety Law," CCA/UNISON (2002), <http://www.corporateaccountability.org/HSEReport/Index.htm>

⁴² This was done through searching HSE's press releases: <http://www.hse.gov.uk/press/press.htm>

⁴³ "Failure by Safety Body to publicise its own convictions, new research shows", CCA press Release, April 2008. http://www.corporateaccountability.org/press_releases/2008/apr17hsepress.htm

Marcin Skorupski, Adam Borowik	Hall Hunter Partnership Ltd Aventis Services Ltd Harry Hall Mark Hall	20,000 20,000 20,000 20,000	Yes
Ionut Paul Simionica	Lindsay Barr David O'Keefe & co, and Britin Construction	45,000 + costs 25,000 each + costs	Yes
Dariusz Antosik	Philip Raymond	Ongoing prosecution	- -
Alexander Khazmatov		Conviction	No
Biagio Malacaria	Alexanders of Twickenham Ltd	Conviction	Yes
Eszter Nagy		Conviction	No
Radostin Stoyanov		Conviction	No

Interview with Grazyna Trybala, wife of Janusz Trybala, who died while at work on a Waste Energy Plant in Maidstone, Kent, on 19 July 2005. This interview took place just before his employer and the main contractor were convicted and sentenced in October 2008

My Husband: Janusz - my husband, was a cheerful and friendly person. He loved life very much and he lived his life to the full. He paid a great deal of attention to his family. He made us feel safe and secure. He was a spontaneous, active, optimistic and warm person. He was eager to offer help to our friends and neighbors. He enjoyed cooking and experimenting in the kitchen, and prepared fantastic meals for various family ceremonies. I still find it difficult to talk about him.

His Work: Before Janusz came to the UK in 2004 he had worked in Linz, Austria in a steel mill. He had a lot of experience in construction. He decided to come to the UK in winter 2004, mainly to earn a better salary. He secured employment with a Polish company (RAFAKO) that had started some construction work on a site in Allington, Maidstone, Kent.

Janusz spoke basic English, and in winter 2004 he started taking English classes. His intention was to improve his language skills further. After completion of his employment with Rafako, he had hoped to stay in the UK and work for an English employer (he wrote to me about this in one of his letters). He was very happy to have the opportunity for better wages and an improvement in our financial situation. He had many plans.

In the course of his employment, Janusz had previous experience in working as a welder, an assembler in a garbage incinerator, and he worked at heights. He was experienced in that type of work. In one of his first letters to me, he had mentioned that he worked on shifts, sometimes nightshifts. He wrote about a tense atmosphere on the building site and the fact that he was designated to work on difficult stretches of works and correct work which his colleagues had done wrong.

I think that he did well in his job because less than a month after he started work at the Allington site he was given a pay rise. Despite the fact that he was not employed as a foreman, his colleagues treated him as if he was a foreman. However, he was not trained to be a supervisor. I feel that it was unacceptable for him to have been given supervisory duties without proper training.

The Incident: All I know about the incident is that at the time my husband was working on a large industrial Boiler which had different working platforms. My husband was working at level 34 and apparently stood on or was fixing an uneven grating on the platform on that level. He fell with the grating from a considerable height (some 23 meters). I was told that at the time of the accident, he was wearing a harness but it was not secured to anything. I was also told that the grating was not secure due to the fact it had been moved or dislodged by some work carried out by another team of men who were laying pipes. The boiler platform was not secured properly. On the day, clips which were meant to secure the gratings in place, were not available on the platform and therefore all the gratings were not properly secured on the platform. At the time of the incident, my husband's direct supervisor, the foreman, was not present at the level from which my husband had fallen.

How I first heard of his death: I was in Poland at the time of my husband's death. The Coroner had informed the Polish authorities and I was informed about my husband's death by the Polish Police. I was given a telephone number in the UK for the Coroner and his

officer. I must admit that I was in a state of shock when I was informed and I could not comprehend what was going on. I was deeply affected by his death and as a result a few months later I had to undergo psychological treatment in a Therapy Centre in Poland. I still feel the consequences of this event.

Investigation and Prosecution: My son was in the UK at the time of my husband's death and he had the opportunity to meet the Coroner's Officer and the Health and Safety Executive representative Mr. Collingwood in person. Mr. Collingwood gave him as clear a picture of the situation as was possible at that time. He also mentioned that we ought to seek legal advice. I received a list of all law firms with Polish speaking staff from the Consulate General of the Republic of Poland in London and I instructed Leigh Day & CO.

I am happy with my relationship with Mr. Collingwood. On a number of occasions, he answered my concerns regarding the investigation (obviously as much as he could and he always remained impartial). He has always replied to my emails even when I wrote to him in Polish. He always responded to me in Polish.

Regrettably, I need to say that despite the fact that my husband's employers were a Polish firm (RAFAKO); the Police authorities have not provided me with as much assistance. There is an equivalent of the Health & Safety Executive in Poland, the Work Standards and Safety Inspectorate. Unfortunately, the Inspector from the District Work Standards and Safety Inspectorate in Katowice prepared his report based only on information given by the employers, and did not include the information that had been collected by the UK HSE. I am surprised that, despite the fact that Poland is a European Union member, Polish authorities have not contacted the HSE in the UK and have shown so little interest in identifying the cause of my husband's death.

I have no reservations about the inquest. However, I would like to say that until the date of the inquest (about a year after my husband's death) I couldn't obtain a Death Certificate, which sometimes made it impossible for me to deal with authorities in Poland. The Temporary Death Certificate issued by the Coroner was often not good enough. There is no equivalent document in Poland and for that reason I could not claim an inheritance until the final certificate was issued after the inquest.

I am aware of the fact that the criminal prosecution process is time-consuming but as far as I am concerned it has taken far too long. I do not know what has caused the delays and why hearings have been adjourned. I am not convinced that this is reasonable and necessary. I had hoped that we would be able to conclude the case within 3 years from the date of the accident. Unfortunately, the third anniversary was on the 19th of July 2008 and the criminal proceedings had still not concluded. Unfortunately, the delay restricted me from dealing with the emotional consequences of my husband's death. I wish I could get over it. Reliving this all the time is still very difficult and painful.

The delay in the criminal proceedings also hinders the civil proceedings. As far as I am concerned, my civil solicitors have not had access to all the third party's documents and decisions and this puts me in an unequal position in the Court. I wish the Criminal case was finally concluded, with a verdict being reached. I can only trust that we are not going to face any other adjournments as they make it difficult to accept the death of my husband. I would like to see the companies liable for the negligent death of my husband sentenced. It is important to me. Sometimes, I am under the impression that all these procedures and paperwork are obstructing the personal tragedy of my husband Janusz's death. I appreciate that these things have to be honestly and independently resolved but why does it take so long?

CHAPTER FIVE

HEALTH AND SAFETY EXECUTIVE'S RESPONSE TO MIGRANT WORKER DEATHS

Since the Morecambe Bay tragedy in February 2004, the Health and Safety Commission (now the HSE Board) have discussed the issue of Migrant Workers five times – each time following a detailed policy paper. This short chapter summarises the key actions that the Health and Safety Executive (HSE) say they have taken on migrant workers health and safety.

HSE states that its overarching objective on migrant workers “is to ensure that they receive the same high level of protection as other workers in Great Britain, whatever their immigration status. We intend to achieve this through a programme of focused enforcement activity, communication and research and by working closely with colleagues across Government.”⁴⁴ The HSE have emphasised that “there is no place for employers or labour providers who take advantage of the flexible economy and exploit vulnerable workers by denying them the required protection.”⁴⁵

However, at an early stage, the HSE stated, “we are deliberately not launching major new interventions targeted at migrant workers until we have the evidence to justify them.”⁴⁶ It argued that migrant workers were simply a “special case of the more general problem associated with managing the health and safety of casual and temporary labour”, though accepting that “in addition to the generic issues, migrant workers present particular challenges in areas such as language, supervision and safety culture.”

An HSE paper in April 2007 stated that “delivering this work is a political imperative and a total of 5 staff years” was allocated which it hoped would result in a total of 291 inspection contacts in the subsequent year.⁴⁷ This was divided in the following manner regionally.

Division	Number of inspector contact days
Wales and South West	41
East South East	58
Midland	81
Yorkshire and North East	29
North West	41
Scotland	41

Inspection and enforcement activity: This has particularly focused around the food/agriculture and construction sectors – and “enquiring about arrangements for managing the health and safety of migrant and temporary workers”. In the agricultural sector, in 2004, the HSE stated that this involved a commitment to investigate “all reported accidents/incidents and complaints involving

⁴⁴ HSC/07/63, p.6

⁴⁵ HSC/05/04, “Migrant Workers: A Progress Report, Jan, 2005, para 11

⁴⁶ HSC/05/04, “Migrant Workers: A Progress Report, Jan, 2005, para 9.

⁴⁷ SIM 01/2007/04, ‘2007/08 Work Plan: Temporary and Migrant Working’, March 2007

temporary workers”. This commitment was carried through in 2007/8.⁴⁸ The HSE extended its focus on migrant workers to the cleaning sector.

HSE on Migrant workers in the agriculture and construction sector*

Agriculture

“The demand for temporary workers within agriculture and horticulture is greatest in the fresh produce and packhouse sectors, which require a flexible labour force to undertake unskilled manual tasks such as planting and picking throughout the year. Concentrations of temporary workers are known to be employed in the Fens, the Vales of York and Evesham, Kent and the South West of England. Shellfish harvesting on tidal estuaries in England and Wales has taken on major significance following the tragic deaths of 21 Chinese illegal immigrants in Morecambe Bay in February 2004.

Because farmers and growers are finding it increasingly difficult to source indigenous labour they are relying extensively on migrant workers: from both EU and non-EU countries. Many are prepared to work in unpleasant conditions for comparatively poor wages. An unknown proportion are believed to be illegal immigrants.

We do not have reliable data on the number of temporary workers employed in the industry nor on the incidence of accidents and ill health but there is a growing concern across government at the rising level of illegal activity, including the neglect of health and safety responsibilities, amongst both labour providers and labour users in the industry. There is also mounting evidence of the abuse and exploitation of migrant workers on a range of issues including the payment of low wages, provision of poor housing, excessive working hours and lack of insurance cover.”

Construction

“Migrant and other socially/economically disadvantaged workers are known to be employed in the construction industry. Low skills entry thresholds and the casual/informal nature of employment make the industry an obvious destination. Labour shortages, increasing difficulties in attracting and retaining indigenous workers and an extended period of growth in the industry make migrant etc. workers a viable option for the industry. HSE’s estimates of 10% migrant penetration of the workforce almost certainly underestimate the proportion in the industry in the greater South East.

Construction Division is approaching the problem from a wider perspective of vulnerable groups, on the grounds that this accords with the more sustainable longer term government agenda and avoids becoming embroiled in issues such as economic migration, asylum seekers etc. A broader approach considers those workers and groups (particularly in the informal economy) with limited literacy, communication skills, understanding of their rights and economic bargaining power that may make them vulnerable to exploitation in the workplace.”

* Extracted from HSC/05/04, “Migrant Workers: a Progress Report” (2004)

⁴⁸ SIM 01/2007/04, “2007/08 Work Plan: Temporary and Migrant Working” para 23

HSE Inspector Migrant / temporary worker check

Inspectors involved in working on migrant / temporary worker issues have been instructed to focus on the following issues at proactive/preventive inspection visits:

- 1 Does the business employ temporary and/or migrant workers?
- 2 Does it employ them directly or are they supplied by an employment agency or other labour supplier?
- 3 If supplied by an agency or labour provider, is it based in the UK or abroad?
- 4 If supplied by an agency/labour supplier, is the latter licensed with the Gangmaster Licensing Authority?
- 5 Who is responsible for the migrant workers' health and safety? Is it the employing business i.e. the labour user, or the labour provider?
- 6 Has a suitable and sufficient assessment of the risks to which the workers are exposed been carried out?
- 7 Does it take account of the particular needs of non-UK nationals; in particular does it take account of language issues?
- 8 If relevant, does it address the issues of compatibility / equivalence of vocational qualifications e.g. lift truck driving qualifications obtained abroad?
- 9 Have the workers been provided with necessary and relevant information as to risks, instruction, induction and other health and safety training?
- 10 Has this information been provided in a comprehensible format?
- 11 What steps have been taken to ensure that the information has been understood and is acted upon?
- 12 Are the workers adequately supervised and can they communicate with their supervisors?
- 13 How and to whom can they raise any concerns about their health and safety?
- 14 If relevant, has necessary and suitable PPE been provided without cost to the workers?
- 15 Has suitable provision for toilet and washing facilities been made?
- 16 Has provision been made to ensure that Employers' Liability Insurance is in place that covers the workers on the labour user's premises?
- 17 If relevant, have appropriate and suitable arrangements been made to transport workers to and from their place of work? Are the drivers suitably qualified and are the vehicles suitable and properly maintained?
- 18 Where domestic accommodation is provided for the workers, if appropriate and required, are copies of current gas safety certificates made available?
- 19 Are accurate records of the hours being worked kept and available for inspection? Do the terms and conditions under which they are employed comply with the Working Time Regulations 1998?
- 20 Are suitable arrangements in place for recording and reporting accidents and cases of ill health?
- 21 Are suitable systems in place for first aid (including hospital) treatment, and any necessary health surveillance?

Communications with Migrant workers: The HSE's aim has been to use existing channels, and explore and develop better ones, for communication of key information to migrant workers. This has, for examples resulted in health and safety leaflets being published in over 25 languages. In the construction sector, HSE has worked with the Turkish and Kurdish communities in Haringey and Hackney to raise awareness of health and safety rights and responsibilities, and continued its collaboration with trade unions in providing support for provision of English lessons. It also launched a campaign to raise awareness within the Polish community in London of relevant legislation and of good practice.

The evidence suggests that few migrant workers access HSE information directly from the HSE. Trusted sources tend to be friends and family, co-workers of the same nationality and local advice services such as Citizens Advice Bureaux, churches and community groups. Migrant workers unfamiliarity with the UK 'system' combined with their highly informal networks for receiving information and advice is seen as a big challenge for the HSE which is trying to create new methods to access these workers. Pocket cards for workers have been directly and widely distributed to workers in the agriculture and food sector. In 2007, the HSE reported that it was developing contacts with the Roman Catholic Church about possible mechanisms for contacting migrant workers.

Communications with employers: the aim of this work has been to develop tailored advice and guidance for employers or intermediates on securing improved health and safety protection for migrant workers. This has resulted in new advice being provided in HSE's main publications like "Essential of health and safety at work" and translation of leaflets on the safe use of potato harvesters in different languages. In addition, the construction Division has offered advice to the Engineering Construction Industry Association on drafting guidelines on the management of non or poor English speakers employed on UK sites. New guidance on the waste sector is also looking at casual, temporary and contract labour which includes migrant workers.

In addition, the HSE has recognised the central importance of the role of employment Agencies in relation to migrant worker, and in 2004 stated that "Given agencies' central role in the recruitment and placement of migrant workers, it is important that they are made aware of their health and safety responsibilities and understand how to discharge them. Even scrupulous agencies may be unsure just what is expected of them in relation to workers whose day-to-day activities will not be under the agencies' immediate control." (See box "Migrant workers, Employment Agencies and Health and Safety Law" below)

Support for Gangmasters Bill: In June 2004, Jim Sheridan's private members bill was going through parliament, and HSE supported the bill. It said, "We have a clear interest in applying pressure to unscrupulous employers, labour-providers or final labour users (e.g. supermarkets)." It added that, "At the same time, there is a need to guard against the displacement of unscrupulous agricultural gangmasters to other areas of the economy. HSC/E and LA's should, therefore, take part in any future evaluation of the impact of the Bill (if it is passed) and consider the merits of extending its approach to other high-risk sectors in which gangmasters may be active." (See box "Migrant workers and the Gangmasters (Licensing) Act 2004" below).

The Future

In its November 2008 paper, the HSE stated that, "the work previously focused on migrant workers is now moving much closer to HSE's mainstream strategy and agenda. The links include addressing common risk factors that link a diverse but vulnerable workforce, and continuing to

tackle concerns about particular sectors, where other aspects of vulnerability are also in play (especially construction, and – though not a focus in the work at the moment - agriculture).”⁴⁹

⁴⁹ para 5

Migrant workers, Employment Agencies and Health and Safety Law

Many migrant workers find work through employment agencies and there has been a constant question over whether health and safety law requires amendment to assist in the protection of agency workers.

The HSE have articulated the problem in this way:

“Although employment businesses (agencies) generally pay the agency worker’s tax and National Insurance contributions, they usually engage the worker under a “Contract for Services”, rather than a contract of employment or of service. The practical effect is that employment agencies and those that hire the worker often perceive the worker to be self-employed or an employee of the other party, rather than their employee. Employment businesses and hirers both have duties to protect the worker, but the nature of those duties is dependent on whether or not the worker is held to be their employee.

In recent years, HSC/E have twice explored the question of whether or not health and safety legislation adequately protects atypical workers. On both occasions, following widespread consultation within HSE, we concluded that health and safety legislation already provides equal protection for atypical workers: no legislative change is necessary; and that any perceived lack of protection, or confusion over responsibilities for atypical workers’ health and safety would be best addressed by ensuring that we have effective interaction and communication with the relevant stakeholders. Resolving the issues seems to hinge on the need to clarify, and promulgate to all stakeholders, the current legal position regarding health and safety responsibilities for atypical workers. Many of the problems arise, not because there is lack of legal protection, but because stakeholders fail (deliberately or otherwise) to recognise their responsibilities. Consequently, the protection offered by health and safety law is not always delivered in practice. This suggests we need to change behaviour through a range of actions including promoting the potential consequences of not meeting legal responsibilities (accidents/enforcement action), ensuring relevant information is readily accessible and taking enforcement action where appropriate.”

In its paper, the HSE again concludes that “agency workers, and those supplied by gangmasters, are fully protected (in theory) by health and safety law”. It also adds that since 6 April 2004 “this protection has been re-enforced by new health and safety related provisions” in the Conduct of Employment Agencies and Employment Business Regulations 2003, governing the conduct of employment agencies and employment businesses.

In response to this HSE paper, the HSC accepted that there was no need to change the law, but felt that “there was a lot of confusion, particularly over agency workers, over who the duty holder was. There was a clack of clarity particularly in relation to specific duties owed to employees such as the provision of protective equipment. It was vital that HSE produced clear guidance addressing these issues. ... The Guidance should make clear that both hirer and agency have duties and HSE must be forthright in communicating those duties.”

The HSE have now produced new guidance for employments agencies.

See: HSC/04/62, “Employment Status: Impact on Health and Safety Duties towards Atypical Workers, and Para 3.3, Minutes of 11 May 2004 HSC meeting

Migrant workers and the Gangmasters (Licensing) Act 2004

The Gang-masters (Licensing) Act 2004 was enacted to protect workers from exploitation by 'gangmasters' operating in agriculture, horticulture, shellfish gathering and associated processing and packaging activities. It is estimated that approximately 600,000 people per year including both indigenous UK citizens and migrants may be employed under temporary contracts covered by the Act.* It does not deal with labour suppliers in any other sectors. The Act established a body, the Gangmasters Licensing Authority (GLA) to license gangmasters and enforce the licenses provisions.

Essentially, a gangmaster is defined in the Act as an individual or business that either: supplies labour to any of these sectors or uses labour for the gathering of shellfish. Someone is considered to be "using" labour if they employ the worker under a contract of employment or engage him or her under a contract for services. The Act applies equally to domestic and migrant workers.

Anyone who is a gangmaster must obtain a license. There are 10 licensing standards altogether dealing with accommodation, wages etc. Licensing Standard 6 deals with Health and safety, and states that:

"The GLA will expect clarity about and written clarification as to whether the gangmaster or labour user will be responsible for managing the health and safety of the workers provided. The conditions at work to which workers are exposed should comply with the legislation. This extends to transport arrangements and the place(s) of work. It is particularly important that adequate health and safety training is given to workers and that the gangmaster and labour user have agreed, in writing, who will be responsible for providing that training. No charge may be made for such training, which should take place during working hours. Any vehicles used by the gangmaster to transport workers to and from their place of work must be roadworthy, legal and driven only by drivers holding appropriate licences."

In its checklist the following key requirements are laid down:

- The gangmaster must have co-operated with the labour user to ensure that:
 - conditions at the site(s) to which workers are provided comply with relevant health and safety legislation;
 - responsibility for managing the health and safety of workers has been agreed and assigned;
 - the health and safety risks to which they may be exposed at work are properly controlled;
 - Any health and safety training, including induction training deemed necessary to carry out the work safely has been agreed and assigned;
 - the workers provided have received any necessary health and safety (including induction) training. The information and training should be comprehensible;
 - adequate and appropriate personal protective equipment has been provided to the workers they supply.
- Where a labour user employs more than five persons, or a gangmaster provides 5 or more workers to a labour user, the significant findings of any risk assessments should be recorded.
- No charge is made for health and safety training and any time spent on training is treated as an extension of time at work.
- The gangmaster's vehicles are being maintained and that there are no obvious/identifiable serious safety defects.

Between March 2007 and September 2008, 46 gangmasters have had their licenses revoked - though it is not known how many of these related to health and safety issues

* SIM 01/2007/04, "2007/08 Work Plan. Temporary and Migrant working", para 6

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

The report makes the following conclusions:

1. There is no academic research published in the UK looking at the extent to which migrant workers are in fact at risk of injury or death compared to the native working population.
2. A literature review published by the European Agency for Safety and Health indicates that whilst research in a number of countries in Europe and in the USA show that migrant workers suffer more injuries than would be expected, other research indicates that this could simply be because they are more likely to be undertaking work in sectors with poor working conditions.
3. Research in the UK does indicate there are series of special features – in particular language barriers - that make migrant workers particularly vulnerable to health and safety risks.
4. The most authoritative and widely accepted figure for the percentage of migrant workers in the UK working population is 5.4%.
5. There is more uncertainty about the percentage of migrant workers in the construction sector – with research indicating that the range is likely to be about 8% of the total number of workers in the construction sector throughout the UK.
6. The HSE has not until April 2008, collected methodically information on the nationality of workers who have died at work.
7. The HSE still does not collect information on the nationality of workers who have been injured at work.
8. The HSE has not published the data that it has collected through manual searches of its database and files on the numbers of migrant workers who have suffered fatal or major injuries.
9. The unpublished figures, obtained from the HSE using Freedom of Information Act requests, show that in 2007/8 the total number of migrant workers dying is higher than expected – though not by a significant level.
10. However these figures do show that the percentage of migrant workers dying in the construction sector is at least twice as high as expected.
11. The HSE have taken some steps since the Morecambe Bay tragedy to assess the relative levels of risk to migrant workers as well as to take steps to reduce this risk – in particular through increased inspections, investigations and attempting to reduce the significance of any language barriers.
12. There appears to be a problem in the lack of legal representation provided to families bereaved following a migrant worker death at the inquest.

13. More migrant worker deaths appear to be resulting in prosecution by the HSE compared to the level of all deaths that result in legal action.
14. Only 30% of convictions obtained by the HSE following a migrant worker death result in the regulatory body issuing a press release.

It makes the following recommendations:

1. The HSE should publish all the data it has on migrant worker deaths.
2. The HSE should, urgently, commission more research into why migrant workers in the construction sector are subjected to a far higher level of risk of death than native workers.
3. The HSE should collect information on the nationality of all RIDDOR reported injuries.
4. The Gangmasters Licensing Authority's jurisdiction should be widened to apply to the construction sector.
5. Whilst there is merit in placing the problem of migrant workers within the general rubric of 'vulnerable workers' this may result in the particular problems faced by migrant workers being overlooked. Consideration needs to be given to whether particular focus needs to be given to migrant workers.

ANNEX:

MAJOR INJURIES TO MIGRANT WORKERS

There are no statistics on numbers of major injuries suffered by migrant workers. However, an HSE commissioned research report was allowed to review HSE inspector ‘focus’ reports (that is the reports that HSE inspectors used to create following a workplace visit) over a five year period. Researchers searched the reports to see if they contained any one of some 50 key words relating to migration and migrants.

Once the data had been cleaned to remove those records that did not in practice deal with migrant labour, the researchers were left with some 829 separate workplaces. Although, these records are in effect anecdotal it remains the only HSE formal record of the risks that migrant workers encounter.

These records showed that there were 106 workplaces where a serious accident had occurred, although not all had been reported prior to the HSE visit (and there were 78 other cases where inspector reports the presence of a major risk, with the potential to cause an accident or fatality).

Since there is no other research into major injuries suffered by migrant workers, and the report in which this research was published has not been widely circulated, this extract is set out below.

“The Focus reports document 106 incidents that resulted in a serious accident, including the loss of a limb or an incident serious enough to disable the employee from working permanently or for a considerable period of time. Some of the injuries sustained were very serious. In one case, involving a Lithuanian construction worker, the hospital categorised his injuries as ‘severe’ with ‘cognitive problems which will probably remain’. In another case a Lithuanian worker had cut through a live cable while digging, sustaining burns to his arms and thighs.

Main source of accidents

Use of saws and cutting equipment: Several of the cases involved the use of saws. A case involving a Turkish worker is described as ‘more serious than the first report suggests’ involving the partial amputation of the top of the worker’s thumb and the breakage of two fingers, caused while using a saw. Using a saw without a guard caused another accident, involving the loss of a Russian migrant worker’s finger. In a further case a Lithuanian worker suffered the loss of the top of a finger while using a saw. In another case, again involving a sawing machine, the worker was a family friend carrying out work experience in the UK, with a view to developing a business back in Poland.

Falls and slips Falls, which were a major component of some of the fatalities, also contributed to accidents. In one case a Romanian worker fell off a top tower scaffold on his first day at work. At a farm, a Polish student sustained an injury when falling through an asbestos roof while cleaning the gutters. A Chinese worker fell through some fragile roof material. In this case the inspector had difficulty in establishing who the individual was working for or why he had been on the roof. A Lithuanian worker working and living on a site doing decorating work, fell while stripping wallpaper when the ladder base slipped, due to the floor having wet paper on it. The fall resulted in his breaking his arm. A Polish worker working through a sub-contractor on a construction site fell through a fragile skylight, suffering multiple fractures. The worker did not speak English, nor did any of the

other Polish contract workers, according to the report. A Turkish worker who had fallen from a ladder was only found in the early hours of the following morning. A South African worker, on a demolition site, fell through a skylight. Crawling boards and harnesses were not in use. A Polish worker in a milk products' firm suffered scalds, bruises and a twisted ankle when he slipped. In another case a Polish worker had fallen after unsecured boards dislodged a ladder. An Albanian fell from the second rung of ladder while descending. There was no evidence of what might have contributed to the fall, the worker was wearing appropriate boots and the terrain was not slippery. A Lithuanian worker fell down a hole in a wood saw plant, as he had not been made aware that a plywood board was covering the hole. In another incident a Romanian worker was found at the bottom of a smoke vent shaft after having been reported as missing by a relative. In one report the HSE inspector follows up the case of a young Lithuanian worker who had been working on a farm the previous year and had fallen through a roof. The reports sometimes specifically mention that agency employees were involved. At a construction company, it was mentioned that a Bulgarian worker, who had fallen from unstable scaffolding, had been employed through an agency.

Getting limbs trapped in machinery Getting limbs trapped in machinery was also a frequent cause of accidents. In one case, involving a female Lithuanian farm worker, she was injured when her hand got caught between machinery as she was trying to remove a blockage. In another case, again on a farm, the report notes that the injured person had been 'instructed to run [the] machine while cleaning'. At a food processing factory an Iraqi worker lost three fingers to the first knuckle, in a waste handling system. A Bulgarian worker in a forestry company had a finger amputated when trying to clear a blockage from a circular saw. A Kurdish worker employed in an ice-cream factory had his fingers dislocated when trying to remove something that was jamming the machinery. In Liverpool a Lithuanian worker had his right arm severed while removing meat from a mincing machine, while in Northumberland a female Polish worker lost the tip end of her finger, when it got trapped between machinery rollers.

Accidents involving vehicles There were a number of incidents related to driving vehicles. In one case a Lithuanian worker was injured when the tractor he was driving overturned. An Australian migrant worker was also injured through a separate but similar incident. A Kurdish worker was injured when a vehicle reversed into him while he was unloading it. Inexperience was one reason given for a number of these vehicle accidents, including that involving a Polish driver detailed below. Forklift truck and dumper trucks

Lack of Proper Training

The reports on accidents point to poor communication and lack of training as being responsible for many of the recorded accidents. For example, in one case where the accident had led to the partial amputation of the finger of a Polish employee working with a bandsaw, the report notes that the injured person 'had no English' and that two fellow employees were used as translators, although no formal arrangements for translation were in place. The accident occurred in a butchery department employing approximately 40 Central and Eastern Europeans. In the case involving the loss of the top of the Lithuanian worker's finger, the report notes that while the UK workers were City and Guilds trained, migrant workers were trained by demonstration and assessed by observation. A Polish worker hospitalised when a truck overturned while moving bundles of steel, is described in the report as an 'inexperienced driver'. In another case a Latvian worker, 'an unauthorised and untrained operative' used a forklift truck that ran over the foot of another worker. An agency worker, in a food products' plant suffered an accident while operating a bandsaw, cutting blocks of pork rind. The report notes that the worker had only worked for the

employer for a week and that there were no training records, no written system of work and no risk assessment.

Injured persons no longer contactable

One issue emerging from the reports is that sometimes the migrant worker is no longer available when the HSE inspector comes to investigate the incident. From the information in the reports, in around one in six of the accident cases, the individual was no longer present, either in the workplace or in the country. In one case ... involving a Bulgarian worker, whose accident, when a dumper truck trailer carrying a number of migrant workers tipped over, led to his being hospitalised for two weeks, he had returned to Bulgaria following his discharge from hospital. The background to the accident was that Russian students, who had only been given 'limited training before they were allowed to drive the dumpers' were driving at the time of the accident. Another case involved a Romanian worker who had been discharged from hospital and gone back to Romania. His accident had occurred while securing a pile of sheets on to a roof when he had been blown off it. There had been no edge protection nets, nor fall arrest harnesses. In another case, involving an accident (details not given) none of the Turkish workers including the injured person were still working for the company, a metal structures' company in the London area. In the London carpentry workshop case (see below) the injured worker again was not traceable. In a further case, a scaffolding company employing Kosovan labourers, is noted as having cleared out of the site and not returned. An Australian migrant worker injured when the tractor he was driving went into a ditch had 'moved on probably out of the country' according to that report. At a book binding company, where a Somalian worker had been injured, the attempts to contact him had been unsuccessful.

One case where the inspector was investigating an explosion at a property where building work was being carried out, he reports how, as he is trying to get details of the incident, the worker involved 'did a runner'. A farm worker injured by machinery was reported to have returned to Poland. A Polish worker injured while cleaning machinery following a fire had returned to Poland and was therefore not available for interview. In the butchery company case referred to above, the Polish worker who had been injured when sawing meat had gone back to Poland. In another case the report states that the information given was that the injured worker had intended to return to Poland prior to the accident and had done so. A Polish worker returned to Poland shortly after he was injured when the lift he was re-ropeing collapsed down the shaft while he was on top of it. According to the HSE report the accident occurred because the worker had not followed instructions. At one packhouse an Albanian migrant worker had been injured and had not returned to the workplace after three months. The contact details provided by the agency to the HSE no longer existed. In some cases the incident recorded was due to contamination or contact with chemicals or other substances. One report, again where the worker was no longer present in the country, refers to a Latvian worker affected by celery rash.

Reluctance to provide information

Another emerging issue relates to the injured migrant workers' reluctance to give evidence about accidents, either through loyalty to the employer or through fear.

Non-reporting of accidents

In some cases the reports refer to accidents uncovered during visits but which had not been reported, such as in the case of an accident to a Polish worker employed through an agency to work in a furniture company. One inspector, reporting on a visit to a dairy farm employing around 250 agency workers, many of whom were migrants, was told of a Polish worker whose

finger had been sliced off. At another farm a Russian worker had lost the tip of two fingers, but again the accident had not been reported. The report says that according to the supervisor 'a lot of accidents are not reported' and refers to an accident a few weeks earlier, when a Czech worker cut an artery in his arm. In another case, involving a horticulture company, an ex-employee had alerted the HSE inspector to an unreported ladder accident. In the course of a visit to a construction site the inspector discovered that there had been an accident the previous week, involving a dumper truck that had resulted in a migrant worker being taken to hospital. Yet no accident had been recorded or reported. Another incident involved the late reporting of an accident to a Bulgarian casual farm worker. The farmer had apparently not immediately reported the accident due to a 'grave error of judgment as to the seriousness of the accident'. In another case the visit arose from a complaint that an accident at a London carpentry workshop, involving an agency migrant worker had not been reported. An accident at a forge resulting in an Iraqi worker's leg being broken in three places had not been reported. At a freight company, employing Kurdish workers, the inspection report reveals that three-day injuries were not being reported to the HSE. The address supplied by the agency for the worker was incorrect and the inspector was unable to locate the worker. It is of note that in many of these cases the workers were casual or agency staff.

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