

Equality Commission

FOR NORTHERN IRELAND

**THE ROLE OF THE RECRUITMENT SECTOR
IN THE EMPLOYMENT OF
MIGRANT WORKERS
A Formal Investigation
September 2008 to March 2010**

A summary version of this document, in English and a number of other languages, is available on request and on the Commission's website

Contents

	Page
Foreword	3
Terms Used in the Report	5
Executive Summary	6
List of Tables and Figures	14
Introduction	15
Section 1: Participants in the Investigation	24
Section 2: Methodology	27
Section 3: Questionnaire Results	38
Section 4: Results: Focus Group Discussions	49
Section 5: Recruitment Sector and Employer Responses	83
Section 6: Conclusions	104
Section 7: Good Practice	111
Section 8: Recommendations	117
References	132
Appendices	133

Foreword

Recent years have seen a significant change in the composition of the population in Northern Ireland, with many people coming to live and work here. Most of them are our fellow citizens in the European Union; all of them are now our neighbours. Some of them will come for a short period and some will come to stay, to settle, to set down roots, to make their homes here and to raise their families here. It is difficult to imagine a more positive statement about Northern Ireland than to want to make it home.

There are many real and gritty reasons why people leave their countries of origin and seek their future in another place. Some of those reasons are economic. But those who come here do not come simply as economic units. They come as complete human beings with all the aspirations, all the virtues, all the failings, all the potential as the rest of humanity. They also come with entitlements to be treated fairly.

For most, the process of finding a job is the crucial first step in becoming part of the life of the community. For a significant number, recruitment agencies are the way to find work; for many it will be a relationship that endures for a long time. The Equality Commission decided to conduct an investigation into the role of employment agencies and businesses in the employment of migrant workers and to explore whether that involvement creates any barriers to equality of opportunity.

There are advantages that derive from the recruitment sector. It allows people to obtain work relatively quickly and it can give them that necessary starting point in their new life. But it also means that they are employed as temporary workers and they will not have the same terms and conditions as direct employees. The minimum wage may often be their maximum.

The Commission's investigation found areas of good practice in the recruitment sector, on the part of government agencies and among community support groups. These agencies and groups do much good in making the task of finding work easier and more accessible.

The investigation also found that while there is a considerable body of legislation governing the recruitment sector, not all recruitment agencies work within its terms and barriers to equality of opportunity do exist for those who use their services. The experiences recounted during the investigation show that many workers encounter problems, find it difficult to obtain work that matches their qualifications and are confined to irregular and temporary work. Difficulties of consistency in payment and, in particular, a real and substantial difficulty with language were also identified as issues.

One of the key challenges for Northern Ireland is to ensure that those who come to live and work here are treated with dignity and fairness, that their contribution to the economy and to wider society are recognised and that they are accorded the same respect and value that people from Northern Ireland expect when they go abroad to live and work.

In commending this report to the careful attention of all who have any involvement in or association with new residents in Northern Ireland, I wish to express my thanks to all who contributed to its preparation. In particular, I thank my fellow Commissioners who conducted the investigation and the members of the Commission staff who so ably assisted them. The report makes important and positive recommendations to help the recruitment sector to recognise and to comply with the law and to assist migrant workers to understand and vindicate their entitlements. The Commission will take appropriate action to address the issues highlighted in the investigation and to ensure that its recommendations are implemented.

Bob Collins
Chief Commissioner

Terms used in the report

The Commission [ECNI]	The Equality Commission for Northern Ireland. An independent public body established under the Northern Ireland Act 1998.
Investigating Commissioners	Two ECNI Commissioners with responsibility to oversee the conduct and progress of the formal investigation.
Migrant Worker	A person, who is working, has worked or is to begin work for remuneration in NI and who is born outside the UK and the Republic of Ireland.
A8 National	A person from one of the following countries: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.
A2 National	A person from Romania or Bulgaria
The Recruitment Sector	An umbrella term for the private recruitment industry.
Recruitment Agency	Used in the report to describe both an employment agency and an employment business.
Client	An employer who uses the recruitment sector to fill temporary or permanent vacancies.
Work seeker	A person who seeks work, either permanent or temporary, through the Recruitment Sector.
Agency staff	An employee working in the recruitment agency, such as a recruitment consultant.
Agency worker	A person who is employed by the recruitment agency to carry out work for others.

Executive Summary

In September 2008 the Equality Commission for Northern Ireland [the Commission] began a formal investigation under the Race Relations [NI] Order 1997 into the role of the recruitment sector in the recruitment and employment of migrant workers in Northern Ireland [NI].

Recruitment agencies provide both a service and employment for the purposes of Race Relations legislation, and cannot discriminate against individuals in terms of the provision of that service or in employment on the grounds of race [which includes colour, ethnic or national origin, nationality, and belonging to the Irish Traveller Community].

The Commission considered that this investigation was necessary for a number of reasons. Recent years have seen very significant migration into NI especially from Eastern European nations. As a result, migrant workers are now a significant element of the NI workforce. There was also a perception that migrant workers tend to use and be employed by recruitment agencies in NI to a greater extent than local work seekers. The Commission therefore wanted to establish the extent of the role of the recruitment sector in the recruitment and employment of migrant workers, and evaluate the implications of that role in terms of equality of opportunity. In particular we were keen to identify any barriers to equality of opportunity affecting migrant workers recruited or employed by the recruitment sector, and make appropriate recommendations.

The main part of our research involved speaking to migrant workers directly through focus groups. We explored the extent of their involvement with the recruitment sector and identified the main employment issues arising from their employment relationship with recruitment agencies. We subsequently discussed these issues with both recruitment agencies and employers who either used the recruitment sector for labour, or directly employ a large proportion of migrant workers.

Findings

Using the recruitment sector

The recruitment sector does play a significant role in the recruitment and employment of migrant workers in NI. This arises from a number of factors. Migrants arriving in NI often want to find work as quickly as possible and are prepared to do any type of work. The recruitment sector allows migrant workers to gain employment relatively quickly. Few migrants find employment matching their qualifications and experience and where they do this is generally due to specific skills shortages in certain job sectors. For many this may be due to a need to improve English language skills. As a result:

- Migrant workers are often employed as temporary agency workers by a recruitment business to carry out work for an end-user who would otherwise be the employer.
- Migrant workers employed by recruitment agencies as temporary agency workers will not necessarily have the same terms and conditions as direct employees. We found that their main terms and conditions of service, including their pay, was generally inferior to that enjoyed by direct employees, even when they were employed as agency workers for substantial periods, or when they worked alongside direct employees.
- Migrant workers employed by the recruitment sector generally fill jobs that attract National Minimum Wage and offer irregular hours and little in the way of job security.

Issues arising

Language/Communication

This investigation has identified language and communication issues as an overarching barrier to equality of opportunity for migrant workers using the recruitment sector.

Many migrant workers who participated in this investigation indicated that they were prevented from registering for work with some recruitment agencies because they lacked English language skills; including agencies that were recruiting for the type of work that would require very little verbal communication. Participants reported being routinely turned away by these agencies on the basis that they found it impossible to understand and complete registration documents, or that they were required to perform well in English language assessment tests before they could be registered. The Commission is concerned that the failure of some agencies to accommodate migrant workers with limited English in the registration process may be unreasonable and potentially discriminatory.

This investigation has demonstrated how difficult the initial registration process can be for those who have limited English. It appears that some recruitment agencies are aware of this problem and have made adjustments to the process, whereas the procedures adopted by other agencies have exacerbated these difficulties.

Many participants also stated that they do not fully understand their terms and conditions provided by the recruitment sector. Recruitment agencies are required by the Conduct of Employment Agencies and Employment Businesses Regulations [NI] 2005 to agree the terms of the work-finding service it will provide to the work seeker, and provide all terms of that agreement in writing to the work seeker. In addition, where the recruitment agency subsequently acts in the capacity of an employment business [i.e. it employs workers to carry out work for an end-user], these written terms must also include the main terms and conditions of service relating to all work undertaken.

The type of work that recruitment agencies offer work-seekers will often be dependent on the agency's assessment of the work-seeker at the initial registration interview; this includes English language assessment. This investigation indicates that the majority of migrant workers who find work through the recruitment sector are placed in minimum wage jobs that are not commensurate with their qualifications and experience, and that language is a major factor in this trend.

The language barrier also creates difficulties in terms of the recognition of the equivalency of foreign qualifications.

A lack of English language may make it more difficult for migrant workers to assert statutory rights or make complaints. It also appears that migrant workers are often unaware of these rights, and more could be done by statutory agencies to effectively disseminate information.

Terms and conditions

Many of the complaints made by participants employed by recruitment agencies, such as irregular hours and lack of security, are very much in the nature of temporary agency work. However, a number of concerns have been highlighted.

There often appeared to be little thought given to allocating the work that is available fairly amongst a pool of available agency workers. We were told of the regular practice of one particular factory that required large numbers of these workers to report for a shift, but in the event a much smaller number were actually required, with the majority being sent home.

There were also recurring reports of migrant workers being expected to work long hours often without overtime rates paid. Whilst the Working Time Regulations apply, participants in the investigation regularly reported feeling compelled to work long hours, and to opt-out of the legislative protection. We also noted that the employment contracts of those employed by recruitment agencies routinely included opt-out clauses, giving the impression that opting-out was a condition to being offered agency work.

Agency workers are not currently entitled to equal terms and conditions as compared with direct employees. Where temporary work through the recruitment sector is long term, in some cases over 2 years, it is difficult to justify differences between the agency worker and the employee, who may be working side by side. This has been recognised at European Union level with the passing of the Temporary Agency Workers Directive.

Pay problems/administration problems

Errors and delays in pay were frequently reported as a problem for participants working as agency workers, as were grievances about holiday pay and entitlement.

Employment Discrimination

Discrimination on the grounds of race is unlawful. The Commission can provide advice and assistance to individuals who believe they may have suffered unlawful race discrimination and who wish to pursue a complaint through the Industrial Tribunal system.

This investigation indicates that often recruitment agencies employing a high proportion of migrant workers will often also employ migrant staff as recruitment consultants in their offices to assist with registration etc, and as supervisors to manage agency workers. Whilst this is often a positive move that can overcome the language difficulties highlighted by this report, it can also on occasions give rise to more negative perceptions. Participants regularly alleged that foreign staff favoured workers of their own nationality when registering work seekers, or when supervisors subsequently allocated work. Agencies employing foreign national staff to facilitate communication with migrant work seekers should be aware of these perceptions of discrimination and favouritism. If the current economic downturn continues and competition for working hours increases this issue may become even more prevalent.

Participants frequently alleged that they had been instructed not to speak in languages other than English in the workplace, even in social contexts such as casual conversations between individuals over lunch or other breaks from work. Whilst it may be justifiable to require individuals to speak in English in some circumstances when working, it is likely to amount to unlawful race discrimination to forbid workers from countries where English is not the first or main language from having casual conversations with each other in their native language.

Good Practice

The investigation has also highlighted a great deal of good practice that is reported at Section 7. We also include a number of links to useful sources of information for both the recruitment sector and migrant workers.

Recommendations

- All recruitment agency staff should receive training in anti-discrimination legislation.
- Recruitment agencies should take steps to ensure that the process of registering for work is not inaccessible for any migrant worker and facilitate the work finding process for migrant workers who may have difficulty with communicating in and reading English.
- Recruitment agencies must ensure that written information available in English, especially information they are legally required to provide is, where necessary, translated into a language that is understood by the work seeker/employee.
- It should be a Gangmasters Licensing Authority standard that gangmasters/recruitment agencies must translate those documents which they are legally required to provide into a language understood by the worker seeker.
- Recruitment agencies should provide all workers with a comprehensive list of the documents they are entitled to receive on finding or leaving work through the recruitment sector; where necessary this should be translated.
- The recruitment sector should ensure that all agency workers, particularly those with limited English, are properly inducted and fully aware of all the agency's practices and procedures.
- Recruitment agencies must not impose, or allow end-user employers to impose, unnecessary restrictions on their agency

workers using their native language, except where the use of English is genuinely necessary to carry out work.

- Recruitment agencies should be satisfied that a high standard of English is a justifiable job criterion, and is not used to exclude foreign nationals for jobs for which they are suitable.
- The Department for Employment and Learning should make existing mechanisms for checking foreign qualification equivalency more accessible.
- The recruitment sector should not specify qualifications that are only issued in the UK and Ireland, and should allow for the fact that foreign nationals will have equivalent qualifications gained in their home countries.
- We encourage more effective dissemination of information about employment rights and awareness raising amongst migrant workers, either on arrival in NI or ideally before leaving their own country. Statutory advice agencies should work with local community organisations to outreach to local migrant communities to form drop-in advice centres and to co-ordinate the dissemination of information.
- Recruitment agencies that continue to work in collaboration with overseas agencies should satisfy themselves that such agencies are reputable.
- The Gangmasters Licensing Authority should continue to develop relationships outside the UK, and publicise prosecutions taken.
- Opt-outs from the Working Time Regulations should not be routinely included in the contract of employment.

Apart from welcoming the broad purpose of the European Union Temporary Agency Workers Directive, we have not included this matter in our recommendations at this time, as consultation has yet to be carried out in respect of the legislation that will be introduced in NI to give effect to the Directive. We note that the social partners in GB

have agreed that its legislation will be subject to a 12 week qualification period. The Commission will be responding to consultation on the NI legislative proposals. The Commission, in particular, will wish to be satisfied that, if the NI legislation replicates the GB provisions, any qualification requirement is carefully drafted to avoid abuses of the 12 week threshold.

Taking These Issues Forward

Following the publication of this report, the Commission will be taking action to address matters highlighted by the investigation, and to ensure that the recommendations are implemented. We shall:

- collaborate with relevant agencies to promote awareness amongst migrant communities of their rights under race relations and employment legislation, and the law regulating the recruitment sector in NI
- develop, in consultation with the recruitment sector, guidance on the recruitment and employment of migrant workers by recruitment agencies
- develop and deliver training for the recruitment sector.

We intend to fully utilise our full range of investigative powers to promote equality of opportunity. At the appropriate time we shall report on the extent to which our recommendations have been implemented, and determine whether further action needs to be taken by the Commission.

List of Tables and Figures

		page
Table 1	Overview of the Standard Registration Requirements by category of country grouping	17
Table 2	Number of participating recruitment agencies in each location	35
Table 3	Number of employers participating in each county and the job sectors represented	36
Table 4	Top 5 nationalities taking part in the focus groups	39
Table 5	Percentage of participants who have used the recruitment sector to find work in NI and the percentage that remain as agency workers by length of time spent in NI	43
Figure 1	Flowchart – planning the investigation	32
Figure 2	Pie chart showing the percentage of participants in each NI county	33
Figure 3	Flowchart – the investigation period	37
Figure 4	Level of qualifications gained by participants	40
Figure 5	Percentage of participants and their length of stay in NI	42
Figure 6	Employment status of participants	
Figure 7	Number of participants who work or have worked in each identified job category	45
Figure 8	Comparison between the types of jobs participants have worked in as agency workers and as employees	47
Figure 9	Comparison of common issues raised by agency workers and employees	55

Introduction

This part of the investigation report outlines the reasons for, and the aims of, this formal investigation. We also explain what we mean by terms such as migrant worker, recruitment agencies and businesses in the context of this investigation.

Summary

The Commission has a duty to work towards the elimination of discrimination based on race or nationality and to promote equality of opportunity and good relations. The race legislation empowers the Commission to conduct formal investigations.

It is evident that immigration to NI has increased significantly since 2004 with the accession of additional countries to the European Union. NI has since seen the arrival of a greater number of foreign nationals, mostly Eastern European, to live and work here. It is also known that the recruitment sector has played and continues to play a significant role in the introduction of migrant workers into the NI labour market.

Although there has been little research to date about the role of the recruitment sector for migrant workers, recent studies and much anecdotal evidence suggest that there is a tendency for migrant workers to find mostly temporary work in low paid and low skilled job sectors. This is despite many migrant workers having achieved qualifications at further and higher educational levels.

The investigation has found that, although other factors exist, language is a major barrier to equality of opportunity for migrant workers in terms of finding suitable work. This also increases their vulnerability to discriminatory practices. The Commission hopes to work with the recruitment sector and relevant government departments to assist migrant workers overcome these barriers and ensure that they are aware of, and can assert, their employment rights.

The Commission and Formal Investigations

The Commission has responsibility for race legislation. Article 42 of the Race Relations [NI] Order 1997 imposes a duty on the Commission to work towards the elimination of race discrimination and to promote equality of opportunity and good relations between persons of different racial groups generally. We are empowered by Article 46[1] of that Order to conduct formal investigations for any purpose connected with the performance of those duties.

In September 2008 we gave notice of our intention to conduct a formal investigation into the role of the recruitment sector in the recruitment and employment of migrant workers in NI. This investigation would examine, in particular, whether the involvement of recruitment agencies created barriers to equality of opportunity for migrant workers and, if so, make recommendations to remove such barriers and promote equality of opportunity.

The Need for Investigation

Immigration Trends

Recent years have witnessed a considerable increase in the numbers of migrant workers taking up employment in NI. From 2001 employers here began to seek workers from other countries to fill vacancies, mostly in the meat processing industries and the health sector. However, in 2004 a group of 8 countries accessed the European Union [A8 Countries] and no migration restrictions were placed on nationals from these countries to the United Kingdom [UK] and Irish labour markets. This led to an unprecedented migration into NI from Eastern European nations that had not previously had a history of migration to NI, and which do not have widespread use of the English language. This phenomenon was in part driven by employer demand. Migrant workers fulfilled a need in the local labour force where there were skill shortages in certain sectors, for example, healthcare and information technology; or where there were an insufficient number of workers locally, for example, the food processing industry. Economic, political, and social factors also played an important role. The performance of the NI economy within

the European Union at that time would undoubtedly have attracted migration, and increasing social and political stability made NI a more attractive place to relocate.

In 2007 Bulgaria and Romania, [A2 Countries] joined the European Union and gained gradual access to the UK labour market on the basis of skills.

For ease of reference Table 1 below sets out an overview of the Standard Registration Requirements by category of country grouping.

Country grouping	Article I. Immigration status	Article II. Registration requirements
A8 Nationals [Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia].	Freedom of movement within the EU; freedom of labour within the UK [subject to registration]	Worker Registration Scheme
A2 Nationals [Romania and Bulgaria]	Freedom of movement within the EU; restricted access to the UK labour market.	Accession Worker Card Work Permit
EU-17 and EEA Nationals	Freedom of movement and labour within the EU, and freedom of labour within the UK.	No registration requirement
Non-EU Nationals	Visa requirement for 'visa nationals'; work in the UK by permission only.	Point Based System

The Role of the Recruitment Sector

Work seekers in general use the recruitment sector as a route to permanent employment within an organisation or to find temporary work. For some people temporary work is an option which suits their lifestyle, whilst for others it may be a stepping stone to the security of permanent employment.

For employers the recruitment sector identifies suitable candidates for permanent vacancies, whether these are short-term or long-term opportunities. The recruitment sector is also relied upon to find workers to fill temporary and ad hoc vacancies. This is particularly useful for industries which need to be reactive to changes in their external environment, customer orders and seasonal trends.

The recruitment sector had, and continues to have, a significant role in the recruitment and employment of migrant workers. In the early 2000s the recruitment sector was central to the recruitment of people with Portuguese Identification Cards to work in meat and food processing factories in NI. The recruitment sector also played a role at this time in filling a skills shortage in certain medical and nursing posts. Nurses were increasingly recruited from abroad, particularly from the Philippines and South Asia, primarily through the recruitment sector.

Continuing high employment rates also meant that other employment sectors became increasingly dependent on migrant workers, which in turn increased the role of the recruitment sector in meeting employer demand for human resources. The considerable acceleration in the speed and scale of immigration intensified these trends. New residents were dispersed throughout NI and the recruitment sector played a significant role in the recruitment and placement of these workers¹.

¹ Since this investigation commenced, the economic position in NI has deteriorated as part of a global economic recession. DETI Monthly Labour Market Reports [20-1-2010] state that the unemployment rate was estimated at 6.8% for the period September to November 2009; this was up 4.3 % from the same period in the previous year when the investigation was conducting focus groups.

Research has been conducted to ascertain the impact of the extent of recent immigration to NI. There has been little research done specifically into the role the recruitment sector has played for migrant work seekers. However, a study carried out in 2007 [Jarman and Byrne] looked at 33 recruitment agencies based in Belfast and confirmed that the recruitment sector plays a large role for the more recent migrant work seekers. Most of the recruitment agencies indicated that the majority of persons they dealt with at this time were Eastern Europeans.

The research found that migrants made up a large proportion of workers these recruitment agencies placed with clients. In some sectors migrants made up 80% of the workers supplied. One recruitment agency indicated that it had 1,100 migrant work seekers registered with it. The research suggested that the recruitment sector was providing for a specific employment niche. It did so by drawing from a labour pool largely dominated by migrants, who were very flexible in terms of the type of work they were prepared to take, often on a casual or part-time basis. The research also found that migrants with specific skills seeking employment commensurate with those skills tended to find employment through other means.

Previous research, reported in Bell et al [2009]², has found that migrant workers rarely find work in the areas in which they were previously employed in their own country and are employed below their skills level, [Bell et al [2004] and de Lima et al [2005]].

Home Office data based on the Workers Registration Scheme shows that the majority of A8 nationals find temporary work or short term work rather than permanent employment. This was corroborated by Jarman and Byrne [2007] who found that despite the high standards of education and work experience of many migrant workers the recruitment sector mainly placed them into lower skilled temporary or short term work rather than permanent jobs.

More recently research has been carried out to identify the experiences of migrant workers using the recruitment sector in the

² Bell et al, "A report on the experiences of migrant workers in Northern Ireland", December 2009

UK. The Equality and Human Rights Commission began a formal inquiry on 17th October 2008 into the employment and recruitment practices in the meat and poultry processing industry which will include the role of the recruitment sector and has recently published its report. Although not focussed on migrant workers or agency workers the investigation reports particular problems for such individuals caused by language barriers, less favourable treatment due to nationality and status as agency workers.

Research carried out by Oxfam³ [2009] considered migrants working in social care and concluded that high numbers of migrant workers were placed in these jobs due to their low status and low pay. The recruitment sector played a significant role in placing migrant workers in these jobs and the workers reported exploitation in terms of pay, accommodation and long working hours. They found that workers who had been recruited overseas were deceived by the recruitment agencies about the terms and conditions of the work, in respect of pay, hours and location.

For the migrant worker, in particular, the recruitment sector may be the only realistic route to employment where organisations are experiencing skills shortages and turn to the recruitment sector for access to these jobs. Immigration rules, particularly the fact that migrant workers only become eligible for some social security benefits after they have been in employment in the UK for 12 months, may force migrant workers to seek immediate work of any type, rather than spend time trying to secure employment that better matches their skills, qualifications and experience. The recruitment sector may be able to provide immediate work and may be the only route to employment for those with poor English language skills.

Aims of the Investigation

The investigation seeks to evaluate the extent and impact, in terms of equality of opportunity, of the involvement of the recruitment sector in both finding and placing migrant workers in permanent or temporary work. Specifically we aim to consider the role of the recruitment

³ "Who Cares?" December 2009 Kalayaan/Oxfam

sector in the recruitment and employment of migrant workers in NI in terms of:

- the extent to which recruitment agencies play a role
- the implications, in terms of equality of opportunity for foreign nationals; including the identification of barriers that may exist

The investigation will make appropriate recommendations for the promotion of equality of opportunity between persons of different racial groups pursuant to Article 49 [1] of the Race Relations [NI] Order 1997 as appear to the Commission to be necessary or expedient in light of its findings.

Recent Developments

It should be noted that subsequent to the commencement of this investigation the Temporary Agency Workers Directive has been adopted at European Union level aiming to equalise the treatment of agency workers vis-à-vis permanent employees in terms of basic working and employment conditions, subject to the agreement of the social partners. It covers:

- equal treatment in respect of remuneration, holidays, working time, rest periods, and maternity leave
- equal access to collective facilities [such as canteens, child-care facilities, and transport services]
- better access for agency workers to training both when working on an assignment, and in between assignments.

The Directive came into force in October 2008, and Member States are required to incorporate its provisions into domestic law by October 2011. In the case of Great Britain it has already been agreed with the social partners that the right to equal treatment will arise only after the agency worker has been employed in the post for 12 weeks. This has yet to be agreed in NI and the implementing legislation is awaited.

What Do We Mean By “Migrant Workers”?

We use the term “migrant worker” simply to identify that the individual concerned has come to NI from a country outside the British Isles, and is not used to differentiate between workers and employees as recognised in UK employment law. In other words the term includes both employees working under a contract of employment, and workers working under a contract for services.

For the purposes of this investigation we have defined a migrant worker as:

“a person who is working, has worked or is to begin work for remuneration in NI and who is born outside the UK and the Republic of Ireland”.

This includes migrant workers who are here on a short term basis and new residents who have made NI their home.

What do we mean by “Recruitment Agency” and “Recruitment Business”?

The Employment [Miscellaneous Provisions] [NI] Order 1981 distinguishes between:

- Recruitment Agency

“The business of providing services [whether by the provision of information or otherwise] for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them.”

- Recruitment Business

A recruitment business is “engaged in supplying people, who are employed by the person carrying on the recruitment business, to act for, and under the control of other people in any capacity.”

For ease of reference we will use the term recruitment agency as an umbrella term to cover both agencies and businesses, as this is the

term most people are familiar with. Many recruitment agencies perform both these functions. However, our investigation suggests that where migrant workers are concerned they act as recruitment businesses in the majority of cases. In the small number of instances where we are referring to a recruitment agency which has placed migrant workers as permanent employees we will make this clear.

The investigation has now been completed. This report presents our findings and recommendations and is published in accordance with Article 49 [2] & [3] of the Race Relations [NI] Order 1997. Our principal recommendations are set out in Section 8 of this report.

Section 1: Participants in the Investigation

This Section provides information about the various groups set up to assist the Commission with the investigation and acknowledges their invaluable input. Those who participated and provided their opinions, comments and experiences during focus groups are also acknowledged. Details of membership of the various groups can be found at Appendix 1.

Investigating Commissioners

The formal investigation procedures allow the Commission to appoint one or more Commissioners to conduct the investigation on its behalf. Jane Morrice, Elaine Waterson, and Paul Yam were nominated as investigating Commissioners due to their experience of both employment and race issues. Their role included:

- Ensuring compliance with legal requirements and procedures.
- Consulting with and advising Commission staff.
- Agreeing terms of reference.
- Adopting a final investigation report for Commission approval.

Steering Group

The Steering Group consists of people with a particular expertise in employment issues and of providing advice and support to migrant workers. Membership has been drawn from across NI to be as representative as possible of the experiences of migrant workers in this country.

The group first met before the investigation commenced. Members assisted the investigation team to focus on the key issues for migrant workers using the recruitment sector.

Steering Group members:

- informed the key themes for the investigation

- considered the main issues which may affect equality of opportunity in the recruitment of migrant workers through recruitment agencies
- assisted with the proposed methodology for the investigation
- considered the structure of the focus groups and the specific considerations to enable individual participation.

The Steering Group continued to meet and provide invaluable advice and guidance to the investigation team as the investigation progressed.

Reference Group

The Reference Group's role was to assist with and advise on the investigation's recommendations. The Reference Group provided input to the recommendations and how they could be practically taken forward.

A number of Steering Group members continued their involvement in the investigation through the Reference Group. Additional members were drawn from individuals and groups who represent the recruitment sector, and organisations involved with assisting migrants into work.

Reference Group members:

- reviewed the results of the investigation and considered the issues identified
- considered best practice
- considered recommendations and how these could be taken forward.

Migrant workers

Focus groups took place across NI. Participants provided accounts of their experiences of using the recruitment sector to find work. In addition participants who had not found work through the recruitment

sector or who no longer worked through that sector related their experiences of direct employment. Participants were asked to complete a questionnaire which provided personal information and employment history.

The Recruitment Sector

A sample of recruitment agencies in NI were invited to take part in this investigation. A total of 14 agencies participated and answered a number of questions about their procedures, the employment sectors into which migrant workers are placed and the terms of business under which the worker is contracted. The sample was representative of the whole of NI taking into account the job sectors into which migrant workers are known to be placed and the numbers of migrant workers known to have settled in various locations.

Employers

A number of employers who used the recruitment sector to fill vacancies were identified during the course of the investigation. A total of 10 employers agreed to speak to the investigation team. Employers related their experiences of using the recruitment sector and in particular, in relation to migrant workers.

The various job sectors covered through participating employers reflects the sectors in which many of the focus group participants worked and had been placed by the recruitment sector. The job sectors included the health service, the food processing industry and other process operative work.

Section 2: Method

This section details the processes in the design and conduct of this investigation and discusses the considerations involved with regard to accessing and involving the participants.

Summary

This investigation sought to engage with migrant workers across NI to establish their experience of looking for and gaining employment here through the recruitment sector. It also sought to gain insight into the procedures of the recruitment sector and in addition the experiences of employers who have used the recruitment sector to fill vacancies.

A number of focus group sessions with migrant workers were held across NI to obtain their views and experiences of the recruitment sector. Focus group participants also completed a short questionnaire. Meetings were subsequently held with a sample of local recruitment agencies and employers.

A substantial amount of planning was required to ensure that the investigation was:

- inclusive of all areas where migrant workers have settled and work
- accessible to migrant workers.

Planning the Investigation

Preparation work was carried out prior to the formal launch of the investigation in September 2008.

This allowed the investigation team to:

- identify the main areas where migrants live and work
- gain access to migrant workers through already established support groups
- identify problems faced by migrant workers coming to NI
- ensure that the investigation was accessible to non-English speakers

- review the various legislation relating to migrant workers and the recruitment sector
- set up a Steering Group for the investigation.

Specific considerations

The investigation team ensured that all aspects of the investigation were accessible to all participants. This involved ensuring that translated documents were available and that interpreters were provided at focus groups meetings. This necessitated the availability of information in 10 different languages.

Most of the focus groups were held in the evenings and others at weekends for the convenience of migrant workers.

The investigation team was also aware that migrant workers may have been wary of participating and so aimed to allay fears by approaching participants through organisations familiar to them.

All participants were made aware of the confidentiality of the investigation and that all information would be held in accordance with the Data Protection Act 1998.

Scoping the investigation

Guidance and advice were sought from a number of sources during the planning period.

A literature review was commissioned and provided by the Institute for Conflict Research. This provided information regarding the extent of migration to NI, the issues faced by migrant workers and the relevant legislation relating to immigration, employment and the recruitment sector. The literature review is available on the Commission's website at:

<http://www.equalityni.org/archive/pdf/LiteraturereviewagenciesfinalCR.pdf>.

The Department for Employment and Learning and the Department of Agriculture and Rural Development were consulted regarding the legislation governing the conduct of the recruitment sector and their respective roles in the enforcement of the legislation.

A number of migrant worker support groups and other information-providing organisations were also consulted regarding the main issues raised with them by migrant workers.

Steering Group

A Steering Group was set up to advise the investigation team on the identification of key themes and provide advice regarding the content of all investigation documents. The first meeting was held on 15th June 2008 and the group met throughout the investigation period.

Organising Focus Groups

The investigation team approached a number of established migrant worker support groups in each county of NI for their assistance in gaining access to and the co-operation of migrant workers in their area. It was thought that migrant workers would be more willing to participate through these familiar support groups. Their help was invaluable in organising the focus groups.

Development of the Investigation Documents⁴

The investigation documents were translated into the languages which had been identified by the investigation team as necessary to meet the communication needs of all participants. The support groups identified the nationalities in their areas that would be willing to participate. The contents of all documents were agreed with the investigating Commissioners and the Steering Group members.

⁴ All investigation documents can be viewed on the Commission's website www.equalityni.org

Participant Information Sheet

Participants were provided with information about the Equality Commission and the aims of the investigation. Importantly information was provided about the arrangements for focus groups in their area and their role in the investigation. Appropriate translated versions were available for those who required them.

Questionnaires

A short questionnaire was devised with the assistance of Steering Group members. Participants were asked to provide personal information together with information about their employment history in NI. Again translated versions were available to all who required them.

Interview Schedules

Interview schedules were prepared for the focus groups and the meetings with the recruitment sector and employers. A series of questions was devised based on relevant legislation and issues which may create barriers to equality of opportunity highlighted by the Literature Review or raised by the support organisations.

Additional questions for the recruitment sector and employers were incorporated following the focus groups discussions. The interview schedules aimed to steer discussions and standardise the process across participants.

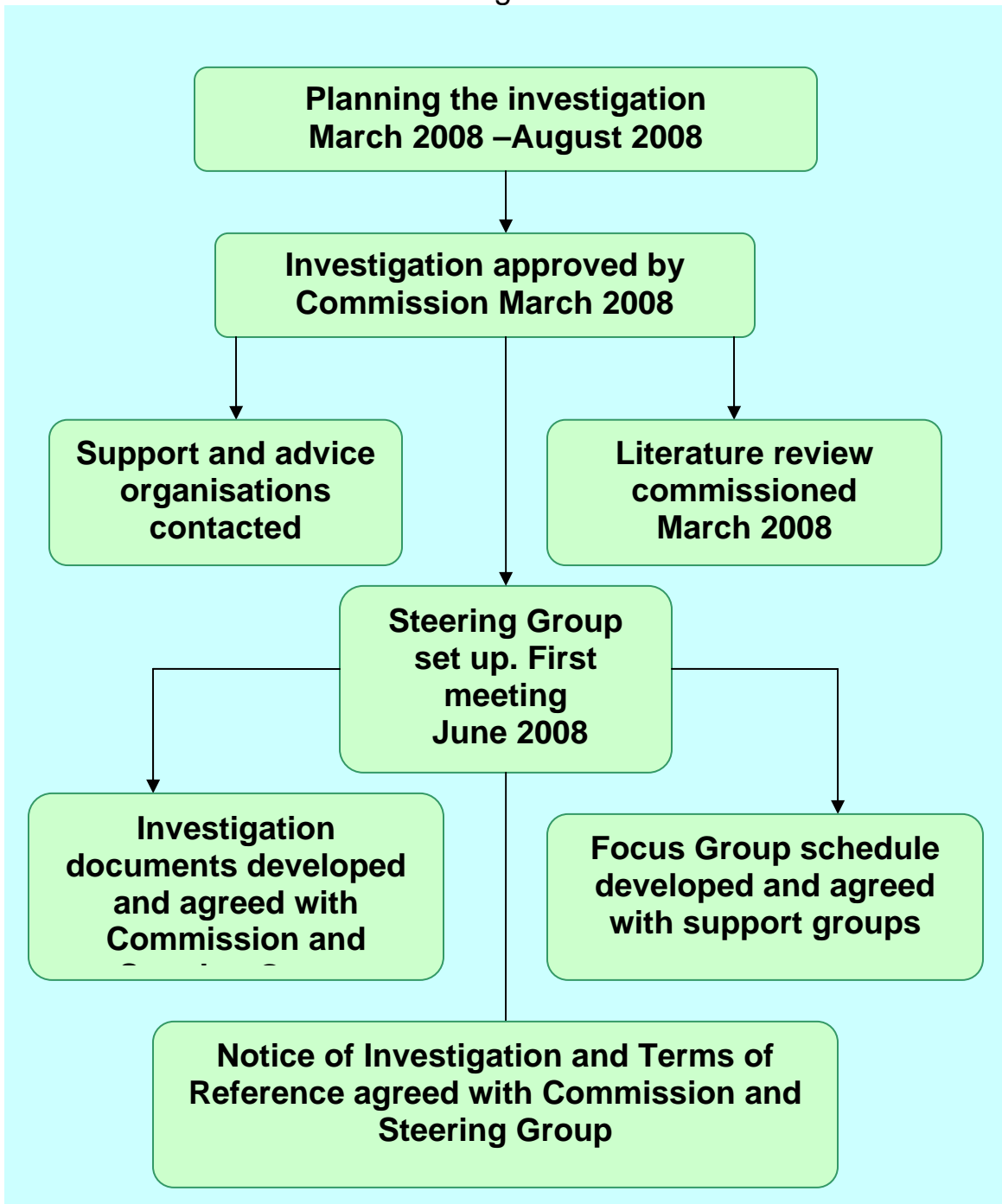
Focus groups

The established migrant worker support groups assisted the investigation team to identify possible nationalities of participants and to schedule focus groups at appropriate times for maximum participation. Each support group also assisted the investigation team raise awareness of the investigation and gain the support of migrant workers.

To facilitate the running of the focus groups it was decided that:

- Each focus group was to be nationality specific where possible to aid communication. An interpreter was present at each focus group
- Focus groups would be held at times suitable to the migrant workers i.e. evenings and weekends
- Support groups would assist with identifying suitable locations
- Focus group participants would be offered payment for their attendance
- An opportunity would be offered to individuals to speak privately to the investigation team following each focus group session
- The scheduled focus groups sessions would be made available on the Commission's website.

Figure 1



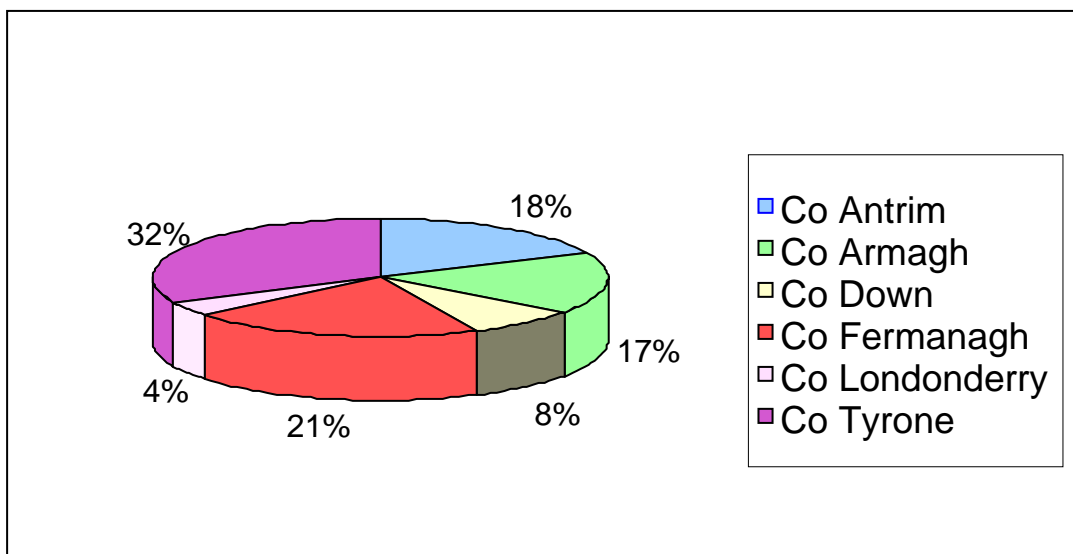
The Investigation Period 2nd September 2008 to March 2010

The Formal Notice of the Investigation and Terms of Reference were issued on 2nd September 2008.

Focus Group Sessions September 2008 to February 2009

Focus group sessions ran from September 2008 until February 2009 with a total of 27 focus groups held across NI. An approximately equal number of males and females took part [51% male and 49% female] with ages ranging from 17 years old to between 55-64 years old. In total 192 participants of 17 different nationalities took part in the investigation⁵.

Figure 2 The percentage of participants in each NI county



During the focus group sessions participants were provided with further information about the Commission and the purpose of the investigation. Participants were invited to ask questions or to raise any concerns they may have about their involvement. They were advised of the opportunity to speak individually to the investigation team at the end of the session.

⁵ Table 3 at Appendix 2 lists the nationalities represented by the participants in the focus groups.

Participants were invited to relate their experiences of finding work in NI through the recruitment sector. The interview schedules were used to steer discussions. Each session lasted for approximately 1 hour although this was flexible and depended largely on attendance and issues for discussion.

Each participant was asked to complete a questionnaire during the focus group session ensuring a 100% return rate.

Meetings with the Recruitment Sector February 2009 to May 2009.

A comprehensive list of recruitment agencies was compiled from details provided by the Department for Employment and Learning and from the websites of the Gangmasters Licensing Authority and the Recruitment and Employment Confederation. A 10% random sample was taken from each location area and from this list the sample was further modified to take into consideration:

- The size of the recruitment agency
- The job sectors resourced by the recruitment agency
- Recruitment agencies with numerous branches across NI.

In doing so the investigation ensured that both large and small recruitment agencies were represented across NI and that the investigation involved recruitment agencies which had experience of dealing with migrant workers. The reduction in size of the sample was also necessary due to time limitations.

A total of 17 recruitment agencies were approached and invited to participate in the investigation. A small number of these [3] did not participate for various reasons:

- refusal based on inclusion in the sample of the same agency in a different area
- the team were unable to contact the recruitment agency
- a suitable date for the meeting could not be found.

Table 2 The number of participating recruitment agencies in each location

Location	Number of Participating Agencies
Belfast	2
County Antrim	3
County Armagh	2
County Down	2
County Fermanagh	1
County Londonderry	1
County Tyrone	3
Total	14

The duration of each interview varied and the interview schedule provided a basis for the discussions.

Meetings with Employers April 2009 to May 2009

The investigation wished to include employers who used the services of the recruitment sector to fill vacancies and who represented the sectors in which migrant workers find work.

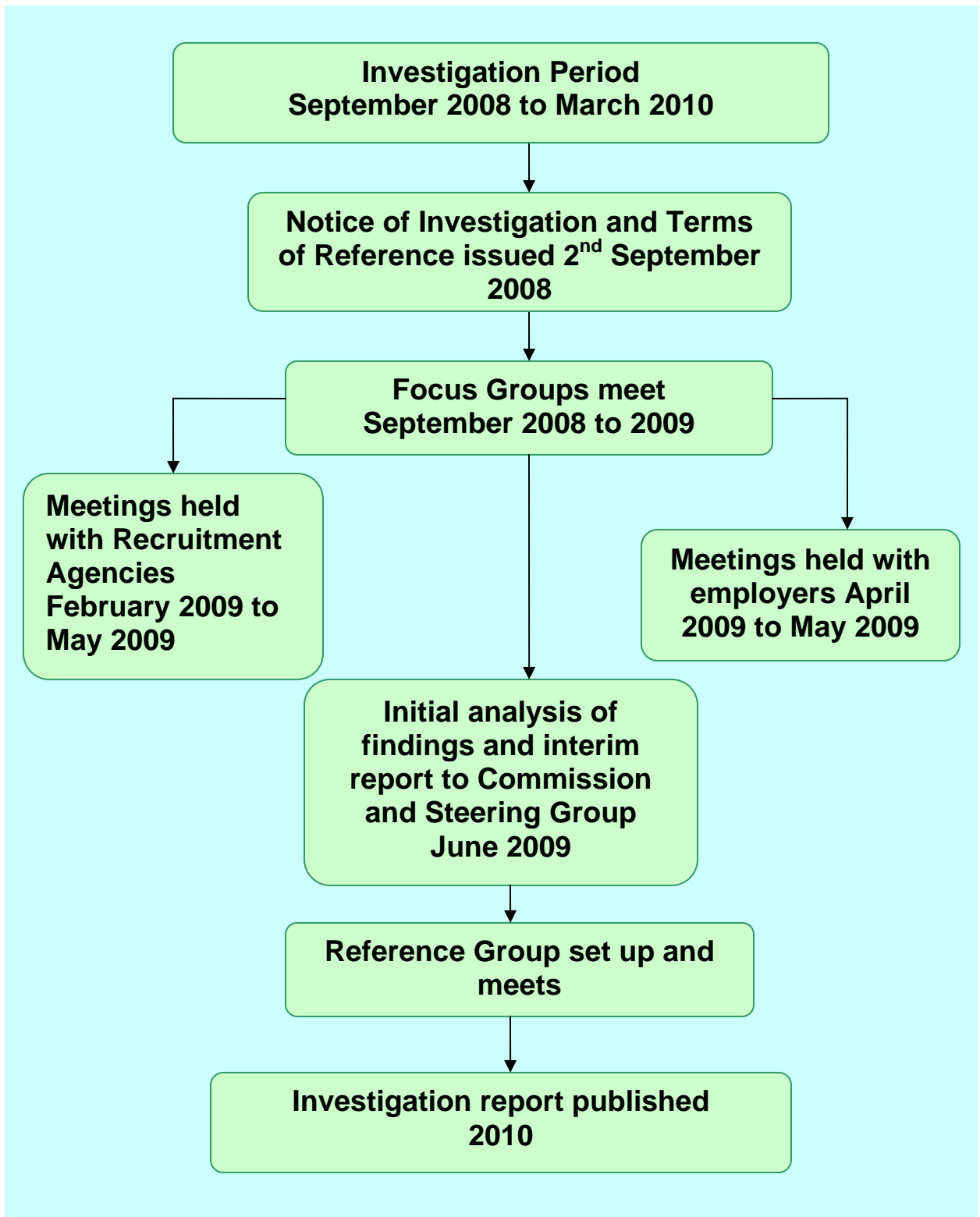
The investigation team were able to identify employers using the recruitment sector through the focus group sessions and meetings with the recruitment sector. A number of employers mentioned were approached and invited to take part in the investigation. A total of 11 employers were invited and 10 agreed to participate. The participating employers were representative of organisations in 4 NI counties. The exceptions were County Fermanagh and County Londonderry where focus group participants were all directly employed.

Meetings with the employers varied in length and the interview schedules guided the discussion.

Table 3 The number of employers participating in each county and the job sectors represented

Location	Number of participating employers	Job sectors represented
County Antrim	3	Hotel and catering Food processing industry Industrial
County Armagh	2	Industrial Food processing
County Down	2	Industrial Food processing
County Tyrone	3	Food processing Healthcare
Total	10	

Figure 3



Section 3: Migrant Worker Questionnaire Results

This Section considers focus group participants' responses to the questionnaires. These provide information about the participants such as personal data, qualifications gained and employment history.

Each participant was asked to complete a questionnaire when they attended a focus group session, providing information about:

Nationality
Gender
Age group
Duration of stay
Location
Level of qualifications obtained
Employment history

Summary of findings

A variety of people representing different age groups, nationalities, and a wide range of qualifications attended the focus group meetings. Our sample reflects the most recent statistics provided by NISRA July 2009⁶ in terms of nationality, age and location.

- the majority of focus group participants were Eastern European nationalities
- most participants were aged between 25 and 34 years old
- an approximately equal number of males and females participated
- County Tyrone provided the most focus group participants
- more than half the participants used the recruitment sector to find work in NI either as an initial route into employment or on an ongoing basis
- the majority of participants work in production operative roles in various job sectors, including participants with academic and professional qualifications.

⁶ <http://www.nisra.gov.uk/demography/default.asp18.htm>

Background of Participants

There was an almost equal amount of male and female participants, with slightly more males at 51% taking part in the focus groups than females at 49%. This was generally true across all nationalities taking part.

The ages of participants ranged from school age [17 years old] to between 55-64 years old. The majority of participants, both males and females, were between 25 and 34 years old at 47% of the sample.

A total of 17 different nationalities took part in the focus groups. Most participants [79%] are Eastern European. Polish nationals represented 42% of the sample and are the largest group of participants.⁷

Table 4 The top 5 nationalities taking part in the focus groups

Nationality	Percentage of Participants
Polish	42%
Lithuanian	13%
Hungarian	8%
Slovakian	8%
Bulgarian	7%

Although all counties were represented, the majority of participants [32%] lived in County Tyrone, an area where employers have actively sought to engage migrant workers. This reflects the demographics as reported in the most recent NISRA statistics released in July 2009 which indicates that County Tyrone has had the highest net international migration.

Polish nationals took part in focus groups across NI while other nationalities such as Bulgarian participants were located in County Armagh; Hungarian participants in County Tyrone; and Romanian

⁷ Tables 3 to 5 in Appendix 2 provide more details about the nationality of all participants and in relation to other factors.

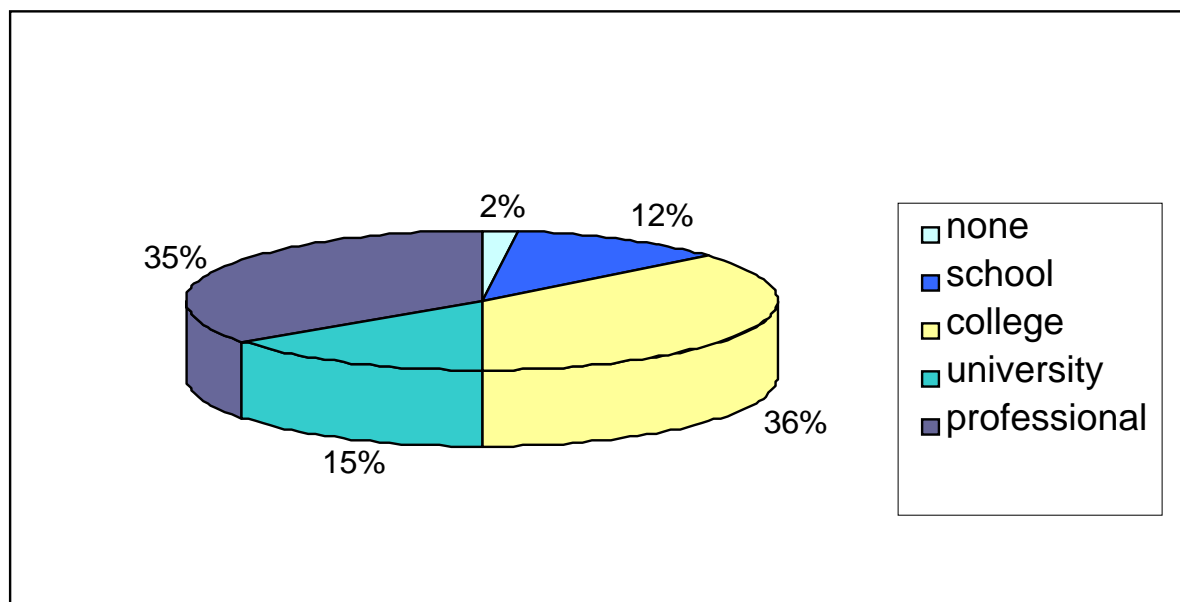
participants in County Antrim. The concentration of some nationalities in certain areas may reflect recruitment patterns where participants were recruited by agencies for specific jobs or where participants moved to areas where work was available and family and friends already lived.

Qualifications

Participants were asked to indicate the level to which they had been educated and the following results reflect the highest level of qualification achieved.

- the vast majority of participants have obtained further education qualifications
- one third of participants have a professional qualification
- type of job held by participants does not in general reflect the level of qualification obtained
- agency worker participants were less likely to use their professional skills than those participants in direct employment

Figure 4 The level of qualifications gained by participants



As can be seen from Figure 4 above the majority of focus group participants have gained some level of qualifications. 2% of participants have no qualifications; only one of these people has been unable to find work in NI while others have found low skilled work.

More than one third of participants have professional qualifications which one might expect they would wish to use in their employment. A similar proportion of participants have qualifications gained through college while a smaller number of participants have university degrees.

The employment history results of the questionnaire indicate that, in general, the type of work found by participants does not reflect the level of qualification achieved; with the healthcare sector being the exception.

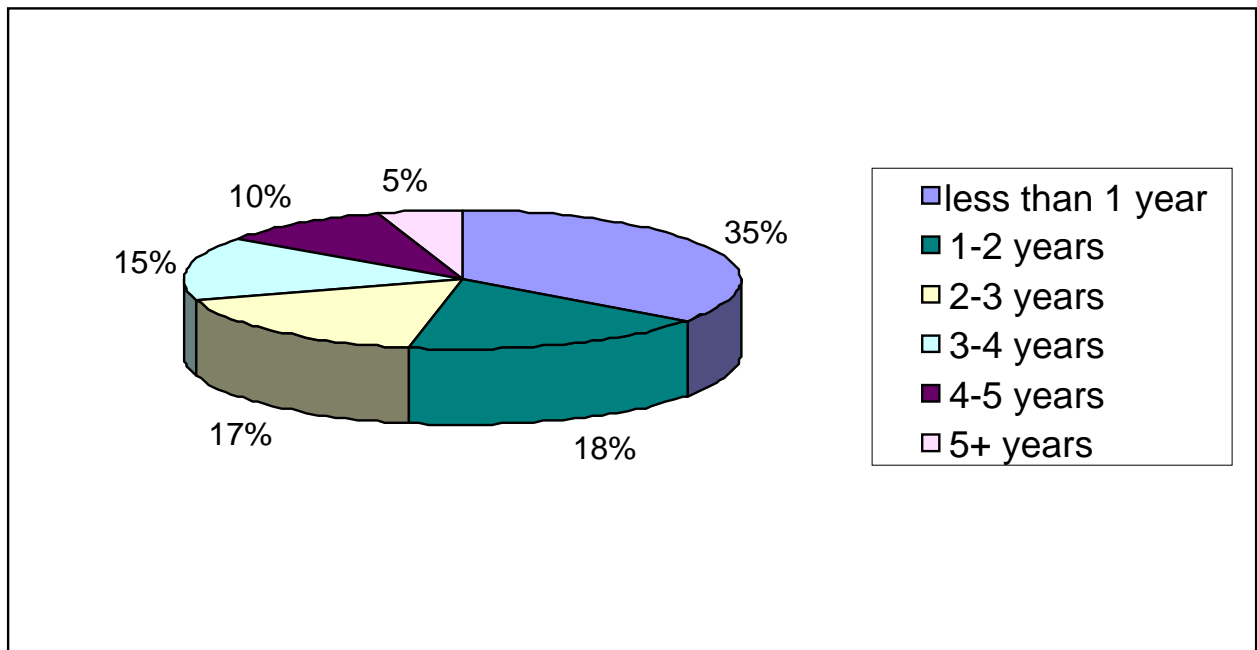
The majority of participants worked in low skilled or semi-skilled job sectors. This was true for both agency workers and employees. However, more employees than agency workers reported using their professional qualifications in skilled production work. Almost 4 times as many participants with professional qualifications were employed in skilled production work as participants working through the recruitment sector; 15 people as opposed to 4 people. Migrant worker employees stated that employers encouraged them to introduce others with similar skills.

There is also some indication that the more vocational the qualification the more likely the participant was to be directly employed. Those participants with professional qualifications or skills were the most likely to be employees.

Duration in NI and employment status

- 50% of participants have been in NI between 1 and 4 years
- 55% of participants have used the recruitment sector to find work in NI
- less than one third of agency workers have moved on to direct employment
- 33% of participants who have been in NI between 4-5 years continue their relationship with the recruitment agency
- 39% of current agency workers have worked through the recruitment sector for more than 1 year
- only 29% of participants were agency workers at the time of the investigation
- both agency workers and employees were beginning to feel the effect of the recession.

Figure 5: The percentage of participants and their length of stay in NI



50% of participants had been in NI for between 1 and 4 years which coincides with the inclusion of the A8 countries into the European Union in 2004. A high proportion of participants, [35%], however, had been in NI for less than 1 year at the time of completing the questionnaire.

Most nationalities are represented in each category although, as might be expected, Bulgarian participants had not been in NI for more than 2 years. A small number of participants, 2 from Sri Lanka and 1 from Portugal, have been in NI over 7 years.

55% of participants have used the recruitment sector at some stage. Finding work through the recruitment sector is most popular for those participants located in Counties Antrim and Armagh where 88% and 81% of participants respectively have registered with a recruitment agency.

As can be seen from Table 5 below the recruitment sector has played a significant role in introducing migrant workers to the local workforce over the past 8 years.

Table 5 The percentage of participants who have used the recruitment sector to find work in NI and the percentage remaining as agency workers by length of time spent in NI.

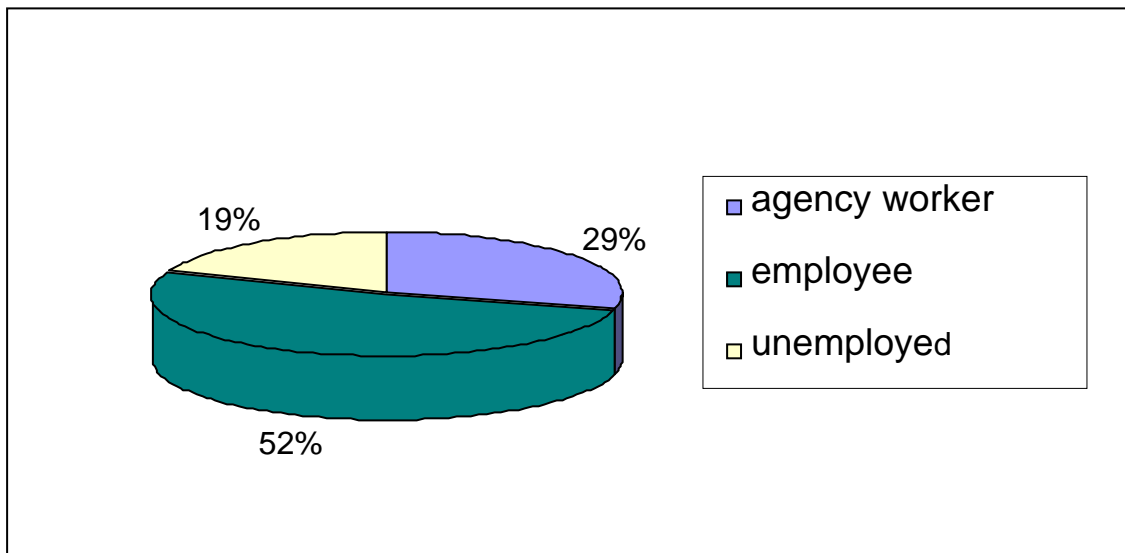
Duration in NI	Percentage of participants using recruitment sector	Percentage of participants remaining as agency workers
Less than 1 year	57%	59%
1-2 years	51%	56%
2-3 years	64%	52%
3-4 years	52%	60%
4-5 years	45%	33%
5+ years	63%	20%

Using the recruitment sector may have been an initial strategy for gaining employment for some participants who were recruited in their own country and placed with employers by recruitment agencies. However, it does seem from the figures that many migrant workers continue their relationship with the recruitment agency. It is not until the participants have been in NI for 5 years and more that they seem to move on in large numbers from agency work.

Overall 39% of participants who remain as agency workers have worked through the recruitment sector for more than 1 year.

Of the participants using the recruitment sector only 27% have gone on to find direct employment while 52% remain as agency workers.

Figure 6 The employment status of participants



At the time of completing the questionnaire more than half of participants were in direct employment. This includes former agency workers who had found direct employment.

Participants were feeling the effect of the recession. A small percentage [19%] was unemployed at the time of the focus groups and others were experiencing reduced working hours. Both agency workers and those who were directly employed were affected, with 21% of former agency workers being unemployed and 16% of former employees having lost their jobs.

Only 29% of participants were agency workers at the time of completing the questionnaire. Those who had originally used the recruitment sector to find work had either become unemployed or had become directly employed.

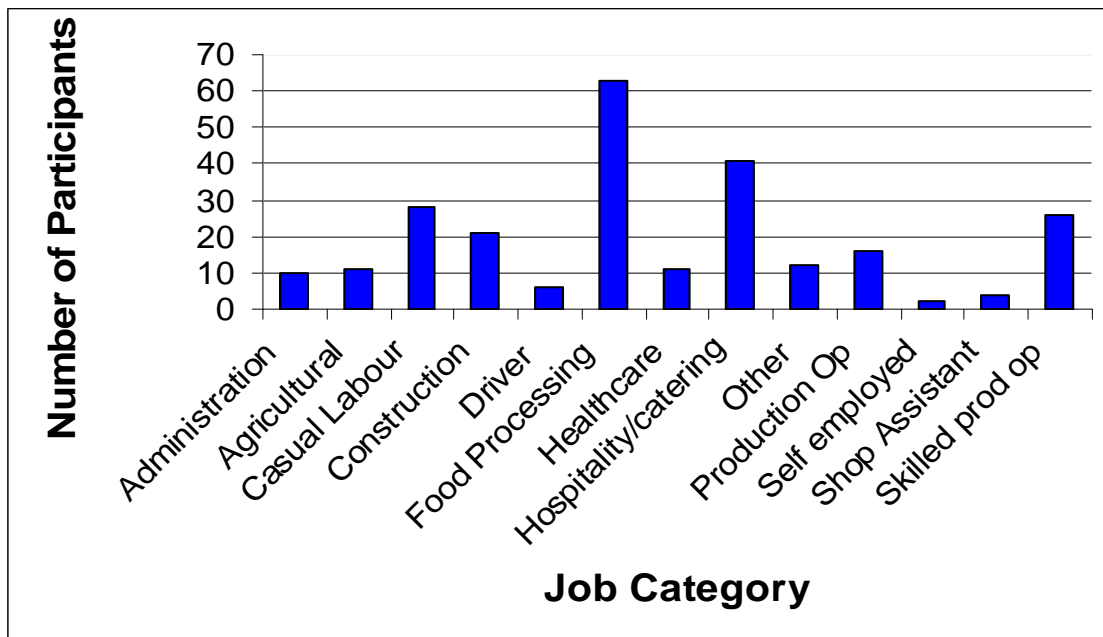
The questionnaire results also show that former employee participants who had become unemployed had not registered with the

recruitment sector to find alternative work. Some participants who had become unemployed stated that they planned to go home rather than look for other work.

Types of Jobs found by Participants

- 82% of participants working through recruitment agencies have worked in one job sector since arriving in NI
- over half of the participants have worked in production operative type work
- 48% of participants who found work through the recruitment sector have worked in the food processing industry
- participants working as employees are more likely to work as skilled production operatives or in hospitality and catering.

Figure 7 The number of participants who work or have worked in each identified job category



Participants, both agency workers and employees, tend to work in one job sector. Overall 76% have worked in one job sector since arriving in NI. A smaller percentage, 18%, has worked in 2 types of job while 6% have had 3 or more different types of job.

It might be expected, where the recruitment sector plays such a significant role, that participants will have worked in a number of jobs since arrival in NI. However, 82% of participants who work through a recruitment agency have worked in 1 job sector only since arriving here.

Participants who did not use the recruitment sector also tended to work in one job sector [83%] with 67% of these participants staying in one job for more than 1 year.

Participants were asked to detail which jobs sectors they had worked in since arriving in NI. A variety of jobs was indicated; most were in job sectors which attract low pay. Some exceptions were those who worked as health professionals.

A small number of the participants [2] after a period of time working through the recruitment sector started their own businesses and became self employed using their particular professional skills.

Job categories:

A large number of participants work or have worked as production operatives in various industries. To examine this in more detail production operative work has been divided into 3 categories:

- Food, fish and meat processing, which may include unskilled and skilled workers
- Skilled and semi-skilled work e.g. machine working, welding, joinery
- Production operative work which includes unskilled work in the manufacturing industries.

Figure 7 above shows that 63 participants have worked in the food processing industry. This is typically the job sector which has sought overseas workers due to skill shortages and hard to fill jobs. Organisations have used the recruitment sector to fill these vacancies with migrant workers as both employees and agency workers.

The hospitality and catering sector and skilled production operative roles are also popular types of jobs for participants with 41 and 26 participants respectively having worked in these roles.

The questionnaire results allowed for comparison of the types of work done by participants who are agency workers and those who are employees.

Figure 8 Comparison between the types of jobs participants have worked in as agency workers and as employees.

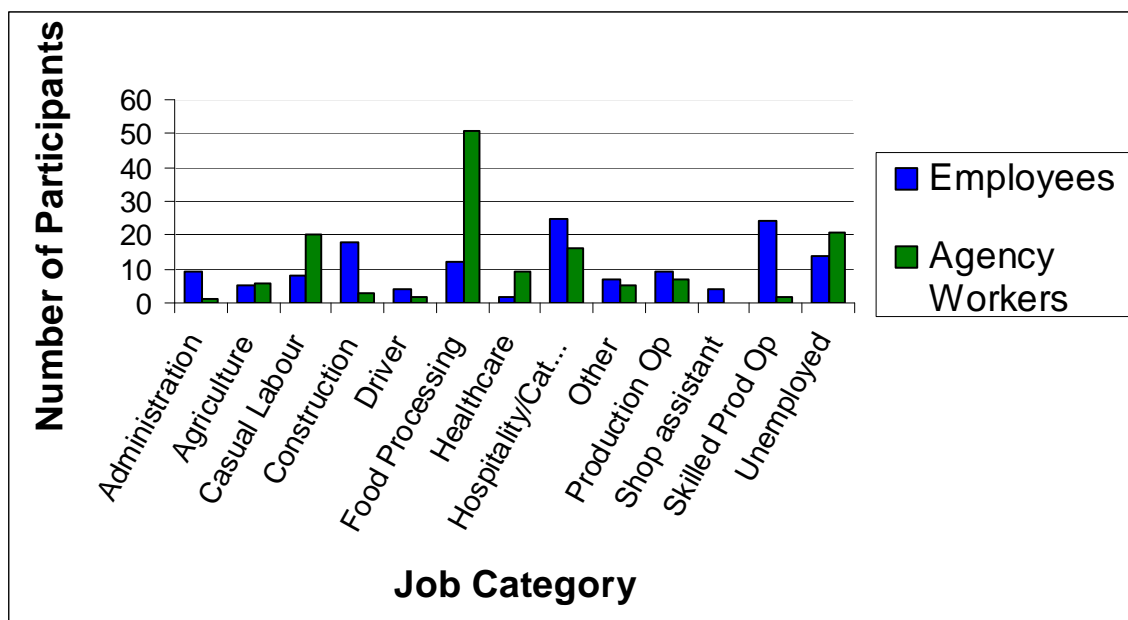


Figure 8 above shows that there is some difference between the most popular types of jobs done by participants who are agency workers and those who are employees.

- **Food processing:**
 Many more participants work in the food processing industry as agency workers. This is not surprising given that this industry often requires a temporary workforce to meet short notice production requirements. The industry has also had difficulty attracting people to this production operative work because of the work involved and the low pay.

All but 4 of focus group participants have found this work through recruitment agencies. Some participants have become employees in the industry having previously worked in food processing through the recruitment sector. Others were originally placed by recruitment agencies who recruited from overseas.

The largest percentage of participants in any one area working in the food processing industry is in County Armagh where 56% of the participants have worked or work in this industry. County Armagh is home of one of the large food processing organisations which would employ overseas workers.

Participants were more likely to find direct employment in the hospitality and catering industries and the construction industry. The results also show that participants were more likely to use their skills as skilled production operatives through direct employment. Some of these participants were on short-term contracts.

Section 4: Focus Group discussions

This Section details the feedback from focus group discussions. The focus groups allowed participants to relate their experiences of working in NI, with many able to describe experiences both as agency workers and as employees.

The Section considers:

- The reasons why participants used the recruitment sector
- The experiences of those who use recruitment agencies in their own country
- The main issues raised during the focus group discussions.

Summary

The terms of reference for the investigation include consideration of whether or not using the recruitment sector creates barriers to equality of opportunity for migrant workers.

The participants' experiences indicate that certain barriers to equality of opportunity exist. Many of their experiences came about as a result of these barriers.

Participants may have used recruitment agencies because they were unable to find employment in other ways or because they viewed this as a way to gain work quickly. However, many were unhappy with the types of work found through agencies, the terms and conditions and insecurity of this work.

Employee participants reported similar issues as agency worker participants but they were affected by these issues to a lesser degree.

It should be noted that although participants raised issues of concern they were unwilling to take their complaints any further. In addition a number of people avoided in the focus groups because they feared losing their jobs.

Reasons for using the recruitment sector to find work

All focus group participants came to NI to work and to increase their earning potential.

Those who use the recruitment sector did so either in response to specific recruitment of migrant workers or, for those willing to do any type of work, as a means to access work quickly. Some participants used the recruitment sector after failing to get work by other means, such as through local job centres.

Others were reluctant to use the recruitment sector because of their perceptions of the way the sector treats migrant workers and because they were confident that they could find employment directly.

Participants related their reasons for opting to look for work through the recruitment sector either:

- using the recruitment sector in their own country
or
- registering with an agency on arrival in NI.

Participants who used recruitment agencies in their own country responded to advertisements for work in the UK. These jobs may have been with specific clients looking for specific skills, or more general recruitment of unskilled labour meaning that often the work seeker did not know where they would be located until they arrived. Initially they were happy to find work this way because they were assured good terms and conditions, good jobs and, in particular, good pay by these agencies. Many reported that they paid fees for work finding services and some paid additional administration charges. The overseas agencies were reported to have had contacts with other recruitment agencies in the UK to whom the participants were directed. Although some participants had a good experience of finding work this way a greater number of participants were disillusioned by their experiences.

Participants who registered with several local recruitment agencies on arrival in NI said that they were looking for any type of work and used the recruitment sector as a means of finding work quickly. Some

registered with particular recruitment agencies because they knew of certain available jobs.

A number of participants used the recruitment sector having been unsuccessful in finding work themselves. Some were redirected to recruitment agencies by employers. Others had difficulty finding work through job centres stating that employers were uninterested and did not acknowledge applications.

A small number of participants applied to UK recruitment agency advertisements on the internet. One person who found work this way was very pleased with the assistance he received from the agency which made his transition to NI easy.

Some participants avoided using the recruitment sector to find work and instead found direct employment. They perceived that they would only find low skilled and irregular work through the recruitment sector. Some participants stated that the recruitment sector had a bad reputation amongst migrant workers, with rumours of money being demanded to find work.

These participants found work mostly through friends and family already working in NI. Some found work through local job centres and newspaper advertisements. Others said that they would accept any work, usually “cash in hand” work until they found better jobs.

Participants’ experiences of using overseas agencies.

As mentioned above a number of participants had been recruited in their own country. Although some people had good experiences of finding work this way because the recruitment agency based in NI was reputable, other participants were not so fortunate. They came to NI not knowing where they would be located and found that the work was not as expected.

The following was the experience of some of focus group members.

In early 2008 the work seekers found work through a recruitment agency in Bulgaria. They knew only that it would be unskilled work in the UK. They paid 600 euro to the agency in Bulgaria and paid for their own flights to Manchester.

On arrival in Manchester they were met by their contact, a recruitment agent, who took them to his home and told them they could work in either Belfast or Manchester. He took their passports and copied them promising to arrange proper documentation. He charged them £500 each for this. They were told that they would be working on a mushroom farm for 40 hours per week at £5.50 per hour plus overtime. One hour later they had purchased tickets and were on their way to Belfast.

They did not receive any written terms and conditions from either the Bulgarian recruitment agency or the UK recruitment agent.

In reality work on the mushroom farm is very different to their expectations. They work varied hours depending on the mushroom crop, anywhere between 6 and 18 hours per day. They may work for 26 hours over a 2 day period, finishing at 1am and then starting the next day at 7am. They work weekends and long hours but receive no overtime rate.

Their accommodation is owned by the employer. They pay £25 per week for rent and around £10 per week for taxis to work.

They were told they had to work for 6 months before they could take any paid holidays.

Payment is by cheque to be cashed through the employer's bank account. However, they don't get paid on a regular basis. Recently they did not receive pay for more than a month. When they queried this, the employer claimed to have lost the book which recorded their working hours. They have been paid once since the book disappeared.

Wages are paid according to the kilo of mushrooms picked. If they want to earn £5.50 per hour they have to pick 30 kg of mushrooms. Their ability to meet this target depends on whether there are enough mushrooms of good quality. The lowest amount they have earned is around £2.80 per hour.

They feel that they have nowhere to go to complain about their conditions. The Bulgarian agency refuses to speak to them. They have asked their employer to sort out their work documents but he is unwilling to do so. He tells them that they will be looking for work somewhere else soon.

Even though they are not documented their payslips itemise deductions for income tax and for National Insurance contributions. There are no details of hours worked on the payslips and they have no way of knowing if they have been paid correctly.

They know of other migrant workers in this situation, on their farm and on neighbouring farms.

The experiences described above may seem extreme but other participants reported similar problems.

Participants who used recruitment agencies in their own country to enter the NI labour market generally were placed in direct employment.

Many stated that they found various problems when they arrived.

- For some the job was not as expected.
For example, one man was told he would be working using his physiotherapy qualifications but on arrival there was no such job and he was actually distributing leaflets.
- For others the location was not as promised.
For example, one woman was told she would be situated in the city but was actually in a small village in County Antrim.
- For many the terms and conditions were less than promised.

In addition, using overseas recruitment agencies to come to NI can be expensive for the work seeker. Some examples of participants' experiences are detailed below.

An agency in the Philippines was recruiting for qualified nurses and had connections with a recruitment agency in NI. The nurses paid 80,000 peso [over £1000.00] for the placement and an additional amount for medical examinations. The agency took so long to place them they had to undergo and pay for another medical. The nurses agreed that they received a job description and details of salary. They underwent a period of adaptation training and they also sat a 3-part English language test. If they failed one part of the test they had to re-sit all three parts at a cost of £105.00.

A Polish woman was brought to work as a waitress in NI through a Polish recruitment agency. The agency provided false information about the location and her rate of pay. She was shown a contract with a rate of £8.00 per hour when she was actually paid around £4.00 per hour. In addition her employer, a golf club business charged a fee of £15 per month. The recruitment agency charged her £300 for finding the work and her transport to NI. She stayed in the job for a while to improve her English but has since found other work.

Participants using recruitment agencies in their own country relied on the accuracy of the information provided by those agencies.

Participants were prepared to pay large amounts of money to find work in the UK and appear to have been taken advantage of by unscrupulous agents. Some, despite their best efforts, were in the position of working without proper documentation and although aware that this is wrong they were unsure of where to go for support in their circumstances. Those participants however, who had been put in touch with reputable recruitment agencies in NI did not face the same difficulties and were happy with the assistance they had been given.

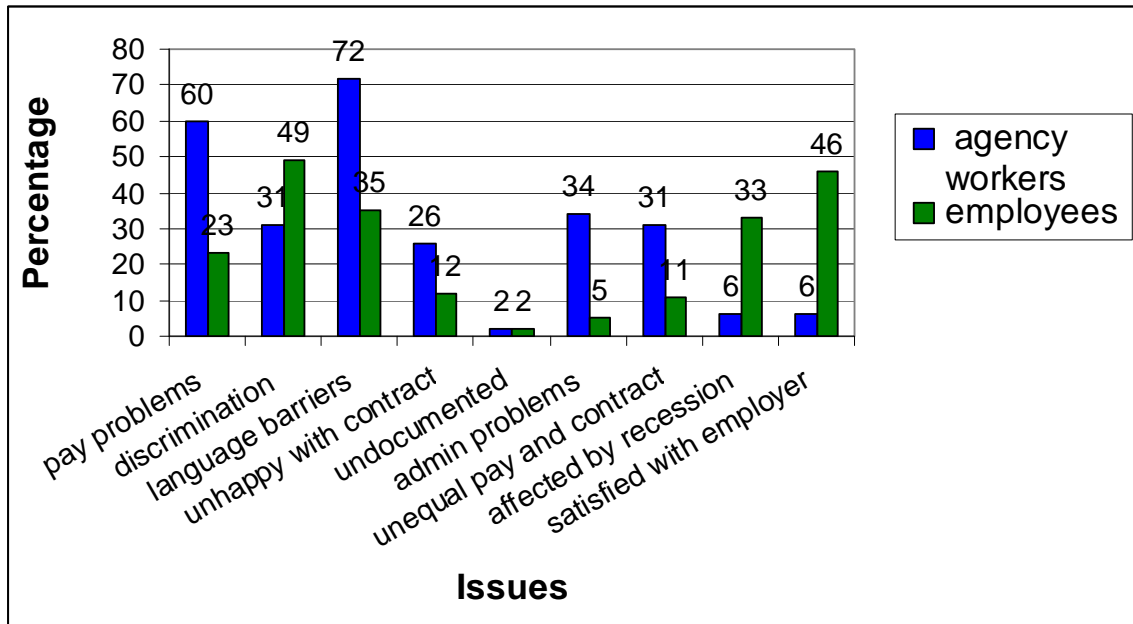
Issues raised by Participants

More than half of the participants had used the recruitment sector and from their reported experiences a number of common themes or issues have been identified. These issues give an indication of the problems faced by migrant workers using the recruitment sector and also of the barriers to equality of opportunity for migrant workers.

The experiences of those participants who have never used the recruitment sector are also reported here. This information is useful to the investigation as we can compare the experiences of employees and agency workers

As can be seen from Figure 9 below issues raised by agency worker participants were also experienced in varying degrees by those participants who were employees. These issues as reported by agency worker and by employee participants are discussed separately in this section.

Figure 9 Comparison of common issues raised by agency workers and employees



Issues Raised by Participants who have experience of the recruitment sector.

1. Language barrier

- 72% of participants using the recruitment sector stated that they had found language a barrier when seeking work this way.
- Participants reported that their lack of English prevented them from using their qualifications and contributed to their lack of understanding of documents.

Not surprisingly being unable to understand or speak English well was raised as one of the main issues acting as a barrier to equality of opportunity. This issue links to many of the other common themes identified from the focus group discussions. Language was reported to be a barrier to equality of opportunity for participants:

- when registering with recruitment agencies
- when being considered for higher skilled work using qualifications and skills
- when trying to understand terms and conditions; especially statutory entitlements
- when asserting rights and making complaints.

Failure to properly address language barriers and ensure that migrant workers fully understand all documents can lead to confusion and a perception amongst migrants that the recruitment sector is untrustworthy.

- **Language as a barrier when registering with recruitment agencies**

Participants do not have equality of opportunity to register with certain recruitment agencies because of language barriers. They found the registration process difficult and in some cases they found it

impossible to register with some recruitment agencies, even where they supplied workers to jobs with basic English requirements.

They find that where the registration process is assisted, through the provision of translated documents or interpreters, it is generally with recruitment agencies who supply workers to lower skilled job sectors. These may be small local agencies.

Participants found poor English language skills a barrier when registering to find work through the recruitment sector. They found language a barrier in areas such as understanding and completing documents and in communicating with recruitment agency staff. In order to register with some recruitment agencies the participants often brought friends along to assist with communication.

Participants reported that a lack of English language skills prevented them registering for work with certain recruitment agencies. Some stated that they were turned away by these recruitment agencies and advised to improve their English. In some cases participants may have been expected to perform well in English language assessment tests before they could be registered.

Participants reported that they receive no assistance from recruitment agency staff with the completion of documents provided in English.

A group of Polish workers stated that they did not understand why they were unable to register with certain recruitment agencies as they are filling the same vacancies as other agencies in the area. They perceive these recruitment agencies as good agencies to work through but cannot register with them.

They understood that for some of the available work there may be some requirement for basic English skills and they felt that they had these skills. But they found that certain agencies will only consider registering people with good English.

Some participants were keen to improve their English skills through ESOL [English for speakers of other languages] classes. One participant stated that he appreciated the advice of the recruitment

agency which prompted him to enrol at college to improve his English skills.

Participants confirmed that some recruitment agencies do take action to assist migrant workers register for work and alleviate the language barrier where:

- they received some documents translated into their language
- agencies have staff who can act as interpreters, and
- they are allowed more time to complete forms.

Some participants thought it would further assist them if they were able to take forms away to complete or if they could download forms from the internet.

- **Language as a barrier when being considered for higher skilled work using qualifications and skills**

Participants have found that limited English language skills have prevented them from getting higher skilled or professional jobs using their qualifications and skills. The participants understood the need to improve their English and were willing to take low skilled work while they do this.

Almost half of the participants [49%] who have used the recruitment sector have professional and/or university qualifications. They are working below their skills levels mainly because poor English language skills have prevented them from using their qualifications or obtaining higher skilled work.

Participants reported that typically recruitment agencies will carry out English language assessments for foreign work seekers. Some have their own assessment tests and some will administer tests on behalf of clients. This is the case even for unskilled production operative work.

The recruitment sector tries to match candidates with the clients' job criteria and will administer tests on behalf of the client where a certain level of English language skill forms part of these criteria.

Participants understood the reasons why a good level of English language is required for some jobs and many have sought to improve their language skill to enhance their opportunities in the labour market.

A Lithuanian woman, a qualified accountant, was told by the recruitment agency that they could not place her in an accountancy role because of her limited English skills. She is now directly employed doing two cleaning jobs. She hopes to use her professional qualifications in the future and is currently taking English classes to increase her opportunity to do so.

A Polish woman who is a skilled seamstress tried to find work using her skills but found that her basic English skills prevented her from doing so. She was offered a cleaning job through a recruitment agency and worked for 2-3 hours per day for 1 week only. There were no other job offers. Having improved her English she has now found work as a seamstress.

The language barrier is also evident in respect of having qualifications recognised by employers. Some participants stated that the cost of having their qualifications translated into English can be prohibitive and that on occasions the organisation is not willing to accept their qualification.

- **Language as a barrier to understanding documents, especially terms and conditions**

The language barrier prevented some participants from fully understanding the documents they signed. Some agencies did assist by providing translations of the documents but even then the participants did not feel that they were given enough time to fully understand them. Some felt that they ran the risk of losing the work if they did not sign quickly.

The language barrier prevented participants having the same opportunities to question and understand documents.

Participants regularly reported that they did not fully understand the content of documents they were signing. This was especially true for participants with poor English language skills.

In addition to the terms and conditions of their contract with the recruitment agency, work seekers are asked to sign declarations such as existing medical conditions or confirmation of having received health and safety training. Other key documents include confirmation that they wish to opt-out of the Working Time Regulations restrictions on working hours.

The recruitment sector must ensure that work seekers fully understand their terms and conditions. However, many participants stated that they felt rushed when signing documents; some said they felt pressurised to sign immediately, and that they were not given enough time to understand the details.

Although some participants [18%] said that they received translated documents they did not fully understand the contents of their terms and conditions. Sufficient time to read through documents and ask questions is required, in addition to providing translated documents.

A group of workers stated that they work on an “as and when required” basis. They said that they received no information about their rate of pay, received no copy of their contract and that no-one at the recruitment agency took time to explain to them about their terms and conditions. They stated that the recruitment agency provides a translated information booklet at induction but that not everyone gets a copy.

Agency workers are entitled to copies of their terms and conditions. One fifth of participants said that they did not receive a copy of their contract or that they did not get a copy for some time. This meant that they were unable to look over and understand the terms and conditions in their own time.⁸

⁸ Agency workers are entitled to receive a copy of their terms and conditions and their provision is a GLA licensing standard.

Other participants agreed that they had received their contract and confirmed that they understood it. In some cases the recruitment agency had taken time to explain the document to them. Other participants appreciated that the agencies provided interpreters, translated documents and allowed more time when signing documents.

One Portuguese woman described how she had been handed a contract written in English. Recruitment agency staff completed it and she signed it without being able to understand it. She worked as a cleaner for 4 hours each week. However, when a friend looked over her contract with her she discovered that her contract required her to work only 3 hours per week.

It is, of course, important that workers fully understand their terms and conditions so that they are aware of their entitlements as well their obligations. One of the main areas of misunderstanding for the participants was that of annual leave entitlements. Many participants were unclear how the recruitment agency calculated their entitlements.

One group of Slovakian workers stated that they believed they were entitled to a half day annual leave each 5 day week. They did not understand why they were not entitled to a half day for a week during which they had taken 1 day off. They were unaware that entitlement was calculated on the basis of hours worked.

Individual leave entitlement is calculated according to the number of hours worked each week and participants working on an “as and when required” basis in particular found it difficult to know their leave entitlements.

Confusion about entitlements led to problems with requesting leave and understanding pay. The standard wording on terms and conditions does not make annual leave entitlement calculation clear even if provided in translated form. An explanatory note would clarify the issue and some recruitment agencies already provide this to their workers.

Participants taking leave often felt that they should have received more holiday pay, for example, one man stated that he had worked for 6 or 7 days a week over a period of time but only got paid for 5 days when he took 14 days off. Participants who received payslips detailing accrued holiday leave and/ or pay found this information helpful in understanding how holiday was calculated.

Other participants reported that they had experienced difficulty receiving holiday pay which they believed they were entitled to. One recruitment agency in particular was mentioned by participants who stated that they either did not receive the amount they expected or that payment was delayed for some time. In such cases participants found it difficult to discuss their queries with agency staff. They felt staff did not want to deal with their queries and some participants felt that they had no other option but to take their complaints to a solicitor.

Participants found other arrangements regarding annual leave entitlements just as difficult to understand. Some complained about difficulties in taking the leave they are entitled to. Others complained about restrictions in the amount of leave they can take. For example, one man said he was told he could not take 1 day annual leave but could only take 1 week at a time.

It is unclear whether many of these difficulties arise due to misunderstandings in all cases. It is clear, however, that participants require fuller explanation and understanding of annual leave entitlements and the agency's policies regarding annual leave.

Participants also reported difficulties with other statutory entitlements referred to in their terms and conditions, such as sick pay and maternity pay. Such difficulties may, in part, be due to language barriers and a lack of knowledge of entitlements.

A number of participants stated that they were afraid to take time off even though they were ill or had suffered injury at work because of the threat that they would no longer be given work. As agency workers they felt vulnerable to such threats.

One Portuguese woman said that she had scalded her leg badly at work but that she was scared to take time off as she thought she would lose her job. She continued to work each day and once her shift had finished she attended hospital to have her dressing changed.

Other participants reported losing their jobs or being threatened with losing their jobs if they took time off for sickness.

A Bulgarian man took a day off sick and was told by his supervisor not to come back if he took another sick day.

A Polish woman stated that she took a day off sick and that she signed a form when she returned to work. The recruitment agency staff told her that if she signed 3 of these forms she would be sacked.

The language barrier has led to some misunderstandings of terms and conditions and statutory entitlements and in some cases a lack of knowledge of rights. Fuller explanation of the main terms and conditions and statutory entitlements may assist not only migrant workers but also other agency workers to fully understand the issues.

- **Language as a barrier to asserting rights, making queries and complaints**

For those participants who are aware of their rights language can also act as one of the barriers to equality of opportunity in asserting their rights. Other barriers include the fear of losing their work.

Some participants, although aware of their rights, found difficulties in asserting rights due to language barriers and the attitude of recruitment agency staff. Some who have experienced problems reported that they did not understand the procedures involved. They are unable or reluctant to make complaints and some participants believe recruitment agencies take advantage of this.

It was reported in some cases where the recruitment agency has initiated the procedures that the language barrier has not been properly dealt with and the agency worker has felt excluded and confused.

A Portuguese woman had been experiencing problems with annual leave entitlements and pay. One week she received £100 less than normal in her pay and because of this she felt distressed and unwell. She was allowed to leave work early but was told to go to the recruitment agency's office before she went. Her English was limited and so the recruitment agency asked a member of staff to act as interpreter. She was asked to wait outside the office while they spoke with the interpreter.

The woman felt that she was not fully included in the discussions taking place. When she was called in to the meeting she explained to the interpreter that her pay was incorrect. The interpreter told her she was being dismissed and when she was explaining about her pay to the interpreter she said that the recruitment agency manager told her to "shut up". She felt frustrated that she was unable to explain her position properly and that the reasons for her dismissal were not explained. She said she became so distressed that she fainted and was taken to hospital. She still does not understand why she received so little pay.

Some participants who find it difficult to make complaints on their own are aware that there are other ways to assert their case. They have found local support groups and trade unions useful in taking forward complaints on their behalf.

A Polish woman had worked through the same recruitment agency for 10 months. She became pregnant and was off due to pregnancy related illness. She stated that the recruitment agency paid her £10/£20 per week but that they threatened her with court action saying that they did not believe she was sick. A local support group assisted her and the recruitment agency then paid her the correct amount. The recruitment agency then let her go one month before the baby was due and this time her union intervened and the agency offered to take her back. She did not return however, as she found it too stressful.

Language barriers contributed to the lack of understanding of policies and procedures. This lack of understanding, combined with difficulties in asserting their rights, meant that few participants had initiated formal procedures where they had complaints. Many also stated that they were reluctant to complain in any case for fear of losing their work.

1.1 Employees: Language as a barrier to equality of opportunity

35% of employees found that language created a barrier in their employment.

Fewer employee participants reported that limited English language skills created a barrier to equality of opportunity in their employment. It may be that these participants have good English skills; or that employers are providing documents in various languages.

In addition, many of the employee participants stated that they found work through friends and family and so it may be that English language skills are not an issue because they work alongside others of their nationality who may interpret for them.

Employees raised language as a barrier to:

- Gaining employment commensurate with their qualifications
- Improving their skills because tests are set in English [and therefore their ability to increase their earnings]

- Understanding policies and other documents
- Finding work.

2. Dissatisfaction with terms and conditions

- 26% of participants stated that they were not happy with their terms and conditions
- participants complained about zero hours contracts where they were on call and working hours fluctuated
- long working hours was also an issue for some participants.

These participants were dissatisfied with their terms and conditions and would be more content with regular working hours. Unfortunately this is not the nature of much of the available temporary agency work. Irregularity of the working hours and long working hours were said to be problems, not only, in terms of earnings but also because of the effects on daily lives. Piece rate payments were also a cause for concern; participants paid this way said they were unable to earn the maximum amounts expected.

Most participants worked under zero hours contracts; especially those working in low skilled job sectors. This type of contract is used widely by recruitment agencies because the worker is only employed when he or she is actually assigned hours to work. When the assignment comes to an end the employment relationship terminates. The employer is not obliged to find work for the employee, nor is the employee obliged to accept work offered.

Uncertainty about working hours, being on call and being unable to make other plans was an issue for many participants on zero hour contracts. These workers are called into work as and when required and are not guaranteed any amount of weekly hours. These contracts suit many of the job sectors into which migrant workers are placed by recruitment agencies. However, because of competition for working hours and the vulnerability of their status as agency workers, participants did not often complain.

Participants stated that they were unhappy about the irregularity of their hours. They felt that they had to accept certain conditions if they wanted to work.

A group of workers for a particular recruitment agency were dissatisfied with their on call status due to their “as and when” required contracts. They would receive text messages from the recruitment agency for example at midday to tell them to come in at 4pm or, at 9pm for the shift starting at midnight. They were provided with transport to the client’s premises but said that often the numbers have been overestimated and some workers are sent home. They stated that they have to make their own way home, sometimes at 1am.

Participants of various nationalities working through this recruitment agency also complained that it was the agency supervisor who chose the workers for the shift. They felt that only those workers of the same nationality as the supervisor in charge were chosen. They stated that the supervisors took advantage of their position and some accepted payment from those desperate to work.

Another issue raised by participants was the long working hours expected of them as agency workers. Long working hours may be part and parcel of the typical work into which participants are placed, for example, at busy times in production line work. Not everyone received overtime rates however.

A number of participants working through the same recruitment agency in the food processing industry said that they worked for longer hours than stated in their contract with no over time rates paid. As production operatives they were required to work until the job was complete and as such did not know how long their working day would be. They said that at times they would be called to work and kept on stand-by in the canteen area. There would often be no work for them and they received no pay for that day no matter how long they had waited.

Although some participants were happy to work long hours and especially overtime hours because they relied on the money, some

were not. Some felt obliged to work overtime. They stated that if they were not prepared to work overtime they were told that they were no longer required by the recruitment agency. A group of Portuguese workers stated that they were threatened with disciplinary action by the recruitment agency if they did not sign the declaration that they wished to opt out of the limitations set by the Working Time Regulations.

Some participants worked to contracts which guaranteed working hours per week. They were unhappy, however, in the way that they were treated when it came to changes in their working hours. Some said that changes were made and they felt they had little choice but to comply or lose the job. In some cases the changes breached the Working Time Regulations.⁹

A Polish woman stated that she had worked for some time according to her contracted hours which were Monday to Friday and Sunday. She worked on a production line and was expected to work until the job was completed. Subsequently, a downturn in the amount of work available meant that she worked Monday to Friday only. Then an increase in production meant she was called to work 7 days per week. She finished work late on a Friday and started early on a Saturday and then worked from 12 noon on Sunday. She said that there was no discussion with her about the increase in hours, she was just told to do it.

Some participants' terms and conditions stated that their rate of pay would change to piece rate pay after a certain training period during which they would receive National Minimum Wage. They were unhappy that they could not earn as much as they expected under piece rate pay because of fluctuations in hours worked and difficult production targets.

⁹ Even those who have opted out of the maximum weekly hours [48 hours] are entitled to a minimum break of 1 day a week. They also have the right to at least 11 hours rest between one day's work and the next.

A group of workers received contracts stating that they were guaranteed 40 hours per week and they had opportunity to earn £300 - £350 per week. According to their contract they moved from a training rate of pay to piece rate pay after 2 weeks. They find that in reality they can be left without work when the factory closes due to lack of business. They said that they earn between £168 and £202 per week.

2.1 Employees: Dissatisfaction with terms and conditions

12% of employees stated that they were dissatisfied with their terms and conditions

Employee participants were more content than agency worker participants with their terms and conditions.

Those who had moved from agency work to direct employment commented on the better terms and conditions received as employees. They worked regular hours and in some cases earned more as employees. For example, one employee was happy that he was able to request flexible working hours meaning he could care for his children when they arrived in NI.

Some participants stated that employment here is better than in their own country in terms of conditions, pay and the opportunity to learn new skills.

The small number of employees who stated that they were dissatisfied with their terms and conditions did so for various reasons:

- they could only get short term contracts
- they worked long hours and did not receive overtime
- they had no terms and conditions and were working “cash in hand”.

Similar to agency workers some employees wanted more stability from their employment. Some felt that employers expected more of migrant workers in terms of performance and hours worked.

3. Unequal terms and conditions

31% of agency worker participants complained that their terms and conditions were not as good as those of direct employees.

Their main complaints were longer working hours and inferior pay rates as compared to employees.

Working through the recruitment sector leads to inequalities in terms and conditions and rates of pay as compared with direct employees that agency workers work alongside. At present there is no legal requirement to ensure parity of conditions or pay with agency workers entitled only to basic employment rights.

Some participants stated that they accepted that as agency workers they earn less than employees. Most participants were aware of differences regarding entitlement to overtime, hours worked, entitlement to annual leave and pay.

Longer serving agency workers were more affected by these differences and stated that they did not accept that they should be treated differently.

Participants were aware that annual leave entitlements differ between agency workers and employees.

On leaving the recruitment agency one man complained that he was only paid holiday pay due to him for full days and not part days. He was entitled to 4.8 days but was paid for 4 days only. He was leaving for direct employment and knew that his employer would pay for part days due to him.

One group in particular raised queries about the differences in hours worked each week by agency workers and employees which affected overtime payments.

A group of Slovakian agency workers stated that they work longer hours, have fewer breaks and are required to meet higher production targets than employees. They are contracted to work a 45 hour week as compared to the 36 hour week of employees. Although they are entitled to overtime rates beyond these hours they will not be paid overtime if they have taken annual leave. They feel angry that there are such differences and said that most of the agency workers are foreign nationals.

In some cases participants found themselves paid less than local people also working through the agency¹⁰.

A Polish man worked as a lorry driver through a recruitment agency. When he discovered he was paid less than locals doing the same work through the agency he complained. He was told he was no longer required. He saw the same job advertised through another local recruitment agency but when he enquired it was also paid at the lower rate.

Those participants who moved from agency work to direct employment said that they found their terms and conditions improved. It was not always the case that pay increased as some of the jobs pay National Minimum Wage, but the other improvements such as better treatment from supervisors were thought to make up for this. One of the common issues amongst participants who had become employees was the fact that because they now worked regular hours it was easier to plan their lives on a daily basis.

3.1 Employees: Unequal Terms and Conditions

A small number [11%] of employees stated that they received unequal terms and conditions compared to local employees.

Those participants who complained stated that they think local employees are paid more. They believed that local employees are given more opportunity to work an extra duty so employers can justify

¹⁰ These participants were advised of the protection under anti discrimination legislation but they did not wish to pursue their grievances.

higher pay. They also think local people are given better shifts and hours to work.

4. Pay and Administrative problems

- 60% of participants stated that they have experienced problems with their pay through the recruitment sector
- 34% of participants have had problems caused by administrative delay
- the most common problem experienced is incorrect payment made.

It is clear from the focus groups that for many people the problems that they encounter with pay are regular and ongoing. Participants also stated that they are subject to administrative delays meaning they have no access to money or important documents. They feel that recruitment agencies are unhelpful in sorting out their problems and that they may even have contributed to these. Participants expressed frustration that recruitment agency staff do not explain or take time to listen to their queries and concerns.

The main problem for participants is not receiving the correct amount of pay. Other problems experienced are due to administrative delays. For some this was an ongoing issue and for others an initial problem which was eventually resolved.

Participants confirmed that they receive regular payslips from the recruitment agency. They reported that they regularly check payslips to ensure that they have been paid the correct amount for the hours worked each week. Some stated that their pay was often incorrect. These participants believed that the recruitment agencies deliberately underpaid in the hope that they won't question.

One group of Polish people working through the same recruitment agency stated that they have to check their payslips every week as they have regularly been underpaid. They stated that they think the recruitment agency counts on migrant workers not complaining due to language problems and lack of clarity about pay issues.

A number of participants did not receive detailed payslips and in some cases the payslips recorded unexplained deductions.

A Spanish man who worked as a waiter through a recruitment agency regularly found that he was not paid for the amount of hours worked and that deductions were made from pay which were not itemised.

A group of Bulgarian agency workers found their pay less than expected every week. They reported that every week money is missing and that they cannot query this with the recruitment agency boss. One worker provided his wage slip which showed payment of £151. He stated that, in frustration, he complained to his supervisor and threatened to leave his work. The supervisor wrote the amount of £239.23 on the payslip, indicating his correct pay.

His payslip had an attached piece of paper showing deducted amounts written in pencil. There was no indication of what these deductions were for or when they had been deducted from pay. The worker thought that one deduction was for the accommodation deposit, [£25] and another was for his work documents: recorded as £20/£30/£40 on the payslip. He thinks that deductions are also made for equipment used in the accommodation, such as dishes.

This man had made plans to return home because he was unhappy with the recruitment agency and the wages he received.

Agency workers may work varying hours each week and it is important that timesheets accurately reflect the hours worked. However, not all the problems experienced by workers can be attributed to any inaccuracies of time sheets received. At times even those who work regular weekly hours complain that pay can be less than expected. For example, a Polish man working regular hours found his pay frequently incorrect by small amounts.

Other workers thought that when they did complain about incorrect pay agency staff were uninterested in dealing with their queries and this added to their frustration.

Some participants had difficulties with their tax codes. They believed that their tax codes were incorrect resulting in a reduced rate of pay and they were unhappy that recruitment agency staff did not take time to explain tax issues or answer queries.

Other complaints about pay included:

- Non-payment of overtime rates or night shift rates which they believe are not passed on by the recruitment agency.
- Delay in payment being made where the recruitment agency queries overtime hours worked.
- No increase from National Minimum Wage rate of pay when they become supervisors.

Administrative delays in setting up payment into bank accounts created problems for migrant workers. Such delays resulted in agency workers being unable to access their pay easily and this created serious problems for them.

A Slovakian man encountered a delay in the recruitment agency setting up payment directly into his bank account. It took over 2 months to do this during which time he was paid by cheque and had to travel a 60 mile round trip each time to cash the cheque. He was concerned that he effectively missed out on a day's work.

A Portuguese woman who worked as a cleaner through an agency did not receive payment for 3 months even though she had provided her bank account details to the recruitment agency. On receiving a payslip she found that the hourly rate was not detailed, the National Insurance number was not hers and the rate of pay was incorrect. This woman was legally assisted and was awarded £3000.00.

Problems arose for one woman when she changed her bank account details. The recruitment agency sent her wages to the former account and although the bank returned them immediately it took 1 month before the recruitment agency reissued correctly.

Other pay related administrative problems included difficulties in obtaining documents required for claiming social security benefits and delays in receiving P45 tax forms on leaving. Delays in gaining further

work can have serious repercussions for migrant workers from A8 countries who have been in work for less than 12 months.

One group of participants complained that they did not receive their passports back from the recruitment agency for 6 or 7 months. They felt that this was deliberately done to prevent them looking for work elsewhere.¹¹

4.1 Employees: Pay and Administrative Problems

- 19% of employee participants stated that they had experienced problems with their pay
- 4% stated that they had experienced problems due to administration.

Employee participants reported problems with their pay such as:

- Piece rate pay – some participants said that they moved from National Minimum Wage rate to piece rate pay after a period of training. Although they expected higher earnings they found that they were unable to earn more than National Minimum Wage.
- Information on payslips- one group of employees stated that they are paid piece rate but are unable to know if their pay is calculated correctly. The hours worked are not itemised on the payslips and the employer writes additional comments on the payslips.
- Deductions- Some employees were concerned that their payslips itemised deductions for National Insurance contributions and income tax. A small number of undocumented workers thought that this was unusual because they were not registered for these deductions.
- Not receiving regular pay - a small number of participants said they did not receive any pay from employers for over a month.

¹¹ This particular recruitment agency claimed the delay was caused by the Borders and Immigration Agency when processing applications for Workers Registration Scheme.

One employer claimed he could not afford to pay and another said he had lost his records of their hours worked.

Those who complained about administrative delays stated that receiving payment by cheque causes problems as does delay in receipt of P45 tax forms on leaving employment. This created delays in finding other employment.

5. Discrimination

Around one third of participants [31%] felt that they had suffered discrimination as a result of working through the recruitment sector. They thought that they were discriminated against because of their nationality and also because they were agency workers. They thought that their treatment by supervisors, both local and migrant worker, was a major issue.

Participants reported instances of discrimination by local people and also by migrant workers of different nationalities.

Participants stated that some recruitment agencies rely on foreign agency staff to deal with migrant work seekers. They believed that these employees discriminated against certain nationalities at the registration stage, at the place of work and when choosing workers for shifts.

They said that foreign agency staff took advantage of their position and they perceived favouritism and at times corruption amongst these staff. They were unsure if the recruitment agencies were aware of the situation.

They stated that some nationalities were processed first at registration stage and given better jobs. Some complained that certain work seekers get assistance with aptitude tests from agency staff of the same nationality. Doing well in these tests may be crucial in being offered better work.

Participants reported that treatment by supervisors in their place of work was discriminatory. They felt this was due to either their nationality or their status as agency workers. They reported being

shouted at by supervisors, verbally abused, and treated differently when taking breaks or being given more demanding work targets than employees. Participants said that there were differences between nationalities in the allocation of work by supervisors and that certain nationalities were given better working hours than others.

Some workers stated that they are allocated the more physically demanding jobs which they find difficult because of their stature, while other nationalities which tend to have a well-built physique are given less demanding jobs.

Although various recruitment agencies were mentioned, participants from one agency in particular complained about the foreign agency staff. This recruitment agency relied on on-site supervisors to select workers for each shift. Workers claimed that supervisors gave people of their own nationality more opportunity to work.

For these participants getting work was not only important to earn money but also they believed their chances of getting a permanent job with the client was dependent upon length of service, willingness to do overtime and reliability. They said they were unaware of any fair system of selecting workers for shifts or for overtime.

A Portuguese woman and her daughter said that they were told by the supervisor that as long as he was there they would not get called for work. The supervisor made racist remarks to her– he told her to shut up because she was a “black person”. They said that this supervisor had problems with black people and didn’t give them equal opportunity to work. She said she had complained to the recruitment agency but did not want to make it formal because of the possibility of not getting further work.

Other participants felt discriminated against because of their race by the recruitment agency and the client.

One man, working as a security officer, felt that he was being discriminated against because of his race. He said that other agency workers, local people, were given better paid assignments. He thought that the security firm decided where workers are sent and not the recruitment agency.

He also complained that he was not offered the essential training required which would have helped him become permanently employed. Other agency workers became permanently employed after 3 months. As a permanent employee he would be able to earn 70p more per hour.

As reported previously participants did not make formal complaints due not only to language barriers but also the fear of losing work. Participants working in the food processing sector stated that they have difficulty finding work outside that sector and so they were reluctant to complain. If the economic situation does not improve and competition for work increases the effect of discrimination by supervisors may become more prevalent.

5.1 Employees: Discrimination

Almost half of employee participants [49%] felt that they had been discriminated against in their employment or by a potential employer.

Almost half of the employee participants stated that they had been discriminated against in their employment. Issues raised include freedom to speak their own language; on the job training; differences in pay rates and discrimination when applying for jobs. Some of the employers concerned employ a high proportion of migrant workers.

Although not all employee participants who reported discrimination had raised complaints with their employer; some had. These participants said that were happy that their employer had taken their complaints seriously and had handled the subsequent disciplinary procedures well.

6. Affected by the recession

- 6% of agency worker participants reported that they have been affected by the recession through reduced working hours
- 21% of participants who had found work through the recruitment sector were currently unemployed.

The focus group discussions took place between September and February 2008 when the effect of the recession was beginning to be felt. At that time 21% of participants who had found work through the recruitment sector reported that they were unemployed.

Some of these participants may have been placed with employers through the recruitment sector acting as recruitment agencies. Other participants working as temporary agency workers were concerned that the recession was affecting them in other ways.

Participants reported loss of earnings because of a reduction in hours and overtime available. However, the flexibility of working through an agency meant that they could move to where work was available or look for work through other recruitment agencies. Some participants had limited options and found it difficult to find other work outside their usual job sector.

Those participants already reporting unfairness in the allocation of hours by agency supervisors found that the recession had made getting work even more competitive.

6.1 Employees: Affected by the recession

36% of employees reported that they had been affected by the recession.

Employee participants experienced reduced hours and an overtime ban at work. In some cases participants reported that workers had been laid off with the threat of more to come. Questionnaire results showed that 36% of employees had lost their job.

There was no indication from participants that they thought foreign workers were losing their jobs more than local people. Some did say

that they expected less work to be available for them in future and one group of employees reported that one local employer indicated they would only be employing local people.

7. Satisfaction with agency

Although 6% of agency workers expressed satisfaction with the recruitment sector the majority, 57%, were not satisfied.

Main complaints included the types of jobs available to them, the insecurity of agency work and the way in which they were treated by agency staff.

Those who had experienced rogue agencies were mistrustful of the recruitment sector overall.

Participants were dissatisfied with the recruitment sector for a number of reasons. They were unhappy with the type of work available to them and the irregular working hours that this work entailed. Some felt that they waited too long at times before they were offered work and were unhappy about the insecurity of the work once they were placed in it. Participants generally found agency staff unwilling to deal with their queries.

Some participants felt that the only jobs available to them through the recruitment sector were low skilled and low paid. They thought that local people had access to better work through recruitment agencies.

One man wanting to use his IT qualifications said he had registered with a recruitment agency specialising in IT jobs and in 1 year had never been offered work. He thought agencies tended to steer him away from IT jobs and the only work he had found through recruitment agencies was as a warehouse operative and a security officer.

Some participants found the delay between registering and being offered work too long. They were unhappy that they waited for weeks and were then offered work lasting only a few hours or a few days.

Particular complaints were reported by those participants who had paid money to recruitment agencies for work. Participants reported being asked for money by supervisors to guarantee them work and some paid money to agents only to find that the jobs were non-existent.

A married couple had travelled to NI having paid money to a local man and a Lithuanian man based in NI acting as a recruitment agency. On arrival they discovered that the jobs were not available and they were left to find work on their own.

Others have had better experiences of the recruitment sector. A small percentage of participants reported that they were satisfied with the recruitment sector because:

- they found staff helpful in that they took time to explain issues and deal with their queries
- they received documents translated into their own language
- they assisted with their move to NI and made the experience easy.

One man stated that the recruitment agency had been very helpful in making sure he knew all details about the job and assisted with arrangements for his travel and accommodation. He was able to repay the agency in instalments and deductions were always clearly shown on payslips.

7.1 Employees: Satisfaction with employer

- Employee participants generally reported more satisfaction with their employer. Just under half [46%] said that they were satisfied and a small percentage [6%] was dissatisfied.
- Their satisfaction related to the fact that terms and conditions of employment in NI were an improvement to those in their own countries.

The small percentage of employee participants who were dissatisfied with their employer tended to be those who worked “cash in hand” and who experienced problems with their pay.

Almost half of the participants stated that they were happy with their employer for various reasons, such as:

- their terms and conditions were better than those they received as agency workers or better than those they received in their own country
- they were able to take part in on-the-job training and increase their skills
- their pay was above National Minimum Wage
- the employer provided translated documents and training in their own language
- they were able to communicate with each other in their own language.

One group of Polish workers in County Tyrone stated that their employer appreciated their skills and a large number of Polish workers are employed there because of these skills. The employer provided translated documents for them and that they have no problems speaking in Polish at work. They described this employer as a good employer.

Section 5: Recruitment Sector and Employer Responses

This section reports the main information gathered from the discussions with representatives of the recruitment sector and with employers. This information is reported in relation to the issues raised by focus group participants.

Summary of findings

Some participating recruitment agencies and employers are aware that migrant workers' experiences can reflect badly on their organisations and have taken steps to avoid this. Some no longer recruit directly from overseas and some who continue to do this report that they have changed their practices.

Most of the recruitment agencies attempted to assist with language barriers by producing some translated documents to assist migrant workers or by having staff who can assist with communication. These measures do not, however, meet the needs of all migrant workers. There are other ways in which recruitment agencies try to assist migrants; particularly those who are newly arrived in NI, such as with opening bank accounts.

Participating agencies and employers agreed that migrant workers with all types of qualifications tend to find work in low paid job sectors. They attributed this to the need for good English language skills in higher paid jobs and to migrant work seekers' willingness to work in any type of job as long as it is quickly available. They agreed that these jobs involved low pay and long working hours and that, in many cases, availability of the work was subject to fluctuations in production.

Few recruitment agencies acknowledged that there are difficulties with pay issues for migrant workers as reported by focus group participants. They thought problems were due to misunderstandings.

Issue 1: Overseas agencies

As reported in Section 4 the majority of those focus group participants who had been recruited through overseas agencies reported bad experiences. Some found that their terms and conditions, rates of pay and even jobs were not as expected. Some had difficulty with their legal status as migrant workers and most paid fees for work finding and other charges.

Recruitment agencies and employers alike have become more aware of the problems experienced by migrant workers coming to NI through overseas agencies. This has been either through experience or through the legislative enforcement bodies bringing it to their attention. Some recruitment agencies have changed their practices to alleviate some of these problems.

Employers have found that increasing numbers of migrant workers in NI together with the effects of the recession has lessened the need to look overseas for particular skills.

Almost half of participating recruitment agencies [46%] had actively recruited migrant workers through contacts with agencies in other countries to fulfil contracts with clients. Larger recruitment agencies with international branches may avoid the need to work with other overseas agencies and, therefore, the problems experienced by focus group participants.

Some recruitment agencies stated that over time they have become aware of the problems experienced by migrant workers recruited through overseas agencies.

One participating agency stated that, at one time, another local recruitment agency had brought over a large number of migrant workers to fulfil a particular contract. The second recruitment agency did not assist the migrants find accommodation. In addition, a number were left without work because they did not have the required skills. The participating recruitment agency became aware of their situation and helped these people find work and accommodation.

This recruitment agency stated that, having experienced some of the difficulties faced by migrant workers, they have improved their own practices. If they need to look overseas for workers with particular skills they liaise closely with the overseas agency and travel to recruit in-country. They ensure that work seekers meet the job criteria and that all those who come to NI do so with an offer of work. The work seekers are provided with information about the proposed work and the local area before they leave their own country.

Other participating recruitment agencies were aware that using overseas agencies with dubious practices will affect their business. One agency reported that they had recently been advised by the Gangmasters Licensing Authority to stop working with a particular Eastern European agency because of its practices.

The recruitment agencies reported that recent developments mean that they now have little need to look overseas to recruit due to increasing numbers of migrant workers with various skills now living in NI. They will recruit from overseas if newly resident migrant workers do not meet the required job criteria, which may include English language requirements.

The majority of participating employers [70%] confirmed that they regularly used the recruitment sector to fill temporary vacancies. For some this included using the local recruitment agencies to source migrant workers, mostly Eastern European, through overseas agencies. The recruitment sector provides a useful alternative to running recruitment exercises for short term vacancies. Often the same trained and inducted agency worker will return to the employer.

Employers stated that migrant workers were brought over as employees either on short term contracts or as long term temporary agency workers to fill unskilled and skilled vacancies which they had difficulty filling with the local workforce. For many participating employers a high proportion of the temporary agency workforce is migrant. For one employer all temporary agency workers are foreign nationals.

Participating employers were also aware of the problems experienced by migrant workers. [40% of employers had received complaints from

migrant workers about their recruitment agency.] One employer stopped using overseas agencies to recruit migrant workers because of fees imposed on the workers. Another employer found that a number of workers recruited in this way had difficulty finding accommodation and were not assisted by the local recruitment agency. They intervened and acted as guarantor for the workers with local landlords.

Employers agreed that in recent years they have been able to fill temporary vacancies through local recruitment agencies with little need to revert to looking overseas. Permanent jobs advertised on the internet have attracted interest directly from overseas work seekers.

In addition, some employers found that migrant employees introduce family and friends to the organisation resulting in less need to use the recruitment sector. One employer introduced an incentive scheme to encourage employees to introduce job applicants for vacancies. Some have also indicated that due to the economic recession local people with the required skills are now looking for alternative employment.

Issue 2: Language barrier

A high number [72%] of focus group participants reported limited English language skills as a barrier when finding work through the recruitment sector. They were unable to use their skills and qualifications and found it difficult to understand important documents.

- Registration process

Participants with little or no English language skills found the registration process difficult. The recruitment sector, especially those recruitment agencies with high numbers of migrant workers, is trying to deal with language barriers. The assistance is, however, not consistent across the sector and more could be done to improve the situation. The assistance provided by some recruitment agencies does however mean that finding work in this way may be easier for non-English speakers than finding direct employment.

All participating agencies have migrant workers registered with them and they were aware of the difficulties faced by migrant workers during the registration process. There is no legal requirement to provide translations of all documents; however, the legislation¹² does put the onus on the recruitment sector to ensure that the worker seeker understands contractual documents.

The process itself is unavoidable. Recruitment agencies require work seekers to complete certain documentation and to provide original documentation for their records. They need to be satisfied that certain migrant work seekers are properly documented to work in NI.

Larger participating recruitment agencies followed formal written registration procedures. Some of the smaller agencies, specialising in particular job sectors, obtained work seeker details over the telephone, with an interpreter if necessary. Their main interest was whether or not the work seeker has the specific skills they require.

All work seekers have a registration interview with a recruitment consultant. At this stage the recruitment consultant takes the work seeker through the relevant paperwork and explains the terms and conditions. It is their responsibility to ensure that the work seeker understands their relationship with the recruitment agency. The recruitment consultant discusses the types of work the work seeker wishes to be considered for and assesses the work seeker's attributes such as appearance, skills and qualifications.

Participating recruitment agencies stated that, because of communication difficulties, in order to assist migrant workers they vary their registration processes slightly by:

- allowing a friend or family member to help with communication
- allowing a longer time for the interview and for completing forms.

¹² Regulations 14 and 15 of the Conduct of Employment Agencies and Businesses Regulations [NI] 2005 provide that before providing work-finding services the Agency/Business must agree with the work seeker and provide all terms of the agreement in writing.

For their own records participating agencies also assess a migrant work seeker's English language skills, either formally or informally. Informal assessments are carried out by the recruitment consultant and are based on communication during interview and the work seeker's ability to complete the necessary forms. More formal methods may be based on aptitude tests set by the recruitment agency.

The purpose of these assessments is to allow the recruitment agency to match the work seeker's skills to the job criteria of the client. Only a small number of participating agencies reassessed English language skills over a period of time. They can only do so if the work seeker regularly visits the agency.

In addition, 46% of participating agencies stated that they have employees who are foreign nationals who assist non-English speakers. However, half of these recruitment agencies have Polish speakers only. Those recruitment agencies who do not have employees to assist with interpreting stated the registration process is difficult. In 2 cases the agencies said they advise the work seeker they are unable to help them.

In general, the recruitment agencies did not signpost ESOL classes to migrant work seekers; just one of these agencies provided details.

- Translated documents

It is essential that agencies are satisfied that the work seeker understands their contractual information. Most of the recruitment agencies provided some translated documents but not all. In addition, some recruitment agencies will assist where the migrant worker needs to communicate with other organisations.

Just one participating agency did not provide translations of any of their paperwork. This particular agency stated that it expected a certain standard of English language skills in their candidates.

Most participating agencies stated that they provide some documents in at least one other language, usually Polish. The other languages

provided seemed to depend on those spoken by agency staff and on the main nationalities using the agency.

Documents which may be translated include:

- registration packs:
38% of the recruitment agencies had forms required at registration stage translated for migrant workers. These forms are to be completed in English, however. This obviously creates difficulties for some migrant workers but assists with the agency's administration.
- terms and conditions:
50% of the recruitment agencies provided candidates with translated versions of their terms and conditions. Two of these agencies provided a Polish version only while five others provided several languages.
- handbooks:
One recruitment agency dealing with a high number of migrant workers produced a handbook in various languages. Another agency provided a detailed handbook in English but not in any other language.
- policies and procedures:
None of the recruitment agencies provided their full policies and procedures in translated form. Some stated that they would not have occasion to implement any of their policies on behalf of migrant workers.

There is evidence from this investigation, however, that the recruitment sector could do more to ensure that all who need translated documents receive them.

Some recruitment agencies have neither translated documents nor staff who can assist with interpreting. One recruitment agency stated that they try their best to ensure that work seekers understand but they admitted that they cannot be sure that they have understood everything.

One main area of confusion for focus group participants was in relation to annual leave entitlements. All the recruitment agencies provided information about annual leave on their contracts for service. This information included:

- dates of the annual leave year
- statutory annual leave entitlement
- confirmation that statutory entitlement is pro rata for part-time workers.
- notification requirements
- information that annual leave must be taken within the leave year
- arrangements on termination of service.

The participating recruitment agencies agreed that migrant workers have difficulty understanding their entitlements and how they are calculated. They found only those who work regular hours have no difficulty in understanding their entitlements which are based on amount of hours worked.

Some recruitment agencies identified certain issues and tried to address these. One agency found that many of their migrant workers had difficulty with the meaning of “inclusive” days and so changed the annual leave booking form to a calendar format. This helped migrant workers when booking leave.

The conditions related to taking annual leave entitlements varied across participating recruitment agencies. There was no standard leave year period; no standard policy on carrying over untaken leave; or standard period a worker is to be in work before they can request leave.

Given that a worker may find work through a number of recruitment agencies it is not difficult to see how a worker could become confused over annual leave entitlement and related conditions.

Some participating recruitment agencies assisted newly arrived migrant workers with other aspects involved in the process of finding work in NI. Where documentation confirming eligibility to work in the

UK was not available the agencies assisted in varying degrees with application for work documents such as Workers Registration forms. For example, some helped with paperwork or set up interviews with Social Security Offices. Others assisted with payment of the Home Office fees.

- Language as a barrier to higher skilled work

Focus group participants reported that English language skills were a barrier to higher paid work using their skills and qualifications.

Participating recruitment agencies and employers agreed that, for certain jobs, good English language skills are required. However, participating agencies also suggested that other factors, such as the availability of jobs and the terms of the assignment meant that migrant workers tended to work in the low paid and low skilled jobs. Employers and recruitment agencies alike confirmed that few migrant workers found permanent work, especially using academic or professional qualifications.

Recruitment agencies may ask migrant workers to complete an aptitude test to assess English language skills for their own records and, if requested, conduct aptitude tests on behalf of clients. Participating recruitment agencies stated that clients may request such tests even for unskilled work. Migrants seeking work using their skills or qualifications in either permanent or temporary work, also need to be able to speak and understand English at a competent level before they will meet a client's specific job criteria.

Other tests such as numeracy skills tests and other specific skills tests are conducted, for all work seekers, on behalf of clients. Work seekers who perform best on these tests are put forward for the work when it becomes available.

Most participating employers confirmed that they specify at least a basic standard of English language skills even for unskilled workers. Only one employer did not require agency workers to speak English for their general production operative jobs. They confirmed that a high number of migrant workers are recruited into these roles. Some of these employers who have a high proportion of migrant workers also

have agency staff or employees who assist in communicating with agency workers.

One participating employer stated that migrant workers, employees and agency workers alike, are encouraged to take advantage of ESOL classes on company time. The employer contributed towards the costs on behalf of agency workers.

It is clear from both information provided by focus group participants and recruitment agencies that many of the migrant workers are working in sectors which do not utilise their skills and qualifications to the maximum.

Participating agencies confirmed that they supply migrant workers to production operative roles in various job sectors and that they do not often place migrant workers into permanent positions. The job sectors they identified reflected those in which focus group participants worked i.e. food processing, manufacturing and the health sector.

- 5 agencies supplied semi-skilled and skilled workers to the food processing and the industrial sector
- 3 agencies provided the health service with nurses and care assistants
- All agencies agreed that migrant workers register for temporary work rather than permanent jobs
- In some job sectors the ratio of migrant agency workers to local agency workers is high, as much as 9:1 in some cases.

Recruitment agencies thought that a high number of migrant workers were placed in low skilled temporary work not only due to English language criteria set down by clients, but also other factors.

- Word of mouth: Certain job sectors require a large number of temporary workers at any one time. Migrant workers who have found temporary work through a recruitment agency will let others in their community know that the work is available.

Availability of work: Local people are unwilling to work in some job sectors and so these jobs are readily available.

- Requesting any type of work: Although migrant work seekers have a mixture of qualifications, from academic or professional to skilled and unskilled workers, recruitment agencies stated that the majority request any type of work. Agencies specialising in production operative work found that highly qualified migrant work seekers registered with them fully aware of the type of work available. Participating agencies specialising in health professionals are the exception. In this job sector migrant workers with good English language skills will use their professional qualifications; however, the workers tend to be from non Eastern European countries, e.g. South Africa or India.
- Immediate and open ended work: Most participating recruitment agencies gave examples of skilled workers or professionals who turned down offers of short term, higher paid work using their skills for unskilled jobs. For example, skilled welders, qualified paramedics, and engineers chose to work in unskilled production lines because these jobs were immediately available and open ended.
- Migrant workers don't "sell themselves": One agency thought that migrant workers don't "sell themselves" enough on application forms. The recruitment consultant only finds out about their skills and experience during the registration interview, but the extent of information the recruitment consultant will find out will depend on the work seekers ability to communicate.
- Not looking for permanent work: The experience of participating agencies has been that few migrant workers request permanent work. It is usually those with professional qualifications who register for permanent work, but few participating agencies had found work for these migrants. Some of the larger agencies stated that they refer those looking for professional skilled work to their branches specialising in this type of work.

Only two recruitment agencies were able to identify instances where they had placed migrant workers in permanent work. For example,

permanent positions had been found for an accountant and a designer through one agency, while another had found bar work and catering assistant work for migrant workers.

Participating employers confirmed that they require certain standards of English language for higher skilled work. The information provided by the participating employers also indicates that they have few Eastern European workers filling permanent and professional vacancies through the recruitment sector. One participating employer thought that it is Western Europeans or non-Europeans who apply for these positions, whereas Eastern Europeans tend to be placed in temporary or permanent unskilled or semi-skilled posts. These migrant workers may traditionally have a better standard of English language skills than their Eastern European counterparts and so meet the job criteria.

Issue 3: Dissatisfied with terms and conditions

It is the nature of temporary work that the agency worker may work irregular working hours which may be decided on a day to day basis.

However, 26% of participants were dissatisfied with these terms and conditions. They disliked the irregularity of working hours and the short duration of assignments.

Some participants did not think that they received their full statutory entitlements.

Participating recruitment agencies confirmed that many migrant workers are placed into temporary work which may involve:

- irregular working patterns
- zero hour contracts
- National Minimum Wage which can normally be supplemented by overtime and shift rates.

Zero hour contracts are common for temporary agency work, especially where agency workers are used to responding to production demand. However, recruitment agencies did not seem to have a transparent system for choosing who is to work from a pool of

on-call workers and some allowed supervisors to choose between workers.

Also, in relation to terms and conditions agreed with the recruitment agencies, participating agencies confirmed that many migrant workers found the calculation of entitlement to annual leave and other pay related entitlements confusing.

Issue 4: Unequal terms and conditions

31% of participants were dissatisfied that their terms and conditions were inferior to direct employees.

At present there is no legal requirement that temporary agency workers should have terms and conditions equal to those of employees in the client's organisation. It is the client who sets out the terms of the assignment, including rate of pay, length of term of the assignment and working hours. Recruitment agencies felt that they did not have much power to negotiate these terms on behalf temporary agency workers.

The main inequalities that focus group participants complained about were rates of pay and hours worked.

- Rates of Pay

Participating recruitment agencies stated that pay rates are based on skills levels. For unskilled types of work pay rates are quite often National Minimum Wage with additional sums for shift and overtime rates. Some of the work involves piece rate pay which should provide opportunity to earn above National Minimum Wage. Most recruitment agencies preferred dealing with a basic wage rate.

Agencies confirmed that skills such as metal work or fork lift driving attract higher wages as do professional skills such as nursing. However, the experience of foreign nurses in their own country is not recognised by the health sector and they will be paid equivalent to a newly qualified nurse.

Participating recruitment agencies were aware that temporary agency workers may not be paid the same amount as the client's employees.

They stated that in some cases agency workers are doing specific work and not the same job as employees.

Some recruitment agencies [3] tried to ensure parity of pay with the client's employees doing the same job as temporary workers. But they felt that they did not have much negotiating power with the clients who set the pay rates. This is different where permanent placements are concerned.

The recruitment sector is very competitive and although they may wish to do the best for their workers, it may not be good business to press for parity of pay and risk losing a client.

At times negotiation does work, for example, one agency threatened to withdraw a worker who was paid less and managed to secure an increase in payment and also back pay. In other cases the client looks elsewhere for a better deal. For example, one client recently changed recruitment agency and reduced the pay rate of agency workers by around half of previous pay rate. The recruitment agency reported that migrant workers were not deterred from working there although a local agency worker decided to leave.

Participating employers paid various rates according to the type of work done. The majority of these employers [71%] paid unskilled workers National Minimum Wage rate, but with shift rates this can range up to £8.00 per hour. More than half of participating employers [57%] stated that agency workers were paid the same rate as their employees doing the same unskilled work. Where agency workers were hired to perform a specific task these employers often paid a lower rate to other unskilled employees.

In the food processing industry one employer paid both skilled agency workers and employees 100% piece rate after a period of training.

In all cases agency workers were entitled to overtime. However, in some cases agency workers worked longer hours than employees before they qualified for overtime rates. One agency stated that a client does not pay overtime if the agency worker has taken annual leave. It is not clear if the same rule applies to employees.

Only one employer stated that certain agency workers are paid more than employees due agency workers filling specific professional skills shortages on a short term basis.

- Working Hours

The recruitment agencies confirmed that shift work patterns are normal across various jobs from factory work to cleaning jobs, and in some cases workers may be 24 hour operators. This was confirmed by employers. The majority of participating employers [75%] expected agency workers to work night shifts or rolling shifts. Some employers used temporary agency workers to cover weekend shifts which employees were not expected to work.

One of the main differences between agency workers and employees in many organisations was that the agency worker is not guaranteed a set amount of hours per week under zero hour contracts. For agency workers this means uncertainty and being available for work at short notice.

Some participating employers did guarantee a set amount of hours per week for temporary agency workers. However, these were not necessarily equal to those of employees. For example, one of the employers asked agency workers to work 9 hours per week more than employees. Around 70% of these agency workers were migrant workers.

- Irregularity of Working hours

Participants were concerned about irregular working hours and many were finding their hours reduced due to the recession. They disliked being called to work at short notice and complained about times when they were called to work only to be sent home again.

Some participating recruitment agencies placed workers in temporary roles with set guaranteed working hours per week, but most work with zero hour contracts. Less than half of participating employers [40%] contracted for agency workers to work set hours per week while the

remainder requested agency workers on an “as and when required” basis.

These contracts suit the business of the recruitment sector and clients as the worker will work only when needed. The zero hour arrangement creates an environment where the agency and the employer can react to fluctuations in business and the worker is free to accept or decline any particular job. For one employer different production demands at two sites meant different contractual arrangements. At one site, where production was steady, workers had set hours, whereas the other site is more reactive to customer demand and the workers are on zero hour contracts.

The contracted weekly hours for temporary agency workers varied across participating employers from 37.5 hours per week to 45 per week. Those employers who used zero hours contracts stated that agency workers work an average of 40 hours per week at busy times.

Recruitment agencies have criteria for choosing which workers to send to particular jobs:

- Candidates’ preferences for jobs
- Candidates who have scored the highest on the appropriate aptitude tests
- Candidates who are proven to be reliable workers
- Candidates who stay in touch with the agency
- Candidates who have been previously security checked
- Candidates who have been through the relevant induction process.

A number of participating recruitment agencies had a high number of migrant workers, in some instances over 80%, who may have been registered for some time and placed in the same or similar work over a period of months or even years. In these circumstances there will be a large pool of workers who meet the above criteria. It was unclear how the choice was made on a day to day basis. Good performance and reliability may be the basis of the choice, so in order to be chosen to work each day there is pressure to perform well to maximise the chance of being called back for work.

Some agencies stated that they rely on on-site supervisors, who have first hand knowledge of workers' performance and reliability, to choose who is to work on a day-to-day basis. This method was not popular amongst participants and some workers get more hours than others. Supervisors are seen as biased and not basing their decisions on any criteria other than nationality and favouritism.

- Long Working Hours

Participating agencies stated that the majority of migrant workers will sign the Working Time Regulations [WTR] opt-out form so that their hours are not restricted. The WTR opt out form is, of course, voluntary and work seekers are not required to sign this form. However, for a number of the recruitment agencies the WTR opt out form was an integral part of the contractual document to be signed by workers. This may give the impression that the worker has to opt-out in order to gain work through the agency.

The types of jobs into which many migrant workers are placed are subject to shift hours and may require the worker to carry on until a particular job is finished. Participating employers who had a "work to finish" policy for production operatives stated that this applied to agency workers and employees alike.

Focus group participants stated that they felt obliged to work long hours and that for some people this did not attract any overtime rates. Not signing the WTR opt-out may affect the worker's ability to do these available jobs. They may feel that they need to show that they are willing to work longer hours in order to be given the available work.

One agency provided a handbook which pointed out that "If you don't sign this form we will, by law, have to limit the hours you work to an average of 48 hours per week- which may, in turn, limit your earning capacity." Whilst this is factually accurate the wording used may discourage workers from not signing.

Issue 5: Pay Issues and Administrative Problems

Focus group participants raised concerns regarding incorrect pay and agency staff's reluctance to deal with their queries.

Participants complained that administration problems delayed pay at times.

The recruitment agencies believed that computerised pay systems minimised the risk of incorrect payments and that the only reason for incorrect pay would be incorrect hours claimed by the worker.

Some participating recruitment agencies helped migrant workers initially set up bank accounts so that pay is not delayed; others paid by cheque.

The participating agencies did not feel that statutory entitlements were a problem when dealing with migrant workers as they had little experience of having to pay them.

Recruitment agencies were asked if they had many complaints from workers about errors in weekly pay. Two recruitment agencies admitted that errors may occur but thought that this was due to time sheets being completed incorrectly. Most stated that because of the computerised systems pay rates and related deductions were normally correct. A lack of understanding amongst migrant workers of the various deductions for tax and National Insurance was thought to create confusion over pay.

In most cases recruitment agencies had head office branches or external accountants dealing with pay and related entitlements. As such, recruitment consultants may be unable to deal immediately with specific individual queries regarding pay.

All participating agencies stated that they produce computer generated payslips showing pay and deductions. Some payslips provide more detail than others. Focus group participants confirmed that they prefer more detailed payslips. Payslips should, by law, provide details of all fixed and variable deductions made from wages.

There was evidence from the focus group participants that this is not always adhered to by recruitment agencies.

Most of the recruitment agencies provided additional services for which deductions are made from wages, such as organising transport, training courses, or providing equipment. Only one agency organised accommodation for workers. They all said that agreements for such additional services were made with the workers.

Participating agencies offered assistance to migrant workers who found difficulty in opening bank accounts. Most said that they tried to avoid delays in setting up bank accounts by writing letters on behalf of the migrant worker to the bank. In one case the agency set up group appointments with the bank and accompanied migrant workers to these appointments. This means they have account details immediately. In all cases the arrangements tend to be with one local bank. Some participating agencies stated, however, that they will pay migrant workers by cheque because it ensured that they regularly call into the office. However, recruitment agencies, where possible, should not make a difference in the method used to pay migrant workers as compared to local agency workers i.e. payment by cheque as opposed to directly into a bank account.

- Pay related entitlements

Some participants did not fully understand their statutory entitlements. They felt that in some cases they were discouraged from taking these entitlements or at worst not paid them.

In general, the terms and conditions of participating agencies stated that workers are entitled to statutory sick pay and other statutory entitlements such as maternity pay. Some recruitment agencies provided further detail about these entitlements in handbooks but most advised contacting other government departments for advice. As mentioned previously the lack of English language skills was seen as a barrier to understanding these entitlements.

With regard to statutory sick pay, most of the recruitment agencies stated that in their experience migrant workers tend not to be sick for long periods and so do not qualify for statutory sick pay. Most had not

dealt with other statutory entitlements, although one agency did confirm that they had paid Paternity Pay to a migrant worker.

Only one participating agency stated that it has had problems with statutory sick pay entitlements where the workers claimed that they were not paid their proper entitlement. This agency believed that they were paid correctly but did not properly understand their entitlements.

There is some difference between the recruitment agencies' experience of migrant workers' knowledge of the entitlements. Some believed the workers to be very knowledgeable about their entitlements and others thought that they were not aware of them.

Issue 6: Affected by the recession

Focus group participants found it difficult to maintain their level of earnings as hours were reduced and competition for the available work increased.

Participating recruitment agencies confirmed that working hours were reduced for temporary workers and that overtime is generally no longer available.

The agencies stated that the recession has hit some sectors more than others and, in particular, the industrial sectors into which high numbers of migrant workers are placed.

One agency specialising in the food processing industry stated that the recession has meant fewer temporary jobs are available. Smaller agencies were also feeling the effect. Clients were less willing to pay their usual fees for the temporary workers; for example a client paying £8 per hour for the worker had reduced this to £7.50 per hour, thereby reducing the agency's profit.

Participating employers representing these sectors confirmed that they have reduced working hours and imposed overtime bans. They stated that agency workers and employees are both affected.

Issue 7: Discrimination

Participants thought they were discriminated against on a number of levels, including how they were chosen for available working hours and because of the inequalities between their status as agency workers compared with employees.

Participating agencies were unaware that the migrant workers perceived discrimination by their foreign agency staff because they had received no complaints. They were aware of some tensions between different nationalities but thought that it was helpful to have staff to assist with communication.

Some agencies with foreign agency staff said that the migrant worker will specifically request that someone of their nationality conducts the aptitude test. They said migrant workers tend not to want to work with someone of a different nationality and in some cases there is refusal to work with women agency staff.

Section 6: Conclusions

Summary

All focus group participants came to NI to avail of job opportunities here. Even though many migrant workers earn National Minimum Wage, this is often more than they would expect to earn in their home countries.

Whilst it is not the only route into employment, the recruitment sector is a popular way of finding work for migrants with a wide range of skills and abilities. Migrant workers often seem to prefer to take work that is immediately available through recruitment agencies, rather than spend time trying to find employment which is commensurate with their qualifications and experience.

Many of the problems experienced by migrant workers are caused by language barriers and could be addressed through proper understanding of terms and conditions and related policies and procedures. This should be a priority for the recruitment sector.

Further problems stem from recruitment agencies not working within the legislation, combined with reluctance on behalf of migrant workers to make complaints to the appropriate authorities.

Some of the issues raised by focus group participants may apply to anyone using the recruitment sector to find work in NI. However, migrant workers are more vulnerable because of their lack of English language and knowledge of their rights. In addition, immigration rules make some of the issues raised particular problems for some migrant workers.

Using the recruitment sector

Participants in this investigation used the recruitment sector to find work in NI for various reasons:

- in response to the recruitment of migrant workers with specific skills

- as a means to access work quickly
- after failing to find work by other means, such as through local job centres.

Despite heavy regulation of the conduct of the recruitment sector there are still recruitment agencies [and end-user employers] who act outside the law and, in particular, take advantage of migrant workers' desire to find work quickly.

Some migrant workers choose not to use the recruitment sector because they perceive that they would not be treated fairly and will only be offered low paid work.

Many of the more serious issues highlighted by this investigation arose from the involvement of foreign based agencies in the placement of migrant workers here. We have seen cases where migrant workers may:

- arrive in NI already at a disadvantage due to having paid large fees for finding work which would not be permissible in the UK
- have been misled about the type of work they are to be placed in, details of the terms and conditions and pay rates of the work, and the location
- be undocumented and therefore not in a position to assert their rights
- feel that they have little choice but to accept working conditions which do meet UK employment legislation and are not equal to those of local employees or agency workers.

Focus group participants were generally unaware of legislation governing the conduct of the recruitment sector, or the government bodies which enforce it.

The actions of unscrupulous agencies, local or overseas have a detrimental effect on the equality of opportunity for migrant workers.

Language Barriers and Issues

This investigation has identified language and communication issues as an overarching barrier to equality of opportunity for migrant workers using the recruitment sector in terms of:

- initial registration
- understanding contractual documentation
- obtaining higher skilled work
- recognition of qualifications
- pursuing rights/complaints.

The initial registration process can be difficult for those who have limited English. Some recruitment agencies are aware of this problem and have made adjustments to the process, whereas the procedures adopted by other recruitment agencies have exacerbated these difficulties. It is difficult to justify not making the registration process more accessible to migrant workers especially where similar work is advertised.

Where the recruitment agency overcomes difficulties caused by language barriers this may be the easiest or only route to employment for some migrant workers.

Many participants also stated that they do not fully understand their terms and conditions provided by the recruitment sector. This lack of understanding often led the recruitment sector to be viewed as untrustworthy.

There is some evidence from the investigation that not all migrant workers receive a written copy of their contractual terms and that not all receive these or other documents, in a language they understand. They may, therefore, be disadvantaged compared with locals when it comes to understanding documents, particularly the more important ones.

A lack of understanding may contribute to some of the problems reported by participants in this investigation relating to issues like remuneration and annual leave.

This investigation indicates that the vast majority of migrant workers employed by, or placed in employment by, the recruitment sector are mainly in temporary work paying minimum wage that is not commensurate with their qualifications and experience, and that language is a major factor.

Assessments of English language skills are administered by the recruitment sector and performance on these tests will affect the types of job migrant workers will be considered for. It is the employer's responsibility to ensure that the skills requirements are not unreasonable for the job, and it is the recruitment agency's responsibility that these tests are administered fairly.

It is to the advantage of all concerned that skills are utilised appropriately. Individuals wishing to use their qualifications recognise the need for good English and that it is their responsibility to improve their language skills, but the recruitment sector and employers could do more to assist migrant workers access available services.

It is also evident that language barriers are not the only reason for migrant workers accepting temporary low skilled work. Qualified and skilled workers may accept these jobs because they are readily available and accessible to them.

The language barrier is also evident in respect of having qualifications obtained outside the UK recognised by employers. Some participants stated that the cost of having their qualifications translated into English can be prohibitive and that on occasions their qualifications are not accepted.

Language may in part also contribute to migrant workers' reluctance to assert their statutory rights or make complaints. They may be unaware of these rights in the first instance, and more could be done by statutory agencies to effectively disseminate information.

Migrant workers perceived that recruitment agencies take advantage of their communication difficulties by not dealing with their queries or complaints. Some have opted to take forward their complaints in other ways with some success, for example through migrant support groups.

Terms and conditions

Many of the complaints made by participants employed by recruitment agencies, such as irregular hours and lack of security, are part and parcel of temporary agency work. This discontent was largely due to the individual's lack of control over working hours and hence, earnings.

Migrant workers generally did not benefit from the advantages which the flexibility which agency work can provide. This was because of the lack of choice of types of jobs available to them and to the feeling of obligation to work the hours requested of them.

A number of areas of concern have been highlighted.

There often appeared to be little thought given to allocating work fairly amongst available agency workers and the systems in place were inadequate and unfair on workers. A lack of a transparency about choosing who is to work has led to perceptions of discrimination against some nationalities. Agency workers who are called into work and then not allocated work are prevented from accepting other available work.

Participants in the investigation regularly reported feeling compelled to work long hours, and to opt-out of the legislative protection. Including Working Time Regulations opt-out declarations within contractual documentation may lead migrant worker to believe that signing the declaration is obligatory.

Working through the recruitment sector can lead to inequalities in terms and conditions and rates of pay as compared with the direct employees that agency workers may work alongside. Where temporary work through the recruitment sector is long term, in some cases more than 2 years, it is difficult to justify many of the differences between agency workers and employees.

Where an agency worker has been with one employer long term it is also difficult for that employer to maintain that agency workers are used to cover short term production demands rather than used as an alternative workforce.

It is also evident that some participants tolerated poor terms and conditions without complaint because of a fear of losing work and in some cases, so that they would be considered for permanent employment.

Pay problems/administration problems

Errors and delays in pay were frequently reported as a problem for participants working as agency workers, as were grievances about holiday pay and entitlement. Such problems can be due to administrative errors or misunderstanding on the worker's part but it is difficult to explain recurrent problems in this way and suggests that on occasions the agency may be at fault.

There may be genuine reasons why pay is not as expected which language barriers make it difficult to get across and the recruitment sector may not be doing all that is necessary to ensure understanding.

Providing detailed payslips and explanatory information about statutory entitlements can assist with understanding and avoid confusion.

Payslip information is not standard across the recruitment sector but those providing more detailed information, including accrued holiday entitlement and/or pay were thought to be the most useful.

Administrative delays can significantly impact on migrant workers lives, for example, where payment is delayed or where other documentation, such as P45 tax forms, are not provided immediately. Delays in finding new work can have important consequences for some of these workers.

Discrimination

Discrimination as compared to local workers gaining work through recruitment agencies was not a major issue raised by participants. Where this issue was raised it was generally in allegations of local workers being paid at a higher rate for doing the same work.

Participants were generally not competing against local workers for much of the work they were placed in. Some participants did feel that other migrant workers were assigned work more quickly or given better jobs.

Where agency workers are transferred to permanent contracts after a period of service with a client, a lack of transparency in the recruitment process and criteria led to perceptions of discrimination. Participants were not aware of any agreed process or criteria but thought recruitment was based on favouritism and nationality.

There was a concern amongst participants that they had been instructed not to speak in languages other than English in the workplace, even in social contexts such as casual conversations between individuals over lunch or other breaks from work.

Employing foreign staff offices to assist communication with migrant workers can be a positive move that overcomes language difficulties highlighted by this report. But it can also give rise to more negative perceptions. The recruitment sector should be aware of the way in which foreign agency staff can be perceived and do all that they can to avoid situations where discrimination might occur.

If the current economic downturn continues and competition for working hours increases this issue may become more prevalent.

Section 7: Good Practice

This section reports the practice of recruitment agencies, employers and other organisations of which the investigation team was informed during the course of the investigation.

Migrants face many challenges when coming to work in NI and any actions which make the process easier and more accessible will assist them and make the experience a better and more successful one.

The recruitment sector

- Recruiting from overseas.

Diamond Recruitment has found that recruiting in-country improves the experience for work seekers, clients and the agency. They were aware of previous difficulties encountered by migrant workers who had been brought over to NI by recruitment agencies.

Diamond worked with the client and travelled to recruit workers in their own country. Interviews and skills tests were conducted there ensuring no-one came to NI without the offer of work. Diamond was able to provide selected workers with an orientation pack containing information about the work, location and accommodation costs. The agency arranged their accommodation and gave workers a tour of the local area.

Grafton Recruitment Agency was mentioned specifically by one participant who had applied for a job vacancy advertised on the internet. This participant found the transition from his country to NI straightforward because of the assistance provided by the recruitment agency. Grafton organised his travel and accommodation for his arrival. He was fully aware of the work he would be doing and that he would be on a 6 month contract. He agreed to deductions being made by the agency for travel expenses and rent which were itemised on his payslips.

The practices of these recruitment agencies ensured that the client found qualified workers for their specific jobs and that the workers were properly informed and assisted in their transition to NI. A number of the participating recruitment agencies helped migrant workers in other ways when they registered for work.

- Registering for work-finding services

Some recruitment agencies recognised the difficulties faced by migrant workers during the registration process and adjusted their procedures to facilitate where possible by:

- employing staff to act as interpreters
 - allowing friends or relatives to attend registration to assist with communication
 - allowing longer periods for registration where appropriate.
-
- Assisting recently arrived migrant workers

Most of the participating recruitment agencies assist migrant workers in a number of ways:

- Opening bank accounts
- Obtaining National Insurance Numbers
- Applying for Home Office documentation

Some recruitment agencies take further steps to assist.

First Choice in Ballymena has many practices which assist new residents. They provide transport for migrant workers to register for GP and dental services in their area. They arrange accommodation and where necessary pay the deposit and the first 6 months rent which is then deducted from wages. Like many other recruitment agencies they assist with opening bank accounts, set up interviews with Social Services for National Insurance Numbers and will help workers obtain their Home Office documentation. In addition, First Choice stated that they put migrant workers in contact with the Further Education Colleges providing ESOL classes

. Understanding documents

As the investigation has highlighted, language barriers can prevent understanding of important information and can also reduce job opportunities. Most participating agencies provided some translated versions of their paperwork.

Industrial Temps in Belfast enabled migrant workers obtain jobs for which they would not have otherwise been considered. They were given some weeks notice of a contract by a particular client and were able to translate Health and Safety signage which allowed migrant workers with little English to take up this work.

Translated versions of explanatory handbooks were offered to migrant workers by Adecco, who recruited large numbers of migrant workers for a particular client, and induction processes were carried out in various languages. There is no doubt that this enabled those with little English obtain this work.

Employers

Some employers aim to treat temporary agency workers as an integral part of the workforce.

Moy Park offers the opportunity to take ESOL lessons and NVQs on site to agency workers and employees alike. The training takes place during the working day and the company contributes to the costs.

Dunbia values the input of agency workers who are represented on their Employee Forum which meets bi –monthly.

Foyle Foods has been recognised by Business in the Community for their Migrant Workers Policy. Following negative experiences when migrant workers came to work with them through recruitment agencies they decided to become more actively involved in the recruitment process. The company travelled to recruit in-country. They ensured translators were available for interviews and arranged flights/accommodation and transfers for successful candidates. They also assisted with all Home office documentation and organised

registration with GPs and dentists etc on their arrival. Continuing support is offered to their migrant employees in relation to work and home life.

Other organisations

The Recruitment Employment Confederation

The Recruitment Employment Confederation [REC] is the representative body for the private recruitment sector in the UK. Members of the REC must sign up to and adhere to the REC's Code of Professional Practice, of which respect for diversity is a guiding principle. Members have access to model contracts and other documents. The REC recognises the advantages of promoting equality of opportunity and diversity for the recruitment sector, clients and work seekers alike. It works to develop best practice in this area and encourages members to join their Diversity Pledge initiative, confirming their commitment to adhering to all relevant legislation, encouraging equal opportunities and establishing working practices to safeguard against prejudice.

The NI regional REC website aims to provide local information to members and has direct links to the Commission's website as well as the Labour Relations Agency and the Department for Employment and Learning.

The REC encourages members to direct workers to other useful links such as information about worker's rights. For example, members provide information about the basic pay and work rights helpline which provides advice for workers in different languages.

<http://payandworkrightscampaign.direct.gov.uk/index.html>

Department for Employment and Learning

The Department for Employment and Learning's Steps to Work programme offers opportunities to migrant workers to improve their English skills. Although certain qualifying criteria apply through the scheme migrant workers have the opportunity to improve job related language skills.

<http://www.delni.gov.uk/index/finding-employment-finding-staff/fe-fs-help-to-find-employment/stepstowork/stw-steptwo.htm>

Gangmasters Licensing Authority

The Gangmasters Licensing Authority's [GLA] mission statement is "To safeguard the welfare and interests of workers whilst ensuring Labour Providers operate within the law". The GLA regulates those who supply labour or use workers to provide services in certain job sectors¹³. The legislation governing the GLA allows for information sharing and joint working with the Enforcement Authorities of other Government Departments, and others as appropriate. The legislation also gives jurisdiction overseas and currently 55 non-UK labour providers hold licenses. The GLA is proactive in establishing working relationships with a number of Embassies in Eastern European countries in an attempt to encourage good practice and information provision and prevent labour exploitation.

In the UK approximately 1,200 labour providers hold a GLA licence; 25 of these labour providers are NI based.

For further information about the GLA please see:
<http://www.gla.gov.uk>

Community Support Groups

Across NI the work of community groups, set up to support and provide advice to migrant workers, is invaluable. A number of these groups assisted the Commission with this investigation.

With regard to employment in particular, support groups will signpost local ESOL classes or provide opportunities to improve English themselves. The migrant worker support project of STEP in Dungannon offers language support and classes to improve English.
<http://www.stepni.org/>

¹³ Agriculture, forestry, horticulture, shellfish gathering and food processing and packaging.

GEMS NI

GEMS NI special project Minority Ethnic Employability Support [MEESP] provides a service to people who do not speak English as their first language supporting them to access employment and training opportunities. MEESP is currently funded by the Department for Employment and Learning's European Unit through the European Social Fund. The project assists with many aspects of job search including assistance with checking qualification equivalency. It also provides information about the 'Language for Work programme' delivered by GEMS NI and referral to other ESOL providers in the community and local colleges. By 2006 the project had worked with over 200 clients and had seen 80% of these clients successful in gaining employment.

<http://www.gemsni.org.uk/minority-ethnic-employability-support.html>

Business in the Community

Business in the Community's Opportunity Now initiative aims to help employers promote diversity in the workplace. BITC have provided employers with information and advice about good practice when recruiting and employing migrant workers. They have produced a guide for employers, "Employing Migrant/Overseas Workers: An Employer's Guide" and encourage employers to sign up to their "Voluntary Code of Practice on Employing Migrant/Overseas Staff in Northern Ireland."

http://www.bitc.org.uk/northern_ireland/what_we_do/in_the_workplace/diversity/opportunity_now.html#migrant_workers

Section 8: Recommendations

This final section of the investigation report sets out the Commission's key recommendations for improving equality of opportunity for migrant workers who use the recruitment sector to find work in NI. The recommendations are based on the main findings of this investigation and were developed in discussions with the Reference Group. These key recommendations provide direction on action required by both the recruitment sector and relevant government organisations. Many of the recommendations made will also benefit others using recruitment agencies.

It is evident that the recruitment sector has played and continues to play a significant role in the recruitment and employment of migrant workers across NI. For some migrant workers using the recruitment sector is not just an initial introduction to work but rather an employment relationship which may last for some years.

It is clear that the recruitment sector places migrant workers into mostly temporary work and into job sectors which attract low pay. For many recruitment agencies migrant workers make up a large percentage of their registered workforce, in particular those which supply workers to the food processing and manufacturing industries. This is, in part, due to the issues affecting equality of opportunity highlighted by this investigation.

As agency workers, migrants already do not enjoy the same terms and conditions as the employees they work alongside. However, migrant workers who are employed by or have been placed in employment do have considerable legislative rights and protections. Of particular interest to this investigation is the right not to be treated less favourably because of race in respect of the provision of services and in employment by recruitment agencies.

The recruitment sector is heavily regulated under legislation for which the Department for Employment and Learning, the Department of Agriculture and Rural Development and the Gangmasters Licensing Authority have the responsibility of enforcing.

Despite this comprehensive set of legislative protections there is evidence that migrant workers experience problems in terms of recognising and asserting their rights. Although a number of organisations provide such information in a range of languages there is still a lack of knowledge of rights amongst migrant workers and getting this information to migrant workers appears to be problematic. Language barriers play a part in asserting rights as does fear of losing work, cultural background and a lack of trust in authority.

These recommendations consider the role of the recruitment sector and employers in ensuring that migrant workers have equality of opportunity when using the services of the recruitment sector. Recommendations are also made to encourage the development of a partnership approach to the promotion and education of migrant workers about their rights involving government departments, agencies and the Commission.

Our recommendations aim to ensure that:

- accessible information about rights is easily available to migrant workers in their local communities
- recruitment agency staff are aware of their obligations under anti-discrimination legislation
- there is equal opportunity for migrant workers who wish to obtain work using their qualifications, skills and experience to do so.

Our recommendations aim to address the main issues raised by the participants in the investigation such as the challenges migrant workers face due to:

- language barriers in the work finding process, understanding and asserting employment rights, or in gaining work commensurate with skills and qualifications.
- lack of awareness of discrimination and equality issues, and
- employment practices which do not meet the requirements of the legislation.

Key Recommendations

Recommendations relating to language barriers in the work finding process, understanding and asserting employment rights, or in gaining work commensurate with skills and qualifications.

Recommendation 1:

Recruitment agencies should take steps to ensure that the process of registering for work is not inaccessible for any migrant worker and facilitate the work finding process for migrant workers who may have difficulty communicating in and reading English.

Recruitment agencies have a duty in law not to discriminate on grounds of race when providing a work finding service and/or employment. This investigation has demonstrated that the initial registration process can be difficult and at times inaccessible for those who have limited English. The Commission is concerned that the refusal of some agencies to make provision for migrant workers with limited English in the registration process is unreasonable and potentially discriminatory. This is so even though the work may require only basic English skills.

The recruitment sector assesses the English language abilities of migrant work seekers and such assessments will provide an indication of the level of support a worker will require. Registration documentation should be translated where necessary and other reasonable steps taken to increase understanding.

These steps include good practice measures identified by this investigation:

Additional measures could include:

- supporting and or sign-posting ESOL classes
- placing downloadable registration documentation on the recruitment agency web-site, or allowing migrant workers to take

away copies from the recruitment office, prior to the registration interview.

The Commission acknowledges that there are benefits for migrant workers to learn or improve English language skills. Action should be taken to raise greater awareness of existing ESOL provision and of ways to access that provision. This report includes a number of ways in which ESOL classes can be accessed, for example through community support groups, job centres and where employers recognise the value of providing these facilities for their workers. The recruitment sector, employers and the Department for Employment and Learning can all play a role in providing information on ESOL provision throughout NI.

Recommendation 2:

Recruitment agencies must ensure that written information which is available in English is, especially information they are legally required to provide is, where necessary, translated into a language that is understood by a work seeker and/or employee.

Recruitment agencies provide a large amount of written information to work seekers. As a matter of good practice, they should not presume that migrant workers will understand documentation if it is only provided in English. Migrant workers may be disadvantaged when it comes to understanding documents, particularly the more important ones.

Recruitment agencies are legally required to agree with the work seeker the terms to apply between it and the work seeker, and to provide all terms of that agreement in writing¹⁴.

In addition, where the recruitment agency subsequently acts in the capacity of an employment business these written terms must also include the main terms and conditions of service relating to all work undertaken¹⁵.

¹⁴ Regulation 14 of the of the Conduct of Employment Agencies and Employment Business Regulations [NI] 2005

¹⁵ Regulation 15 of the of the Conduct of Employment Agencies and Employment Business Regulations [NI] 2005

The Commission is of the view that, to satisfy the legislative requirement of “agreement”, recruitment agencies must take necessary steps to ensure that contracts are clearly understood by employees whose first language is not English. There is evidence from this investigation that migrant workers sign documents they do not fully understand and that this had led to confusion and difficulties. The Department for Employment and Learning guidance states that employees should “not be expected to sign a contract in a language that [they] do not understand”¹⁶.

The Commission also recommends the development of a model contract for use by recruitment agencies. At present members of the Recruitment Employment Confederation [REC] have access to model contracts and other documents. The REC should explore the option of translated formats of these and other model documents.

A lack of understanding was a contributing factor to some of the problems reported by participants in this investigation relating to issues including remuneration and holiday entitlement and pay.

Further explanatory information about such issues would be invaluable for any agency worker, but for migrant workers such explanation may be essential for understanding. Where necessary, this information should be provided in translated formats.

Detailed information on payslips is particularly important. The Department for Employment and Learning provides information about what an itemised pay statement must contain¹⁷. In addition, recruitment agencies should consider including information about accrued holiday entitlement and pay as standard on payslips.

¹⁶ Your Rights in Northern Ireland [page 30] Department for Employment and Learning

¹⁷ http://www.delni.gov.uk/apr_09_-_er_12_pay_statements_what_they_must_itemise.pdf

In order to prevent misunderstandings pay issues should be explained and understood from the outset; errors made should be rectified without delay and steps should be taken to ensure mistakes are not repeated. Any queries and complaints should be dealt with effectively.

Recommendation 3:

It should be a Gangmasters Licensing Authority [GLA] licensing standard that gangmasters/recruitment agencies must translate, where necessary, those documents which they are legally required to provide into a language understood by the worker.

At present it is a GLA licensing standard for gangmasters/recruitment agencies to agree contractual information with the work seeker. The Commission recommends that this licensing standard should also stipulate that gangmasters/recruitment agencies must provide this documentation in a language that the work seeker understands.

Recommendation 4:

Recruitment agencies should provide all workers with a comprehensive list of the documents they are entitled to receive on finding or leaving work through the recruitment sector; where necessary this should be translated.

Agency workers must receive all documents to which they are entitled both on registering and on leaving the recruitment agency. Recruitment agencies should provide workers with a checklist of all these documents and must ensure that they receive all of these documents, for example contracts and P45 tax forms, in a timely manner.

Recommendation 5:

Recruitment agencies should ensure that all agency workers, particularly those with limited English, are properly inducted and fully aware of all the agency's practices and procedures.

It is particularly important that the recruitment agency's own policies and procedures can be easily understood by migrant workers. The

Department for Employment and Learning has a key role in promoting good practice and should provide access on their website to model policies such as Grievance and Discipline in a number of different languages. The Commission has developed Equal Opportunity and Harassment Policies and can provide these in various languages on request.

Difficulties experienced by migrant workers in making complaints may be exacerbated by their employment status and knowledge of who is responsible for their situation. The three-way relationship involving the worker, a recruitment agency, and an end-user can create uncertainty about who is responsible for resolving problems. The recruitment agency should clarify who will have primary responsibility for dealing with problems and who the worker is to report issues to in the first instance.

Recommendation 6:

Recruitment agencies should be satisfied that a high standard of English is a justifiable job criterion, and is not used to exclude foreign nationals for jobs for which they are suitably skilled.

There is evidence from the investigation that the recruitment sector mainly places migrant workers into low paid and low skilled work and it is uncommon for, particularly Eastern European, migrant workers to be placed in a permanent skilled or professional position.

The recruitment sector has a role to play in encouraging clients to ensure that the skills levels forming part of the job criteria can be objectively justified.

In addition recruitment agencies should ensure that they genuinely attempt to explore with foreign nationals registering with them all types of work that the person is interested in finding, including the possibility of higher skilled/ professional work, and subsequently actively seek positions in all these areas.

Recommendation 7:

The Department for Employment and Learning should make existing mechanisms for checking foreign qualification equivalency more accessible.

There is some evidence that migrant workers are working in jobs below their skills level and that a number of factors contribute to this, one of which is a difficulty in having qualifications gained in their home countries recognised.

The main route to identifying qualification equivalences at present is through The National Recognition Information Centre for the United Kingdom [UK NARIC]. This is the national agency providing the only official source of comparison information and advice on international education and training systems and overseas skills and qualifications. There is a cost involved to access this information and an additional charge for translation services.

Migrant workers may not know how they can have their qualifications, both academic and vocational, acknowledged. Furthermore the costs involved in having qualification equivalencies confirmed and possibly translated may be prohibitive and off-putting for migrant workers.

The Commission would encourage improved access to the NARIC database at a community level. The Department for Employment and Learning has access to NARIC and will consider how it can further facilitate migrants who wish to check their qualifications with the UK NARIC International Comparisons Databases.

It is envisaged, however, that European migrants will be assisted in future by the European Qualifications Framework” [EQF]. This is the common European reference system linking together the national qualifications systems and frameworks of different European countries. It is a voluntary system but it is expected that most countries will have these frameworks in place by the end of 2010 facilitating the transfer and use of qualifications across these countries. Find further information about the EQF at:

<http://www.qcda.gov.uk/19302.aspx>

Recommendation 8:

The recruitment sector should not specify qualifications that are only issued in the UK and Ireland, and should allow for the fact that foreign nationals will have equivalent qualifications gained in their home countries.

There may be an unwillingness to accept foreign qualifications amongst employers who set job criteria specific to UK qualifications. The recruitment sector has a role in encouraging clients to be inclusive of qualifications gained overseas.

Some recruitment agencies have access to the NARIC database and use it to assist migrant workers. Those recruitment agencies that do not provide this service should provide further information to the work seeker about how they can access this service in other ways. The Recruitment Employment Confederation should explore their role in assisting their members in accessing information about foreign qualification equivalencies.

Recommendation 9:

We encourage more effective dissemination of information about employment rights and awareness raising amongst migrant workers, either on arrival in Northern Ireland or, ideally, before leaving their own country. Statutory agencies should work with community organisations to outreach to local migrant communities by forming drop-in advice centres and to coordinate the dissemination of information.

There is evidence that migrant workers experience problems in terms of employment rights. Reasons include language barriers, a lack of knowledge of rights, cultural background, a fear of losing their job, and a lack of trust in authority.

Information may be more effectively provided through:

- Drop-in advice centres
- Promotion and education
- Recruitment agency websites

Public bodies enforcing the legislative protections should be proactive in raising awareness amongst migrant workers of these protections and their role. Participants in this investigation were not always aware of the role of these bodies.

Government agencies and other organisations already provide a wide range of written information in translated formats but awareness of this information amongst migrant communities appears to be poor. Greater coordination in the development and dissemination of this information between the various organisations is recommended and is an objective of the Department for Employment and Learning's Migrant Workers Strategy.

When migrant workers do assert their rights it is often with the help of migrant community organisations and support groups. Other organisations should tap into the services provided by these support groups and their ability to disseminate information to large groups of people.

Information could be provided to migrant workers on an individual or group basis from a range of relevant statutory bodies setting up drop-in advice centres to operate in partnership with existing community based organisations and support groups. Such action may be dependent on the resources available to voluntary groups and we would encourage sufficient funding of such groups who play a vital role in their communities.

The Commission is already undertaking a programme of events in conjunction with partners aimed at raising awareness of anti discrimination legislation through its Reaching Out programme. Participating organisations include Citizens Advice Bureaux, Advice NI affiliated organisations and others in the community voluntary sector. The programme was developed taking into account the preferences of migrant workers to approach community based advice organisations. Although the programme has a broad content and is not aimed specifically at the migrant community the Commission has worked with Ballymena Inter Ethnic Forum and STEP to promote and inform about migrant worker rights.

The recruitment sector can also assist migrant workers by having clear links on their websites to other organisations who can provide advice, and to the information available. In addition advice information already available should be accessible to those who register with recruitment agencies and should form part of the documentation received from recruitment agencies. All agency workers would benefit from the promotion of this information. The Commission would encourage better use of the recruitment sector in displaying and disseminating the written information already available in translated formats.

Information provision alone does not empower migrant workers to pursue their rights or remove the other barriers to raising complaints and is therefore not the whole solution. Developing partnerships between the community support groups and the enforcement agencies will increase the potential for information sharing about breaches of regulations and about enforcement against non-compliant recruitment agencies. This may improve both knowledge and confidence in the enforcement systems. Consideration should also be given by recruitment agencies and employers for a system whereby individual issues can be raised in confidentiality.

Recommendations relating to lack of awareness of discrimination and equality issues

Recommendation 10:
All recruitment agency staff should receive training in anti-discrimination legislation.

The investigation points to the importance of ensuring that all recruitment agency staff are aware of their responsibilities under anti-discrimination legislation.

The Commission provides equality training for employers and recruitment agencies. Following this investigation the Commission will develop further training for the recruitment sector in partnership with the REC. Further outreach to non REC members will also take place.

In addition, to the proposed training the Commission will work with the recruitment sector and other relevant organisations to develop a specific guidance document on the recruitment and employment of migrant workers for the recruitment sector. The Commission is also keen that this training is recognised as contributing to Continuous Professional Development for professionals.

Around a third of agency worker participants reported that they felt discriminated against because of their particular race or nationality. The most common complaint was that foreign recruitment agency staff discriminated against particular nationalities during the registration process and when subsequently assigning work. This is something that the recruitment sector needs to be aware of and should ensure that all workers are treated fairly when registering and when completing skills tests. In relation to the allocation of work, recruitment agencies should develop clear and transparent procedures to equitably distribute available work amongst suitable work seekers.

Recommendation 11:

Recruitment agencies must not impose, or allow end-user employers to impose, unnecessary restrictions on their agency workers using their native language, except where the use of English is genuinely necessary to carry out work.

The Commission is concerned that allegations were made that migrant workers had been instructed not to speak in languages other than English in the workplace. Whilst it may be justifiable to require workers to speak in English in some circumstances when working, for example in areas of customer service, it is likely to amount to unlawful race discrimination to forbid workers from countries where English is not the first or main language from having casual conversations with each other in their native language.

Recommendations relating to employment practices which do not meet the requirements of the legislation.

Recommendation 12:

All recruitment agencies that continue to work in collaboration with overseas agencies should satisfy themselves that such agencies are reputable.

Many of the more questionable practices highlighted by this investigation relate to the activities of recruitment agencies based outside the UK. Such agencies can legitimately charge fees which would not be permissible in the UK, but other practices may be illegal.

Where these recruitment agencies are acting as gangmasters the GLA can act to prosecute rogue agencies. However, for other job sectors, the regulating legislation which is enforced by DEL applies only to recruitment agencies within NI.

The Commission would encourage information about rights and potential jobs being provided to migrants before they leave their own country. All recruitment agencies in NI, including those who provide workers to job sectors outside the remit of GLA legislation, should ensure that they only work with reputable foreign agencies. Where migrant work seekers were recruited for a specific job they were often deceived by agencies about the work and terms and conditions they would have in NI. Local recruitment agencies should ensure that correct information is provided to work seekers before they leave their own country. Larger recruitment agencies may be able to do this when travelling overseas to conduct recruitment interviews and skills tests. In doing this they will also ensure that only those who meet the job criteria will travel to NI.

Continuing to raise awareness of the roles of the GLA and DEL in investigating complaints and enforcing the legislation amongst migrant workers, both in NI and in other countries, can act to assist these organisations carry out their work.

Recommendation 13:

The Gangmasters Licensing Agency should continue to develop relationships with Inspectorates outside the UK, and publicise prosecutions taken.

The majority of cases of bad practice reported in this investigation involved job sectors covered by the Gangmasters legislation. The GLA has worked to establish relationships with Eastern European countries such as Poland, Romania and Bulgaria in an attempt to discourage bad practice. This approach has proved to be successful.

Recommendation 14:

Opt-outs from the working time legislation should not be routinely included in the contract of employment.

A recurring issue has been a claim that migrant workers are often expected to work longer hours than indigenous staff. Whilst the Working Time Regulations apply, participants in the investigation regularly reported feeling compelled to work long hours, and to opt-out of the legislative protection on working time.

We also noted that employment contracts of those employed by recruitment agencies routinely included an opt-out clause, giving the impression that opting out was a condition to being offered work.

Whilst agencies may advise work seekers that they will be limited to working 48 hours per week if they do not opt-out of this protection, this advice should not be given in a way that suggests an obligation to opt out. Opt-outs must be genuinely agreed. Those who do wish to opt out must subsequently be free to change this decision. In addition proposal to opt out must have relevance to the particular demands of the job in question.

If a worker does, of their own volition decide to waive this protection, this should be recorded on a separate form, and the agency must ensure that the worker is clearly advised of his/her right to change this decision.

This issue is one which the Department for Employment and Learning is aware of and we would encourage that action be taken as soon as possible.

Many of the issues raised by participants employed by recruitment agencies are linked to the nature of temporary agency work. It is expected that the above recommendations will improve further issues of legitimate concern which have been highlighted by the investigation.

Inequalities in terms and conditions and rates of pay between agency workers and employees are evident. At present there is no legal requirement to ensure parity of conditions or pay with agency workers entitled only to basic employment rights. This is set to change due to the passing at EU level of the Temporary Agency Workers Directive.
¹⁸

The Commission welcomes this Directive, and will be responding to consultation on the legislative proposals. We therefore make no formal recommendation in this regard.

¹⁸ please see page 21 for further information about the Directive

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Appendix 1

Membership of Steering Group

Member	Organisation
*Denise Cranston	Business in the Community
*Nathalie Donnelly	MultiCultural Resource Centre
Kasia Garbal	NICICTU
Sandra Henderson	Rural Community Network
Siobhan Harding	Citizens Advice Bureau
Rose Kelly	Omagh Ethnic Community Support Group
*Agnieszka Martynowicz	Institute for Conflict Research
David Millar	Department of Agriculture and Rural Development
Valerie Reilly	Department for Employment and Learning
Ivy Ridge	Ballymena Inter Ethnic Forum
Representative	South Tyrone Empowerment Programme [STEP]
Katerina Skrebska	Newry and Mourne Ethnic Minority Support Centre
Tommy Wright	Labour Relations Agency

*Some members were unable to remain in the Steering Group for the duration.

Membership of Reference Group

Member	Organisation
Jim Berrisford	NI Regional Representative Recruitment Employment Confederation
Conor Brady	Department for Employment and Learning
Kasia Garbal	Irish Congress of Trade Unions NI
Siobhan Harding	Citizens Advice Bureau
Tanya Kennedy	Business in the Community
David Millar	Dept. of Agriculture and Rural Development
Maeve McKeag	Minority Ethnic Employment Support Programme - GEMS NI
Ivy Ridge	Ballymena Inter Ethnic Forum
Katerina Skrebska	Newry and Mourne Ethnic Minority Support Centre
Denise Wright	South Belfast Round Table
Tommy Wright	Labour Relations Agency

Support Groups which assisted the investigation by organising focus groups

County Antrim	Minority Ethnic Employment Support Programme - GEMS NI Contact: Maeve McKeag
	Ballymena Inter Ethnic Forum Contact: Ivy Ridge
County Armagh	Craigavon Intercultural Programme Contact: Stephen Smith
County Down	Rural Community Network Contact: Sandra Henderson
	Newry and Mourne Ethnic Minority Support Centre Contact: Katerina Skrebska
County Fermanagh	Fermanagh International Communities Group Contact: Kate Mulligan
County Londonderry	SEEDS Contact: Eddie Kerr
County Tyrone	Omagh Ethnic Community Support Group Contact: Rose Kelly
	South Tyrone Empowerment Programme [STEP] Contact: Keelin McGartland

Participants from the Recruitment Sector

Adecco

Diamond Recruitment

First Choice Selection Services

Grafton Recruitment

Industrial Temps

Knipe Contracts Limited

KS Recruitment Services

MPA Recruitment

Premier People

Riada Recruitment

Rutledge Joblink

WH Recruitment

Participants from the Employment Sector

Please note that some employers did not wish to be acknowledged.

ABP Meats	County Down
Dunbia	County Tyrone
Foyle Food Group	County Tyrone
JTI – Gallaher	County Antrim
Hastings Hotel Group	Counties Antrim, Down, and Londonderry
John Huddleston Engineering	County Down
Moy Park Limited	County Armagh and Tyrone
O’Kane Poultry	County Antrim
Western Health and Social Care Trust	County Londonderry

Appendix 2

Focus Group Participants

Table 1 showing the percentage of participants by gender in each age range

Age range	Percentage of participants		
	Male	Female	Overall
Under 18 years	0	2%	1%
18-24 years	13%	17%	15%
25-34 years	54%	41%	47%
35-44 years	16%	22%	19%
45-54 years	11%	16%	14%
55-64 years	6%	2%	4%
Total	100%	100%	100%

Table 2 showing the duration of participants in Northern Ireland

Duration in NI	<3 months	3-6 months	6-12 months	>12 months	Total
Number of participants.	11	14	42	125	192
Percentage of participants	6%	7%	22%	65%	100%

Table 3 showing the number of people of each nationality participating in the focus groups

Nationality	Number of participants	Percentage of participants
Belarussian	2	1%
Brazilian	1	0.5%
Bulgarian	14	8%
Czech	1	0.5%
Dutch	2	1%
Filipino	5	3%
Hungarian	16	8%
Latvian	5	3%
Lithuanian	25	13%
Polish	81	42%
Portuguese	10	5%
Romanian	8	4%
Slovakian	16	8%
Somalian	1	0.5%
Spanish	2	1%
Sri Lankan	2	1%
Timorese	1	0.5%
Total	192	100%

Table 4 showing the numbers of participants of each nationality who have used the recruitment sector to find work in NI

Nationality	Number of participants who used the recruitment sector	Percentage of participants	Number of participants who did not use the recruitment sector	Percentage of participants
Polish	45	43%	36	42%
Lithuanian	10	9%	15	18%
Bulgarian	10	9%	4	5%
Filipino	5	5%	-	-
Hungarian	3	3%	13	15%
Portuguese	10	9%	-	-
Slovakian	8	7%	8	9%
Romanian	7	7%	1	1%
Sri Lankan	-	-	2	2%
Spanish	2	2%	-	-
Somalian	-	-	1	1%
Dutch	2	2%	-	-
Latvian	1	1%	4	5%
Brazilian	1	1%	-	-
Timorese	1	1%	-	-
Czech	1	1%	-	-
Belarussian	-	-	2	2%
Total	106	100%	86	100%

Table 5 showing the location in Northern Ireland of focus group participants of each nationality

Nationality	Number of participants at each County location						
	Antrim	Armagh	Down	F'managh	Tyrone	L'derry	Total
Polish	11	10	14	26	12	8	81
Lithuanian	1	3	-	9	11	-	25
Bulgarian	-	14	-	-	-	-	14
Filipino	-	-	-	1	4	-	5
Hungarian	-	-	-	1	15	-	16
Portuguese	-	4	-	-	6	-	10
Slovakian	6	-	1	-	9	-	16
Romanian	8	-	-	-	-	-	8
Sri Lankan	2	-	-	-	-	-	2
Spanish	2	-	-	-	-	-	2
Somalian	1	-	-	-	-	-	1
Dutch	2	-	-	-	-	-	2
Latvian	1	-	-	4	-	-	5
Brazilian	-	-	-	-	1	-	1
Timorese	-	-	-	-	1	-	1
Czech	-	-	1	-	-	-	1
Belarussian	-	-	-	-	2	-	2
Total Number	34	31	16	4	61	8	192
Overall Percentage	18%	16%	8%	21%	32%	4%	100%

Table 6 showing the percentage of participants who have used the recruitment sector to find work in NI and the percentage of those who remain agency workers by County

County	percentage who have used agencies	percentage remaining agency workers
Antrim	88%	67%
Armagh	81%	73%
Down	63%	20%
Tyrone	43%	23%
Fermanagh	32%	62%
Londonderry	12%	0%

Table 7 showing the educational achievements of focus group participants

Qualification	None	School	College	University	Professional	Total
Number of participants	4	22	69	29	68	192
Percentage of participants	2%	12%	36%	15%	35%	100%

Table 8 showing the number of participants unemployed at the time of the focus groups by educational achievement

Qualification	Number unemployed	percentage
Professional	6	17%
University	8	22%
College	15	42%
School	4	11%
None	3	8%
Total	36	100%

Table 9 showing the current employment status of participants who have used the recruitment sector to find work in Northern Ireland

Number of participants who have used the recruitment sector to find work in Northern Ireland		
N=106		
Employment status	Number of participants	Percentage of participants
Agency workers	55	52%
Directly employed	29	27%
Total	84	79%
Unemployed	22	21%
Total	106	100%

Table 10 comparing the job categories of participants who gained work through the recruitment sector and of those gained direct employment

Job category	Number of participants gained work directly	Number participants gained work through the recruitment sector	Total
Administration	9	1	10
Agriculture	5	6	11
Casual Labour	8	20	28
Construction	18	3	21
Driver	4	2	6
Food Processing	12	51	63
Healthcare	2	9	11
Hospitality/Catering	25	16	41
Other	7	5	12
Production Op	9	7	16
Shop assistant	4	0	4
Skilled Prod Op	24	2	26
Unemployed	14	22	36

NB 2 participants were self employed.

Appendix 3

Comments from migrant worker participants who have used the recruitment sector

Overseas agency

The Romanian agency charged us 450 euro for finding us work as production operatives under a 1 year contract. They asked for 600 euro for work permits. When the year was up they wanted another 120 euro. Romanian workers

All we were told was that it was work in a meat processing factory and that no English was needed. We paid the Bulgarian agency £1200 for finding this work and then we paid a contact in Britain £300. We also paid for our own travel costs. We didn't like the attitude of the supervisors. They pushed us to work harder. We left the work but had no money to return home. The [NI] agency found different work for us. Bulgarian workers

Accommodation

The agency arranged accommodation for us in property owned by [the employer]. At one stage there were 10 people in the house. We have no privacy; our supervisor has a key and comes and goes as she pleases. They say we have to live there if we want to work at the factory. Polish workers

There were 3 men living in the house but only 2 beds. I complained to the agency but they just said that they are double beds. I left that house and found other accommodation, with the help of the agency. Slovakian worker

Unequal terms

We work in a production line and we are guaranteed 45 hours per week. But we work longer hours than employees who work 36 hours

per week. We get fewer breaks and we have higher production targets than them. Most agency workers are foreign workers. Slovakian workers

I got four 6-month contracts through with the agency. This puts pressure on to work harder to renew my contract. My contracts were in English but the details of the pay were in Portuguese. The terms and conditions were not as promised when I was recruited. I was paid less than employees doing the same work and I got less holidays. The agency gave me a flight to Portugal instead of holiday pay. Portuguese worker

Working hours

We did not get much information from the agency. There is a handbook but not everyone gets it. We did not get a copy of our contract. We do not have any guaranteed hours each week: sometimes we only work 2 days a week and sometimes only 1 hour a day. Others get 5 days work each week and overtime. The system for choosing who works is unfair. Lithuanian workers

We work for longer hours than are stated in our contract. We do not get any overtime pay. We don't know how long we will be kept in work for each day; we work to complete an order. Sometimes we arrive for work but there is no work for us. The supervisor keeps us waiting in the canteen all day and then we're told to go home. We do not get paid for this. Polish workers

If you are not prepared to work overtime hours then you are told you are no longer required. Polish worker

We were given terms and conditions to sign in Polish but we weren't given time to read through them. We felt pressurised to sign immediately if we wanted the job. Polish workers

I was threatened with a disciplinary warning [by the agency] if I didn't sign the opt-out form. Portuguese worker

Pay and administration problems

I worked as a cleaner through an agency for a while. I gave them my bank details but I did not get any pay for 3 months. I eventually got a payslip but the pay was incorrect and the National Insurance number wasn't mine. I got legal assistance to help me claim from them and I got £3000. Portuguese worker

The agency had my bank details for 2 months but they still paid me by cheque. I had to travel from Newry to Lisburn to cash my cheque and so I missed out on a days' work. Slovakian worker

I gave the agency 1 month's notice that I was leaving. I haven't received any pay since. Bulgarian worker

I wasn't paid for my last week in work and when I asked about this I was told that the money was taken to pay for an overall provided for working in the factory. I didn't know about this. Bulgarian worker

Annual leave

I asked for 3 days holiday when my children arrived in NI but was refused. I had to arrange for a friend to pick them up from the airport. I asked for 1 day's holiday to get them registered at school but this was not approved again so I had to take unauthorised leave. I got a disciplinary warning. I don't understand why I couldn't take my holidays. Other people were getting to take holidays. Portuguese worker

I worked for 1 year and 9 months and was told I would get 6 days holiday. But I have not had any holidays. Bulgarian worker

The agency told me I couldn't take 1 day off. I had to take 1 week at a time. Slovakian worker

We have had trouble getting our holiday pay from the agency. They do not want to speak to us about it and tell us we should only contact them through a solicitor. They said to some of us that if we don't like it we could always go back home. Polish workers

Agency staff

The supervisors ask us for £100 to guarantee us work.
Polish workers

The same people get picked for work and to do overtime hours all the time. There are rumours that the supervisors ask for money to guarantee work. The others are surprised that I don't offer them money. Polish worker

The Polish worker [agency staff] asked for £50 to make sure we got jobs through the agency. Polish worker