

Supporting migrant workers in the South West

**A report by the SW
Citizens Advice Bureaux
Migrant Workers Advisory
Group**

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Summary

The employment of migrant workers in the South West is not new but in some areas of the region has become significantly more widespread over the last five years. The migrant labour force is also more ethnically and culturally diverse.

Meeting the needs of migrant workers and ensuring they have access to information and relevant services has generated a number of new issues for advice providers in the South West.

This report identifies the key issues facing migrant workers in the South West who have sought advice from the Citizens Advice service. The report also makes recommendations for action.

Introduction

There has been a significant increase in the number of migrant workers seeking work in the UK. This increase has brought with it a number of very positive benefits but it also poses challenges. The most significant change in migration into the South West followed the enlargement of the European Union on May 1st 2004 with the accession of 10 new member states.

In addition to Malta and Cyprus, 8 countries (known as the A8) joined the EU at this time, they were:

- **Czech Republic**
- **Estonia**
- **Hungary**
- **Latvia**
- **Lithuania**
- **Poland**
- **Slovakia**
- **Slovenia**

The citizens of these A8 countries can work without visas in the UK and many have exercised their rights by migrating within the European Economic Area (EEA), including to the South West of England, to seek greater employment opportunities and a better quality of life for themselves and their families. Many migrant workers also work in the UK because they wish to improve their English.

A8 nationals are legally allowed to work, and normally have to initially register on the Government's Worker Registration Scheme¹. They are entitled to some basic benefits, such as Housing Benefit, Council Tax Benefit and Tax Credits, whilst they are working provided they are registered. It is only after a 12 month period of working legally, and without a break of more than 30 days, that migrant workers can then claim other social security benefits such as Jobseeker's Allowance.

On 1st January 2007, Romania and Bulgaria joined the EU. Nationals of these countries do not need permission to enter or remain in the United Kingdom. However, to work in the UK Romanians and Bulgarians need to apply for an accession worker card, although there are some exceptions relating to their date of entry to the UK, involvement in the Seasonal Agriculture Workers Scheme or the Highly Skilled Migrant Programme. Employers of Romanians and Bulgarians may also have to apply for a work permit, although again there are some exemptions.

It is clear that there was a significant underestimation in the number of migrant workers who would seek work in the UK and as a result there were insufficient services and a lack of information. Local authorities and voluntary organisations have found themselves to be ill-equipped, under-resourced and under pressure.

Many migrant workers experience difficulty in ensuring their employment, housing and benefit rights are protected and need assistance and advice.

Further, while some employers discriminate against migrant workers with deliberate malicious disregard of their rights, others both need and seek advice and information on employment rights and good practice.

¹ Unless they are self employed.

Advice to migrant workers from South West Citizens Advice bureaux

The CAB service is the largest independent network of free advice centres in Europe. Citizens Advice Bureaux provide free, independent and confidential advice to everyone on their rights and responsibilities. The service values diversity, promotes equality and challenges discrimination. It has twin aims: to provide the advice people need for the problems they face; and equally to improve the policies and practices that affect people's lives.

Citizens Advice has a long history of advising migrant workers and has seen significant increases in advice given to migrant workers since 2004.

Data

Whilst existing methods of recording client profiles do not include the recording of clients as "migrant workers", ethnicity is monitored. Many bureaux are reporting seeing increased numbers of clients whose ethnicity is recorded as "White Other" and bureaux which record nationality, suggest an increased number of Eastern Europeans are seeking advice. In the first quarter of 2008-09, nationally bureaux advised over 21,000 clients who recorded their ethnicity as a "White Other", many of these clients would be migrant workers. In the South West 2,135 clients recorded their ethnicity as "White Other" (4.6%). As this figure is for one quarter only it is estimated that in 2008-09 at least 7,000 migrant workers will seek advice from bureaux in the South West.

Services

- Citizens Advice provides specialist training for bureaux advisers on issues such as migrant workers' benefit entitlements.
- It works with partners, such as: the TUC to produce information in Portuguese and Polish aimed at migrant workers coming to work in the UK; and with organisations such as the Local Government Association and the National Association of Local Councils to raise the profile of CAB work with migrant workers. It also campaigns on social policy issues.
- Citizens Advice was instrumental in lobbying for the Gangmasters Licensing Authority, on which the CAB service is represented.
- Bureaux in the South West working with migrant workers meet regularly to discuss

emerging issues and share good practice under the auspices of the *South West CAB Migrant Workers Advisory Group*.

Representatives from all bureaux in the South West are invited to participate in the advisory group.

A list of the current members is included at the end of this report.

Enquiries

The 47 bureaux in the South West dealt with almost half a million enquiries in 2007-8, the majority of which (over 60%) concerned debt and welfare benefits. All bureaux in the region provide advice and information to migrant workers, and many are also approached by employers for advice.

It must be emphasised from the outset that the problems and challenges faced by migrant workers are not uniform across all sectors and grades of occupation. The available evidence also suggests that whilst unskilled and semi-skilled migrant workers and their families are perhaps the most vulnerable members of the migrant worker community, higher status professional migrants also experience difficulties, albeit of a different kind and intensity.

Migrant workers' problems seldom exist in isolation. Issues are inter-related and often caused by a wider, more complex set of factors which need to be understood. For that reason, it is sometimes difficult to distinguish between a discrete, free-standing problem and one which is a symptom of a wider set of factors.

Discussion by members of the *South West CAB Migrant Workers Advisory Group (SWCAB-MWAG)* has identified the following issues as common barriers for migrant workers, restricting their opportunities for integration with communities across the South West and limiting their access to their rights in employment and other areas:

- **Sexual discrimination, racial discrimination and bullying**
- **Public misconceptions about migrant workers**
- **Low wages**
- **Long hours**
- **Lack of contracts**
- **Contracts issued but not translated**
- **Lack of written Terms and Conditions**

- Lack of pay-slips or pay-slips not being explained
- Excessive or illegal deductions from pay
- Denial of basic employment rights - sickness pay, holidays, maternity leave
- Infringement of health and safety procedures
- Failure to ensure the worker has a National Insurance number or is registered under the Workers Registration Scheme.
- Threats of dismissal if the migrant worker seeks advice
- Employment often through sub-contracts with one or more employment agency or through Gangmasters
- Failure to recognise skills and qualifications
- Limited English and difficulty in accessing training to improve
- Failure to register on the Workers Registration Scheme
- Misleading recruitment of workers in their own country
- Dismissal (including summary dismissal)- often leading to eviction from tied property
- Illegal eviction
- Lack of affordable housing
- Credit reference problems- causing housing issues

The above issues can be broadly split into the following categories:

- Cohesion/Discrimination
- Employment
- Skills recognition
- English
- Immigration
- Housing

For the purpose of this report, a thematic approach has been taken to the identification of migrant worker issues based on categories above. Although such an approach runs the risk of underplaying the inter-connections between issues, it reflects the fact that issues are often initially presented as discrete matters.

Community Cohesion and Discrimination

At the regional and local levels, heightened awareness of migrant workers has been ensured by their increasing numbers in the labour force, an associated increased visibility in local communities, especially in rural market towns, and, on occasions, reported incidents of harassment and racial tension involving members of the migrant worker community.

Some migrant workers may have had bad experiences with the law enforcement agencies in their own countries and therefore be less willing to report such incidents to the Police.

In some areas, there has been the perception, often developed by media stories, that migrant workers are using the new open market to come to the UK country to claim benefits. Our evidence would show that this is not the case and that seeking work is the main attraction. Common misconceptions also persist about migrant workers - not helped by the choice of language often used in the media. Adjectives such as 'flood' and the commonly used 'influx' continue to be used in reporting on migrant workers. This type of language is unhelpful. Migrant workers, in common with British Black, Asian and minority ethnic workers can face racial discrimination and harassment at work and in the community.

A Portuguese woman working in a service station in North Wiltshire approached the bureau as she was being harassed but was too scared to complain or move on as her accommodation was linked to her employment.
Ref: 98054042

A Cornish CAB's client, a plasterer by trade, stated he is finding jobs he is eligible for are being taken by migrant Polish workers. These workers will work for the minimum wage whereas he cannot afford to do this with the responsibilities of renting a property and the ancillary bills connected to having a family to care for, and the inherent travelling cost in a rural area. The client felt that he could not compete with migrant workers and that this could make him unemployable.
Ref: 69382080

Recommendation 1

CAB in the South West should display the "Report Racism" poster in their waiting rooms, and interview rooms. Every CAB should make efforts to contact their police service and local authority to find out current arrangements for the reporting of racist incidents.

Recommendation 2

Bureaux should work with local authorities to contribute to their community cohesion plans and community safety partnerships. Bureaux should work with local authorities to distribute information about rights and responsibilities to new arrivals and to ensure factually correct information on migration is available to the media and resident communities.

A Black African client worked as a care assistant in a residential home for nearly 2 years. The client complained of racial harassment from one resident of the home, who said that she didn't want the client to enter her room because she was black. Instead of support, the client received a warning letter from the manager, and a request to attend an investigatory meeting.

Ref: 54481754

A Muslim client advised by a CAB in Dorset reported that he had been subjected to racial and religious name calling and abuse. The client's personal property had been damaged with crosses daubed on his bags.

Ref: 33609964

Employment

Every year, some 48,000 mostly low paid, non-unionised workers seek advice from a Citizens Advice Bureau (CAB) in the South West about their work. An increasing number of these enquiries have come from migrant workers. Some of these advice enquiries involve the company mergers, redundancies and other business changes that are inevitable in any modern economy. Others reflect the fact that disputes between individual workers, or groups of workers and their employer will and do happen, just as they do in other areas of life.

But many migrant workers in the South West seek advice from a bureau because they have been denied (deliberately or otherwise) one or more of their statutory workplace rights by their employer.

A client who visited a Cornish CAB reported working over 50 hours a week and being paid an average of £1.82 per hour. This amounts to a significant shortfall compared with the national minimum wage. The client worked in a private home, but was reluctant to enforce her rights in case she lost her job and accommodation.

Ref: 90939566.

A Somerset CAB reported Polish clients who were receiving £5 an hour for a 35 hour week, despite working far more hours. The clients had not been permitted to take any holiday in 2006 and only Christmas Day in 2007, and were told they were not entitled to any sick pay.

Ref: 92337417.

A Dorset CAB reported their clients had been working for the past 3 months and had continuously asked the manager for a proper payslip indicating that they had been paying tax and insurance to the Government. They had been told each week by the manager that they will get a payslip but it never happened. The clients were worried that the tax is not being paid and that they might get into trouble.

Ref: 92638913.

All too often, such exploited workers are too fearful of victimisation or dismissal to raise a grievance and bring an Employment Tribunal claim; the principal method of enforcing most statutory workplace rights. As a result, unscrupulous or rogue employers can profit from exploitation with near impunity.

Recommendation 3

The South West CAB Migrant Workers Advisory Group believes that the enforcement bodies, (the National Minimum Wage (NMW) enforcement division of HM Revenue & Customs (HMRC), the Employment Agency Standards Inspectorate (EASI), the Gangmasters Licensing Authority (GLA), and the Health & Safety Executive (HSE)) should be brought together with the removal of existing legal, technical and organisational barriers to promote the sharing of intelligence information and other data.

As the current remit of enforcement bodies is far from comprehensive, many vulnerable workers (and those who advise and assist them) are left with no enforcement body to which they can make a complaint (or third party complaint), even where they are willing and able to do so.

If these gaps in the enforcement framework are to be filled, as we believe they should be, then the Government must legislate to extend the combined remit of enforcement bodies to cover all other basic (or core) statutory employment rights, such as that to paid holiday. Furthermore, it must provide enforcement bodies with the legal powers both to secure individual workers their statutory rights (including, where necessary, by bringing an Employment Tribunal claim on their behalf, and by enforcing any award), and to impose effective sanctions on persistently exploitative employers.

Skills recognition

Many migrant workers come to the UK with a high level of education and a broad skill set. These skills are often underused as they end up in low-skill, low wage occupations. This is a wasted opportunity for the economy of the South West and for local communities. Migrant workers play a valuable role in promoting economic growth and with more opportunities could have a significant impact not just in the work place, but as volunteers, community leaders and service providers.

Many migrant workers in the South West feel that they have not had the skills and qualifications they gained overseas recognised in a meaningful manner. This results in individuals undertaking work for which they are over qualified.

Two clients at a Somerset CAB previously worked in Poland as an accountant and store manager. However, in England they only undertake low skilled work, working as cleaners.

Ref: 92337417.

Recommendation 4

The South West of England Regional Development Agency should work with the National Academic Recognition Information Centre (NARIC) and employers and agencies working with migrant workers across the South West to ensure that qualifications held by migrant workers are appropriately recognised.

English language

Whilst large numbers of migrant workers coming to the UK are highly skilled, many with university education, there are still some migrant workers who have poor levels of English. It should be remembered that some of these migrants may have studied English but find that they can not cope with different accents and the speed of the spoken language in everyday life. This can make them susceptible to exploitation and abuse.

A Wiltshire CAB's client reported having signed a contract for a mobile phone, which included texts, calls and internet. Due to limited English, the client had signed a contract that had not been adequately explained and which she did not understand. Subsequently the client had run up a bill of £9,000 in just 6 weeks. The provider had also failed to alert the customer to excessive usage.

Ref: 88570021

A Slovakian client visited a CAB in Gloucestershire having tried to claim Child Benefit. When the Child Benefit Office had been contacted they stated that they required a Slovakian interpreter for authorisation purposes. The client and the adviser were waiting over 15 minutes before the call was finished as there was no interpreter available.

Ref: 93350230

Recommendation 5

The South West CAB Migrant Workers Advisory Group would like to see more support for migrant workers wishing to learn English. Lack of English limits employment opportunities and makes individuals more susceptible to exploitation. ESOL should be made available in more locations throughout the region including workplaces and be provided for no cost or very low cost. The South West Regional Development Agency should work with employers, the National Institute of Adult Continuing Education (NIACE) and local adult education teams and local training providers to ensure the necessary courses are provided.

Housing

An increasing number of migrant workers in the South West are seeking advice on housing issues. Many of these cases concern exploitation by landlords and retaliatory action for those migrant workers who complain.

After the first 6 months of a private Assured Shorthold Tenancy, the tenancy can be renewed for a period agreed by the landlord and tenant. However, if this is not renewed the tenancy lapses into what is known as a 'Periodic Tenancy'. During this time the landlord can give 2 months notice by serving a Section 21 Notice. If the paperwork is in order, this eviction notice cannot be defended. If a property is in need of repair and the tenant tries to enforce their Statutory Rights, the landlord can legally serve, or threaten to serve the tenant with an eviction notice. The fear of losing their home is often enough for tenants to remain quiet.

A client visited a Gloucestershire CAB having signed an Assured Shorthold Tenancy. The house had flooded leading the tenant to claim on his insurance policy. The client said that the downstairs is still damp and not fit to live in and wanted to know if he could claim a reduction in rent or anything else. However because of the type of lease, the landlord could give them notice to leave if they complain.

Ref: 92323610

A Somerset CAB reported the case of a Czech client whose landlord had been asked to install central heating to meet new regulations. The landlord has consequentially given the client informal notice to quit the property.

Ref: 90245382

A Gloucestershire CAB's client privately rented a 2 bedroom house with his wife and 4 year old child. He discovered that when he flushed the toilet, water from the cistern ran down the wall into the kitchen and bedroom. The client contacted the council who sent an officer to inspect the damage. The landlord now wants the client to move and has given the client 3 months notice to quit.

Ref: 78922283

Recommendation 6

The South West CAB Migrant Workers Advisory Group believes that the continuing practice of housing some workers in unsafe accommodation undermines government objectives to create decent homes for all and to prevent homelessness. This is bad for the reputation of private landlords and damages consumer confidence. Legislation is required to ensure the implementation of the government's objectives to create decent homes for all and to prevent homelessness. Specifically, where a tenant has recently taken steps to enforce their statutory rights on disrepair or health and safety issues, landlords should not be able to use Section 21 to evict a tenant inappropriately.

A client at a Devon CAB reported applying to a Nursing Home for 'bank work'. The employer requested proof of compliance with the Workers Registration Scheme. The client could not provide evidence and subsequently filled in a Workers Registration Scheme Application. This was despite working in the UK for 2 years and having completed forms for her previous employer, leading her to believe she was correctly registered.

Ref: 103280906

A Romanian client visited a CAB in Bristol. The client's employer said it was OK for her to work and the client believed this. The client had then contacted the Home Office regarding documents to enable her to work in the UK and applied for an Accession Worker Card in November 07. Her application was refused on the grounds that she had not provided a valid letter of approval from her employer. She subsequently asked the company to complete the necessary documentation to entitle her to this card. The company told the client it was OK to continue working but did nothing. In January she was at work and was asked to come downstairs to see a representative of the Home Office. The client was issued with an on-the-spot fine of £1000 because she had been working here illegally.

Ref: 3389200

Immigration

Many migrant workers from Eastern Europe are registered on the Workers Registration Scheme. There is an initial £90 charge for registering and workers should re-register when they change jobs. In some circumstances employers are allowing migrant workers to incorrectly believe that they have been registered when this is not the case. The situation is even more complex for clients from Romania and Bulgaria who have to comply with additional requirements.

A Polish client reported to a CAB in Somerset that they had completed the Workers Registration Scheme application form before giving it to their employer several months ago. They had subsequently found that the employer had not forwarded it on and they were not registered.

Ref: 92337417

Recommendation 7

The Workers Registration Scheme provides data on migrant workers in the UK. However the data gathered is often flawed and used out of context. The Scheme has outlived its usefulness, producing inadequate statistics, at great cost to migrant workers and inconvenience to both them and their employers. The Scheme should therefore be scrapped.

Meeting the needs of migrant workers

There are two further issues highlighted by the work of SWCAB-MWAG.

The first is the difficulty of accessing reliable data on numbers and dispersal patterns of migrant workers and existing services to meet needs. While some steps are being taken through multi-agency working across the South West to co-ordinate services and improve access to existing information, there is still an urgent need for improved research on needs and service planning.

Secondly many migrant workers are unable or unwilling to take action individually to complain to their employers, or take out a grievance procedure.

This is understandable and the evidence of bureaux is that many migrant workers experience intimidation and victimisation if they complain.

The capacity to take action to improve the situation can be restricted because of the need for translation and interpretation as well as awareness of rights.

Increasingly bureaux are finding that delivering services in partnership with trade unions (that can encourage and support collective action), alongside local migrant worker community group representatives and translators and other advisory services such as solicitors and Local Authority advisers is highly effective.

Setting up such multi-agency "surgery" provision is a "project based" approach to service provision and requires co-ordination, shared premises and additional adviser time.

Recommendation 8

Sources of funding regionally should be identified to support the establishing of regular multi-agency advice surgeries for migrant workers in key areas of the region.

Conclusion

Since 2004, bureaux in the South West have continued to advise large numbers of migrant workers. Many of the issues that migrant workers face are similar to those raised by British citizens and require the same changes to legislation that would improve employment protection for other vulnerable workers and tenants. However, there are some issues that are specific to migrant workers, particularly concerning discrimination, English language and skills recognition and these issues need addressing if we are to continue to encourage migrant workers to come to the South West.

Although there is some evidence that migrant workers, especially from the A8 countries are no longer seeking work contracts in the UK in the same numbers as in 2005-7, the issues they face need to be acted on. Failure to do so will result in migrant workers no longer seeing the UK as a country of choice and looking for alternatives to working in this country and this region. This could have a significant impact on the South West economy which in some sectors such as: food and agriculture; leisure and tourism; catering; and care, is increasingly reliant on migrant labour.

In addition, without improved co-ordination of needs analysis, services and information there will continue to be inadequate resources to meet the needs of migrant workers.

Membership of the SWCAB-MWAG at Sept 2008

Bristol CAB

Caradon CAB

East Devon CAB

Exeter CAB

Forest of Dean CAB

North Cornwall CAB

North Dorset CAB

North Somerset CAB

North Wiltshire CAB

Penwith CAB

Plymouth CAB

Salisbury CAB

Sedgemoor CAB

South Hams CAB

Taunton CAB

Teignbridge CAB

West Wiltshire Wide CAB

A number of bureaux run advice surgeries for migrant communities in partnership with other agencies. Some bureaux have specific funding for community outreach work.

North Somerset bureau has integrated a Polish clinic into one of the bureau's existing drop in sessions. A gateway assessment form has been produced in Polish and interpreters attend the clinic to support advisers and clients.

Appointments at the time can be made with specialist advisers and interpreters can accompany clients at a later date to the bank, doctor, local authority etc. The bureau has developed a partnership with a trade union, that - to date- has assisted 170 migrant workers at a local farm claim overtime pay.

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West Wiltshire Wide bureau has run a two year project providing community outreach services for migrant workers. The project has produced a highly successful advisers' handbook in English and Polish, and information for migrant workers. Partnership work with the library service is developing.

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