

Inquiry into recruitment and employment in the meat and poultry processing sector

Agency workers' fear of complaining and lack of awareness of their rights: our findings

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The prevention of abuse of workers in this sector is dependent on a combination of factors, including effective, adequately resourced regulators – particularly the Gangmasters Licensing Authority (GLA) – to ensure consistently enforced standards for agencies.

A vital aspect of the prevention of abuse is that abuses do not remain hidden. Some abuses come to light through monitoring, inspection and auditing, but it is clear that many of the abuses found by this Inquiry are not being uncovered by these methods. It is therefore essential that they are surfaced, and hopefully resolved, through workers raising concerns with their agency or workplace, and if they are not resolved, with a regulator.

However we found that many agency workers endure poor treatment through fear of complaining and lack of awareness of their rights. Workers were much more likely to raise concerns in firms that provided a risk-free environment for doing so, but we found that this sort of environment is rare. In the minority of cases where workers had complained, they were dissatisfied at the response, as nothing appeared to change.

This document sets out our findings regarding:

- Reasons for agency workers' fear of complaining.
- Fear of losing access to permanent work.
- Desire for permanent employment.
- Fear of future work being withheld as a result of complaining.
- Instances of loss of job.
- Fear of intimidation.
- Perception that nothing will change.
- Lack of awareness about making complaints.

It also looks at:

- What meat processing firms and agencies told us about handling complaints.
- Uncertainty about who is the 'employer' responsible for dealing with any issues or grievances.

Our recommendations to address these issues are set out at the end.

Reasons for fear of complaining

One-third of the agency workers we interviewed said they would be afraid of complaining about poor treatment in the workplace or by their agency. Very few directly employed workers told us that fear of repercussions would stop them raising issues in the workplace.

Permanent workers observing the poor treatment of migrant agency workers understood the reasons why people experiencing this didn't take steps to stop it, highlighting the 'fear factor' of agency workers in terms of losing their work and their consequent vulnerability.

Some agency workers thought that complaining could worsen the bad situation that they were in. One worker did not complain despite being harassed and excluded by colleagues and having to work on the same production line all day, while other colleagues of the same nationality as the line manager were allowed to rotate onto different workstations. She chose not to complain because:

"I was afraid that things could get worse, and because I don't speak English, I just decided to stay quiet... I was afraid because I only [had] four weeks' experience and... I was hoping you know, that phase would go over. I was afraid of saying something to anyone because I wanted to keep the job."

Portuguese female working in meat processing factory,
east of England

One interviewee had advised Romanian agency workers in his workplace that aspects of their treatment were illegal, but found that

they were still unwilling to complain because they were afraid of the consequences.

‘I told them, but I think it’s the fear factor, “Shut your mouth or go home.” There is a major fear factor with the agency workers and the agencies. “If you play up, we’ll terminate your contract” – and how do they go on if they’ve got no money in the bank? They’re stuck in this country with nothing... Shocking, isn’t it?’

British male working in meat processing factory,
south west England

Fear of losing access to permanent work

A number of responses highlighted the strong feelings of insecurity among agency workers, with some emphasising the personal impact of this. Agency workers described the insecurity of waiting to be contacted by the agency about assignments, not knowing from one day to the next whether they would have work.

Even workers who had been working for a significant length of time in one factory still felt insecure about whether they would be working on the following day.

‘Even now, 10 months on, I wouldn’t be surprised to get a phone call ‘don’t come in tomorrow’. ...The insecurity, literally the financial insecurity is terrible. You can’t plan nothing when you’ve got money, you can’t do nothing because you don’t know how long it’s got to last you and when you’re going to need it.’

British male working in meat processing factory,
north west England

Desire for permanent employment

The prevalence of ‘temp to perm’ as a main means of recruitment to permanent posts in larger firms significantly affected agency workers’ willingness to raise any complaints about poor treatment. All but four of the agency workers who gave evidence to the Inquiry were seeking permanent employment as their goal.

They were afraid of having their work stopped by the agency in that particular factory as a result of complaining and thereby losing the opportunity to transfer to direct employment. Interviewees also told us that they were reluctant to be labelled 'troublemakers' by factory managers because of raising complaints and making firms unwilling to take them on, even if the agency allowed them to continue in their work.

The lack of security of employment also causes pressure. One of the principal reasons that agency workers wanted direct employment was to acquire the rights associated with this because permanent workers are protected from arbitrary dismissal that agency workers are subject to.

'Yes, I would like to be a permanent worker. The fear of being dismissed completely changed my personality. "To live normally, without pressure"... is it possible here?'

Polish female working in a poultry processing factory, Yorkshire and the Humber, responding to the call for evidence

'It would give us more rights, and make us feel comfortable, and not afraid of being dismissed by [the agency] without providing a specific reason.'

Polish female working in meat processing factory, Yorkshire and the Humber, responding to the call for evidence

A substantial reason given for preferring direct employment above agency work was security and stability. Around half of agency workers mentioned this.

'Yes, I would like to be a permanent worker. My life would be more peaceful, more stable and I would be more certain of what tomorrow will bring.'

Polish female working in meat processing factory, Yorkshire and the Humber, responding to the call for evidence

'I would like to be a permanent worker because I have to support my family, and permanent work guarantees financial stability.'

Polish male working in meat processing factory, West Midlands,
responding to the call for evidence

Interviewees who had moved from agency work to direct employment told us that they felt more confident in raising concerns and complaints in the workplace. They linked this increased readiness to complain about issues to the security they felt in permanent employment.

‘Sometimes we express these comments [about unfair work allocation to some nationalities]. I feel more comfortable now expressing my opinions because I am not from the agency and I am not afraid any more of losing the job.’

Polish male working in poultry processing factory, Wales

Fear of work being withheld as a result of making complaints

Some agency workers were reluctant to raise issues because they thought they were expendable, as there were many other people registered with the agency who would be willing to take their place.

Migrant workers were particularly concerned not to damage their chances of finding future work. Over two-thirds of the migrant workers we interviewed were in England or Wales with at least one member of their family, whether a partner, child or another relative. Only a small number intended to leave in the short or medium term, most stating their intention either to stay for the foreseeable future or being undecided.

A number of interviewees told us that they didn't complain about not being paid their holiday pay, for example, because they were afraid of the agency victimising them as a result of this and refusing to offer them further work.

‘[The agency] says OK, you can go on holiday. When you go back they never pay you. If you argue... the next day you don't have the job.’

Polish male working in a factory processing meat and poultry,
East Midlands

Fear of losing their jobs even prevented workers from making complaints about serious health and safety problems. For example, one interviewee who reported experiencing significant pain, temporary lack of movement and swelling in her hands and arms as a result of work without appropriate PPE and with no job rotation, thought she had no realistic opportunity to complain about this as an older worker (in her 50s) with limited English language skills.

‘I [just] complain to God... But I know that I cannot, you know, dream about a different job, because I don’t speak English, and at my age, it really difficult to find something else.’

Polish female working in meat processing factory, east of England

An interviewee told us that his manager felt ‘safe’ when shouting at agency staff because of their vulnerable position and lack of employment rights. The manager told them that if they complained she had the power to send them away and ask that they not be sent back by the agency.

‘It’s not natural, you ask her something and she is shouting straight off. No[t a] good person. ...When people come in from agency sometimes they don’t know English... and that’s why she is not scared to shouting anybody. [She tells us] If she is not happy she can send that person home... she is blackmailing to people.’

Polish male working in factory processing meat and poultry, East Midlands

It appears that this threat was used to remind agency workers of the precarious nature of their employment, and reinforce the perception, commonly held among interviewees working through agencies, that a complaint about their treatment or working conditions would inevitably result in them losing their job.

‘If someone employed by an agency [says]... he doesn’t like something with his job or that he would like to tell [report a problem], sometimes they say, “OK, you can go home, we’ve got 100 different people for your place.” ...It is better to not say

anything and just work, because after [a complaint] I won't get the job. They [the agency] don't call.'

Polish male working in poultry processing factory, east of England

A number of interviewees noted that threats to remove agency workers who complained held more weight in the current economic climate, where the number of people looking for work, even jobs in processing firms which had traditionally been less sought after, was increasing.

'Because of the current situation with [the] labour market, we are aware that they can get people from everywhere and they [agency] say that they can dismiss even 10 people during a few hours and get another 10 the next day.'

Polish male working in meat processing factory, Yorkshire and the Humber

Instances of loss of job

Permanent and agency workers that we interviewed spoke of instances of agency workers being removed from their job by their agency for complaining about their treatment in a processing firm.

'If one of the agency opened their mouth or anything, they can just say, "You're not coming back"... One agency [worker] opened their mouth [about being sent home early] and they never got back.'

English male working in factory processing meat and poultry, East Midlands

One agency worker described how she had lost all further offers of work from her agency after complaining about being made to share wellingtons that had just been removed by an agency worker on the previous shift as she felt uncomfortable due to the fact they were wet inside and insanitary.

'The agency workers working through [name of agency] did not have protective footwear. We used dirty shoes that were used by other agency workers. This caused the danger of spreading

diseases. I demanded to be provided with protective footwear, but my requests were ignored, and it led to dismissing me from work.’
Polish female working in factory processing meat and poultry,
east of England

Other interviewees stated that some agencies had withheld work for a period of time from agency workers who raised issues or complaints. It was thought that this was to try and highlight to them that they should not do this again.

‘I’ve heard [agency workers] complaining that they haven’t had the correct PPE [personal protective equipment]... Boots, hard hat or aprons to keep you clean... They’re basically told they’re not required and they might be left for a week or two.’
English male working in factory processing meat,
north west England

One interviewee’s partner, who worked for the same agency, had not been given any further work. She believed that this was due to her involving the local Citizens Advice in trying to recover two days’ unpaid wages from the agency.

‘He wasn’t offered a job... It’s a kind of punishment. There’s no proof, of course but [in order] to get some money back from the agency I went to the Citizens Advice Bureau and there were a lot of phone calls made about it... I was working for two days and they just didn’t pay me... But they knew that we were a couple so they punished [my partner].’
Polish female working in poultry processing factory,
east of England

Another interviewee described a similar situation, with workers’ supply of work from the agency almost ceasing following a visit to the local Citizens Advice Bureau for advice and assistance with a complaint against their agency.

'If anyone tried to complain like to the Citizens Advice Bureau... they have problems later on... not [being] given any work... and they would end up having like one day a month of work. And lots of people are frightened to say anything because they obviously came here to earn money so they want to earn money.'

Polish female working in meat processing factory,
east of England

Some interviewees stated that, in their experience, agency workers were not immediately dismissed after making a complaint, but that their work was minutely scrutinised and any small flaw was picked up on. Interviewees thought that managers would look 'for any excuse' to then remove the worker from the factory.

'I know that a few people lost their job because ... they challenged the bad treatment... they [were] looking for reasons to dismiss. They wouldn't listen about the problems... They don't care about the workers. They only... expect the people to listen them exactly what they say without any discussion or nothing.'

Polish male working in meat processing factory, Yorkshire and the Humber

Fear of intimidation

A small number of those who said that they were afraid to make a complaint told us that they had been so intimidated by their experiences that they felt personally threatened and so would not countenance making a complaint. A female worker who had been regularly shouted at and also sexually harassed by her manager had not complained:

'Nobody tried [to complain] because he was like a dictator... it was frightening.'

Polish female working in meat processing factory, Yorkshire and the Humber

Perception that nothing will change

Interviewees who had raised complaints in the workplace, or with their agency, expressed frustration with the lack of change as a result of

issues being raised. Interviewees said that this would make them less likely to raise any issues in the future.

However a small number of interviewees stated that when they raised complaints with their agency, or the factory they were working at, they had been resolved quickly and to their satisfaction.

‘They didn’t pay me for one day of work and I went straight to the agency and talked to them and they sorted everything, they were very nice. And then the next week... the payment was there, everything was there.’

Portuguese female working in factory processing meat and poultry, east of England

Lack of awareness about making complaints

Only around half of the 140 workers we interviewed said they knew who to go to if they had a problem in the workplace. Those that didn’t know who to complain to stated that they would be unlikely to raise any complaints as a result of this. Permanent workers were more likely to know who to go to than agency workers. The main people and organisations that interviewees told us they would go to in the first instance were:

- line managers
- human resources
- a trade union, and
- local migrant support groups.

A number of interviewees stated that they would go to a local Citizens Advice Bureau if they felt they weren’t making progress with their complaints through other avenues.

Of the workers who reported issues about health and safety, only a small number were aware that complaints could be made to the Health and Safety Executive (HSE). All of those who were aware of the HSE were British directly employed workers who had worked in the processing industry for a number of years.

Although most interviewees said they had been told to route all complaints through their line manager initially, some felt that this left them without an opportunity to raise issues if their concerns were with their immediate line manager.

‘They say you’re supposed to... go to the manager to try and get them to sort it out, but how can you go to a manager when the simple fact is they are causing the problem?’

English male working in factory processing meat and poultry,
East Midlands

‘If I would be treated unfairly by my co-worker... I’d go to my manager... But if the manager treated me unfairly, on occasion it happens, I can’t really go to anyone.’

Polish male working in meat processing factory,
north west England

Only one interviewee knew of an internal method of making a complaint offered by factories and agencies that didn’t involve talking to their line manager or human resources (a hotline in their workplace run by an external company).

‘If there is a problem there is a hotline to speak with...

The number is on the noticeboard and another company collect the information.’

Polish male working in meat processing factory, Wales

Lack of awareness of rights

Workers were in general completely unaware of their employment status and therefore their rights. In taking evidence from agency workers, we found that the vast majority had no idea whether they were working under a contract for services or as an employee of the agency. One of the main reasons given for not knowing this was because they either had been given no documentation by their agency, or could not understand the documentation they had been given.

Of the small number of agency workers that were aware of their employment status, some stated that they were classed as 'self-employed'. However, they did not feel that this accurately described their status in reality, given that they had none of the independence or autonomy over their work that characterises genuine self-employment.

Of the agency workers that we interviewed, none stated that they were able to substitute another worker in their place, as a self-employed person would. All said that they would have to inform the agency if they were ill or otherwise unable to attend a shift that they were booked for.

Work agencies supplying greater numbers of agency workers are less likely to have the workers contracted to their company; they are more likely to be under a contract of services or self-employment.

What meat processing firms and agencies told us about handling complaints

Only six out of 10 agencies (61%) responding to our survey stated that they gave workers registered with them details of how to raise any complaints or report harassment.

Although nearly all (93%) of the meat and poultry processing firms responding to our survey have complaints and/or grievance procedures available to directly employed workers, only around half (53%) make this procedure available to agency workers.

Given the significant level of migrant workers in the industry and their well-recognised vulnerability,¹ we were concerned to find that less than one in five processing firms (19%) translate their complaints procedure for staff that do not speak English as their first language.

¹ ECCR (The Ecumenical Council for Corporate Responsibility) Vulnerable Migrant Workers: The Responsibility of Business (May 2009).

Oxfam Briefing Paper 31 July 2009, Turning the Tide - How best to protect workers employed by gangmasters, five years after Morecambe Bay.

Agency labour in the UK poultry sector: A research report for the Ethical Trading Initiative, Ergon Associates and Working Lives Research Institute (May 2007).

Hard Work, Hidden Lives, TUC Commission on Vulnerable Employment (May 2008).

However, around half of firms (49%) said that they explain the procedure verbally. Businesses with 500 or more employees, and those that are members of the British Meat Processing Association (BMPA), are more likely to provide workers with translated documents.

Uncertainty about who is the ‘employer’ responsible for dealing with any issues or grievances

The three-way relationship between the agency worker, agency and processing firm makes it difficult for complaints to surface, and where complaints are unresolved, presents additional difficulties to agency workers trying to enforce their rights.

Even where workers wish to raise issues, it is often not clear to anyone in the three-way arrangement whether it is the work agency or the meat processing company who has the primary responsibility for resolving the issue on behalf of the worker.

We asked work agencies and processing firms where they felt the principal responsibility should lie in addressing any workplace discrimination or harassment that workers may experience. The vast majority of processing firms (90%) believe the responsibility for directly employed workers lies with the firm itself. However, when it comes to agency workers experiencing harassment or discrimination in their factory, only half of processing firms (53%) felt they had principal responsibility for addressing this. Respondents had mixed views. Around one in four (37%) thought that the agency supplying them had principal responsibility for addressing issues.

With self-employed workers, over half of firms (58%) stated that the firm they were working for should address discrimination and harassment in the workplace. Worryingly, around one-fifth of firms (18%) believed that the workers themselves had principal responsibility for sorting out any discrimination or harassment they experienced. Only 2% of firms thought that the agency supplying self-employed workers had principal responsibility for addressing these issues. Around one in six firms (15%) didn't know who should have principal responsibility. Firms are three

times more likely be unsure of who has responsibility for self-employed workers than directly employed or agency workers (5% did not know).

When we asked agencies that supply workers to the meat and poultry processing sector who should have principal responsibility for addressing discrimination and harassment towards their temporary staff in the workplace, there was a divergence of opinion. Exactly half of agencies thought that the processing firms should be responsible, while only around one-third (35%) thought the agency should be. Around one in six firms either didn't know, or thought that the individual experiencing the discrimination, a trade union, or another organisation should take the lead in addressing the discrimination or harassment that a worker may experience.

Our recommendations to enable agency workers to complain

Helping vulnerable workers to raise issues of concern

Some processing firms and supermarkets provide confidential hotlines for workers. We recommend that processing firms and agencies:

- Provide workers with a confidential and well-publicised process for raising issues of concern in a language they understand. This should be done as part of an integrated approach to providing an environment in which workers feel confident to raise issues informally and formally.
- Display or distribute information and contact details of the Pay and Work Rights helpline and GLA to workers.
- As the three-way relationship between the agency worker, agency and processing firm causes uncertainty as to who is responsible for resolving problems, we recommend that:
 - Department for Business, Innovation and Skills (BIS) issues guidance to clarify the circumstances in which the agency has primary responsibility for dealing with a worker's problem, and those in which the processing firm has primary responsibility.

Given the reluctance of workers to complain for fear of suffering penalties, we recommend that the Commission use its strategic litigation powers to highlight the unlawful victimisation of agency workers for making complaints about discrimination.

Steps to address insecurity of employment

As our findings show, the vulnerability of agency workers to immediate termination of their engagement with no future work being offered is the key factor in their reluctance to complain. This insecurity is caused primarily by their lack of employment protection and rights. The failure of these agency workers to complain prevents much of the abuse coming to light, thus permitting unlawful and unethical treatment to continue.

We therefore recommend that:

- Work agencies offer contracts of employment to workers engaged by them, where possible.
- Processing firms regularly review their use of agency staff to ensure that they offer agency workers direct employment when being used on an ongoing basis, rather than to deal with short-term fluctuations.
- Processing firms do not use agency staff to avoid the obligations which come with a regular employment relationship, in compliance with the Ethical Trading Initiative (ETI) base code.
- The government reconsiders the extent of employment protection and rights that agency workers engaged on contracts for services require in order to reduce their vulnerability to losing their job if they raise any concern.

Forthcoming improvements as a result of the Agency Workers Regulations

The Agency Workers Regulations 2010 need to provide practical, rather than theoretical, protection for agency workers. Given the reluctance of agency workers to raise issues, we recommend that:

- The government ensures that the primary responsibility for checking that the worker is receiving parity after 12 weeks lies with the agency, rather than the onus being on each agency worker. In addition, that agency workers understand and can access their rights.

To enable agency and migrant workers to gain the benefits of union activities

We recommend that:

- Trade unions should build on the work they are already doing in recruiting and supporting migrant workers with wider well-resourced

organising campaigns aimed at vulnerable workers, especially in sectors where precarious, low-paid employment is common.