



**NEW EU MEMBERS?
Migrant Workers' Challenges and
Opportunities to UK Trades
Unions: a Polish and Lithuanian
Case Study**

Bridget Anderson, Nick Clark &
Violetta Parutis

A report written for the Trades Union Congress (TUC)

Introduction

On 1st May 2004 ten new states joined the European Union and citizens of these states were permitted to work without visas in the UK. This resulted in a large increase in the numbers of migrant workers in the UK. Migration has multiple impacts, on migrants themselves, on sending and receiving states, on social relations and on labour markets. Even impacts which are theoretically possible to quantify impacts may in practice be extremely difficult to measure. For instance, the Bank of England tentatively suggests that increasing migration *may* have facilitated economic growth at the same time as putting a brake on inflationary pressure, and that migrants have *probably* played a significant role in alleviating labour shortages in certain sectors. The limitations of the existing data, and the complexity of gauging such effects mean that statements about the extent of these impacts are treated extremely cautiously by those with expertise in the field. What is clear is that migrants play an important role in the UK economy and that they are also potentially vulnerable workers: those who speak little English, or who do not know their employment rights, or who have limited access to advice or support for instance, may be taken advantage of by employers and agencies.

Employers' exploitation of migrant workers should not be regarded just as problem for migrants. Any success an employer might have in holding down wages (a potential consequence welcomed by the Bank of England) or reducing employment conditions for migrant workers is likely to have consequences for UK nationals too. Much of the attention that is focused on the exploitation of migrant labour has concentrated on "trafficking", and on the vulnerability of those whose immigration status is irregular. But what of those who are not working "illegally" – at least in terms of their immigration status? After May 2004 there were many reports of exploitation and abuses of migrants from the new member states who were working perfectly legally, and before that there were reports of serious abuses of Portuguese and Greek nationals. Migrant workers may be residing and working legally but nevertheless be particularly vulnerable to exploitation.

This study was undertaken to explore,

1. What are the kinds of difficulties faced by the citizens of the new EU member states in the UK labour market, as defined by themselves?
2. What are their attitudes to trades unions? What are the potential challenges and opportunities to organizing such workers?

Its methods targeted a group of workers whom one might expect to be relatively well protected. We surveyed those who are registered with the Workers Registration Scheme i.e. those who were in a relatively formalized relationship with an employer,

Context

The UK was one of only three states of the pre-Enlarged EU (EU15) to grant citizens of the newly enlarged EU access to the labour market¹. For eight of the ten states however, the UK put in place a special "Workers Registration Scheme" (WRS). "EU8"

¹ Other EU15 states have since permitted free movement: UK, Ireland, Sweden, Finland, Greece, Spain, Portugal and Italy (December 2006).

workers from Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia must register their employment with the Home Office within one month of starting work in the UK. To obtain a registration card, applicants must complete a form and send it together with their passport/ID card, photographs, and a letter from their employer confirming employment to Work Permits UK. Workers must also pay a one off fee which in May 2004 was £50, rising on 1st October 2005 to £70. This is in order to make the scheme “self-financing”. For each job that they have, a worker must obtain a registration certificate in the form of a letter authorizing them to work for a named employer. Thus an EU8 national will have one registration card, but potentially several registration certificates. The registration requirement applies for 12 months, and thereafter applicants are entitled to apply for an EEA residence permit.

Stated policy objectives of the WRS were to control EU8 access to certain welfare benefits and services, to encourage participation in the formal economy, and to provide empirical data to facilitate monitoring of inflows and the formulation of evidence based policy. It should be emphasized that registration does not, ostensibly, regulate access to the labour market: people are not required to work in particular sectors nor are they required to work for named employers, though importantly only certain employers may be prepared to furnish them with the documentation required for registration (Anderson et al 2006). Of those applying for registration up to September 2006 less than 1% had been refused².

Since 1st May 2004 EU8 nationals have been able to migrate and legally take up employment in the UK and while they must register they do not require work permits. They have been absorbed into the UK’s flexible labour market without, it seems, any related significant rise in unemployment (Gilpin et al 2006; Ruhs 2006). Numbers of Central and Eastern Europeans (CEE) in the labour force have risen rapidly, and in 2005 they accounted for over 10% of all foreign workers in the UK. A *cumulative total* of 510,000 people registered with the WRS between May 2004 and September 2006 (Home Office 2006). This figure should be treated with care: firstly because it is not a measurement of “stock”, that is, once you have completed the registration requirement (and perhaps returned to your country of origin), you do not drop out of the registration figures. These figures are the total of all those who have ever registered, not the numbers of those who are currently registered. Moreover certain groups including the self employed, au pairs, those working for an employer for less than one month and others are exempt from registration. The legendary Polish Plumber would for example not be registered as he is likely to be self employed which explains why of the 510,000 workers who had registered with the WRS up to September 2006, only 18,925 or under 4% were working in construction and land. As well as official exemptions there are indications that not all of those who are obliged to register do so. COMPAS research found that some workers claim to have “never heard” about the scheme,

² Total number of applicants to Sept 2006 510,000, refusals 3,895, withdrawals 14,950, exemptions 1,035 (Home Office 2006). All WRS data cited refers to the figures to May 2004 - September 2006 published 21 November 2006

others said that it was not required by their employer, complained about the cost, or simply did not see the point:

If you want to stay longer, of course it's a good idea. It is important to do everything legally, which brings peace of mind. But if somebody comes only to earn some money for a house or a car and then to leave, then it's probably not worth wasting time

Lithuanian male aged 27 cited Anderson et al (2006) p.100

In short, for a variety of reasons many EU8 workers residing in the UK are not registered with the WRS and the WRS data do not provide accurate nor representative figures for all EU8 nationals working in the UK.

This does not mean that the WRS data do not give useful indications of trends and suggestions as to particularities of this group of workers. The highest proportion of applicants is Polish (63%), and one of the notable features of those who are registered with the WRS is their youth – 43% are aged between 18 and 24. In general migrant workers occupy polarized positions in the labour market tending to work either in “highly skilled” or in “elementary” occupations. Since EU Enlargement the proportion of migrants working in routine manual occupations has significantly increased, and this is likely to be a result of large numbers of EU8 workers working in lower skilled jobs (Salt and Millar 2006). Union membership among EU8 workers is extremely low, even in comparison with other migrants. The Autumn 2005 Labour Force Survey sample found a participation rate of only 3.6% of EU8 nationals as compared with a density of 26.2% for all those in employment and 22% for all foreign born workers in employment.

Methods

The Trades Union Congress (TUC) had supported the government's decision to permit free movement of workers. They prepared a pamphlet setting out details of employment rights and the role of trade unions. Work Permits UK (who administer the WRS) agreed to send out a copy of the pamphlet in English with each WRS certificate. It included a paragraph in each of the EU8 languages inviting those who required a copy in their own language to request one from the TUC. The Home Office agreed to finance the translation of the pamphlet into the various languages of the EU8, but these translated leaflets were distributed by the TUC.

The TUC approached the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford as they had recently conducted research on EU8 workers (<http://www.compas.ox.ac.uk/changingstatus>). They discussed conducting a mail survey of Polish and Lithuanian workers, the two nationalities most represented among applicants to the WRS. This was to be completed by workers themselves and is therefore short, easy to complete and designed to obtain very basic data. Most of the questions are multiple choice, but some, most notably those asking about problems, allowed for people to answer in their own words. It was translated into Polish and Lithuanian.

Two thousand Polish questionnaires were distributed in August and September 2005, using the TUC database of names and addresses of those requesting the TUC leaflet in

different languages. They were accompanied by a covering letter from the TUC and a pre-paid reply envelope. Four hundred and sixty three replies were received, a response rate of 23%. Lithuanian questionnaires were distributed in January 2006. Two hundred and ten questionnaires were distributed and 45 people replied, a response rate of 21%.

The responses have been analysed using SPSS, a programme used for quantitative sociological research.

Our sample is drawn from a self-selected group of applicants to the Workers Registration Scheme. Since completion of the survey was voluntary, our research is not representative of those who have registered with the Workers Registration Scheme (WRS). The sampling strategy we employed has implications for our findings. Firstly we deliberately targeted registered workers. This means that the workers who completed the questionnaire come from a sample that is particularly likely to be in a formalized employment relation with an identifiable employer. On the other hand, our respondents are those who asked for a leaflet on rights and who replied to a request from the Trades Union Congress to complete a questionnaire. Workers might be more likely to complete the questionnaire if they had a problem or wanted to make a complaint. Finally, one might anticipate, that respondents might be particularly likely to be interested knowing workers' rights and potentially in trade union membership.

Who responded to our survey?

A total of 508 people responded to our survey. Of those 12 sent in letters describing experiences or asking questions, and significant numbers supplemented their answers with detailed comments and remarks in response to particular questions. We have translated these and used some of them in the text of this report. For reasons outlined above there are far more Polish respondents than Lithuanian, though the proportion of those responding was very similar, and indeed the final ratio of Polish to Lithuanian of our survey is similar to that of the WRS in which Polish workers are by far the largest nationality of those registering, representing 63% of the total, followed by Lithuanian 11% (Home Office 2006). Our sample is somewhat male biased 64.2% male 35.8% female when compared with the WRS (58:42), with the Polish workers more likely to be male, and in general slightly younger than the Lithuanian respondents. While our sample seems young, it is noticeably older than the average of the total number of applicants to the WRS.

Table 1: Age group of sample, comparison TUC and WRS

Age Group	TUC survey	WRS data
18-24	16.9% N=86	43%
25-34	51.4% N=261	39%
35-44	17.9% N=91	10%
45-54	11.2% N=57	6%
55+	2.6% N=13	1%

Source: TUC/COMPAS Survey 2006, Accession Monitoring Report November 2006

Despite the youth of our respondents, 43% described themselves as having at least ten years of work experience. However most of that experience was accrued in their country of origin, as over three quarters had worked for a year or less (and some not at all) in the UK. Nearly one third described their English as “basic only” or “none”, and one half described it as “adequate”. Slightly over 10% said that they were fluent English speakers.

Eighty nine percent had entered after EU Enlargement (1st May 2004). Of the 54 people who were working in the UK before EU Enlargement 16 had been working in the UK since before 2003, including one person who had started work in the UK in September 1988. Seventy eight percent of our sample had arrived in the UK between May 2004 and September 2005, that is to say had been in the UK for 18 months or less at the time they were surveyed.

Around half of the respondents (44%) organised their trip to the UK through friends and relatives that were already in the country. This was particularly common for those with no or basic English. These kinds of personal networks are widely recognized as important factors in migration (Massey et al 1993, Boyd 1989, Fawcett 1989). They may also extend to a wider set of social networks, including associations, labour recruiters, immigration consultants etc, and indeed, interestingly as time has gone on the proportion of our sample entering using personal networks appears to decline, and the proportion of those entering using agencies whether in the UK, Poland or Lithuania, has increased. This might indicate a sampling issue, for example, it might be that those using personal contacts to come to the UK are becoming less likely to register, but it merits further investigation. Over 11% of our respondents had a direct contact with their employer in the UK before they arrived in this country and described their entry as facilitated by their employer.

Work in the UK

The majority of respondents found work in the UK very quickly. Of the 425 people for whom we have reliable data on this issue, 255 or 60% found their first job in the UK within a month of arriving, and a further 90 or 21% found their first job within one month. There does not seem to be a relation between this and means of entry – i.e. it does not seem that those entering with an agency, are any more or less likely to find employment quickly than, for example, those entering with the help of friends and family.

Key sectors of employment³, were manufacturing (31.9% n=150), hospitality (23.8% n=112), transportation, storage and communication (10.6% n=50) and health and social work (10% n=47). In these sectors, men were more likely to be working in manufacturing, and transportation, while women were more likely to be working in hospitality and health and social work. Agriculture represented only 5% of our sample, but this is likely to be in part a reflection of the seasonal nature of the work. The proportion of workers employed in agriculture tends to peak in the summer, and we

³ Standard Occupational Classification Index was used

were surveying workers in the autumn and winter months. Many of those working in manufacturing were working in food processing and packaging i.e. in agriculture related manufacturing. The large proportion of our respondents in manufacturing contrasts with WRS data, in which manufacturing represents only 7% of their overall total. One reason for this apparently low representation of manufacturing is that the WRS data categorises those working for recruitment agencies (i.e. agency workers) as being employed in administration, business and management. Administration, business and management is the largest occupation group (34%) according to WRS data, but in fact workers falling in this category “could be employed in a variety of occupations”, including of course manufacturing (Home Office 2006). Our survey distinguished between employer and workplace, and we have analysed the sectors of employment based on the *workplace* data. While workers in food manufacturing in particular are often working for agencies (see below), even if one discounts all agency workers a significant proportion of our respondents were still in manufacturing (28.5%) in comparison with registration data.

Respondents were almost all concentrated in “elementary occupations” or were process/machinery operatives. Those who were in health and social work were predominantly in personal service occupations, (principally care assistants) and often living in accommodation provided by their employer. The concentration of workers in low waged work does not indicate that they lack qualifications. Other research has found that CEE migrants are typically overqualified for the work that they do in the UK, and describe themselves as making a trade off, prepared to work in low wage, low status occupations temporarily, either to earn money or learn English (Anderson et al 2006).

Over one fifth of our respondents (n=104) were working for an agency rather than directly for an employer, however they were not evenly distributed and sector seems of great importance here. For example, over half of those working in manufacturing were working for an agency (again this is mainly food manufacturing), and 20% of those working in transport. The only other sector where agency working seems significant is hospitality, at just under 10%. Agency working is associated with experiencing problems at work. A survey conducted by the TUC found that agency workers tended to be paid less than permanent equivalent workers, rarely had pensions or anything above the statutory minima for holiday or sick pay. Some respondents also highlighted the practical difficulties for agency workers in raising grievances or challenging things due largely to the precarious nature of their work.

Many respondents were working with co-nationals. About one quarter estimated that 10-25% of the workforce at their usual workplace to be of their nationality, and slightly under one quarter estimated it to be 26%-50%. Those who were working for agencies rather than directly for employers were more likely to report that more than half of the people they were working with were co-nationals. Sectors where workers were most likely to report working with more than 50% of co-nationals were agriculture, transport, and manufacturing, and this was noticeably more common in micro and small enterprises.

Most of our respondents were working full time. Women were more likely to be working under 25 hours per week (10% as opposed to 2% of men), and this was most common in hospitality and retail sectors. A quarter of respondents reported working more than 48 hours per week but men were more likely to be working in excess of 48 hours (nearly one third of men). They were more likely to have no or only basic English, and those working over 48 hours were the most likely to report not earning the minimum wage. Forty six workers reported working an average of 60 hours a week or more.

Most of our respondents had a British bank account, and were paid into their bank account, though some respondents were also paid in other ways (e.g. transfer into somebody else's bank account or payment both by cash and transfer). The majority of respondents were working for very low wages with only 15 of those who reported their wages (N=484) earning over £10 an hour. The survey data needs to be treated with some caution, as some respondents gave us the amount they earned per week or per month, and their rate per hour therefore had to be calculated on the basis of the number of hours they were working. Moreover, the minimum wage rate changed from £4.85 to £5.05 in October 2005. This means that the minimum wage was higher at the time our sample of Lithuanians responded (in January/February 2006), than it was when the Polish responded (in August/September 2005).

Of those who completed the survey before October 2005, 11% (n=51) reported earning rates which put them below the minimum £4.85. Of those who completed the survey after the minimum wage rate increased to £5.05, 14% (n=6) were earning below the minimum wage. This is much higher than the numbers earning below the minimum wage among the general population. The Annual Survey of Hours and Earnings (ASHE) estimates that for Spring 2006 1.3% of all UK jobs pay less than the minimum wage. Some were earning significantly below the minimum wage, with one person reporting earnings of £1.19 an hour. Only 2 of all those who earned below the minimum were aged under 21 and subject to the "development rate". However, 28 of them reported living in accommodation that was either offered by the employer or required them to live-in. Accommodation is the only benefit in kind that can count towards the calculation of the minimum wage, and at the time when most people completed the survey this was set at £3.75 per day (£26.35 a week) rising to £3.90 per day (£27.30 a week) in October 2005.

Sample Calculation for worker earning below minimum wage at October 2005 rates

Survey code 329p earned £3.50 an hour working in manufacturing working 44 hours a week. He earns a total of approx. £154 a week.

If he was paid the minimum wage @£4.85 an hour he would earn £213.40 a week, out of which a maximum of £26.35 can be legally deducted for accommodation, leaving him with £187.05

To deal with the influence of the accommodation offset we added the relevant amount per day to the pay of those who were living in employer provided accommodation. This is rather rough and ready, reflecting the fact that there is currently little clarity in law as to how other deductions associated with accommodation should be handled⁴. Given the limitations of our data we can only tentatively suggest that it is unlikely that the proportion of those earning below the minimum wage can be explained by the accommodation offset given that only one of these workers was working less than 25 hours a week, and over half were working 45 hours a week or more. Hospitality was quite clearly the sector where most NMW infractions were reported.

While those earning below the minimum wage were equal proportions of women and men, 40% of women were earning exactly or slightly above the minimum wage as compared to 25.9% of men. The majority (77%) of minimum wage earners in the UK as a whole are female⁵. Twenty two per cent of men were earning over £6.70 an hour as compared to 6.8% of women. This is likely to be related to the gendered nature of occupations, with those working in construction and transport reporting higher wages than other sectors. Fourteen per cent of our sample was earning exactly the minimum wage at the time they completed the survey, and again the majority of these were in hospitality. While people in part time work are almost three times more likely than people in full time work to be paid less than the minimum wage (National Statistics October 2006), in our sample those working less than 25 hours a week were somewhat less likely to be not paid the minimum wage, and 19.8% (N=25) of those working over 48 hours a week were earning under £4.85 an hour. It is noticeable that there is no significant difference in wages between those working in London and those working in other regions. The cost of living in regions where prices are high is carried by individual migrants and is not reflected in their wage.

Reported Problems

The questionnaire asked respondents if they had encountered problems with their employer (or agency). Fifty two per cent (n=263) said they had problems either in the past or currently. They were then asked to describe the kind of difficulties they had in the format “Problem 1” “Problem 2” up to “Problem 5”. Five respondents did not do so, but the remaining 258 gave details. It should be noted that these are *self-reported* problems. Some clearly felt that their rights were being abused when, in a strict (or not so strict) interpretation of the law, they were not.

“I had a disciplinary hearing and was stopped from working because I had an argument with one of my colleagues who I called a black monkey...”

Others used the opportunity to report problems they had with their work, rather than (perceived) abuses:

“production for Tesco, and only quantity and not quality is important”

⁴ The Low Pay Commission examined the whole problem in detail in its 2006 report. In June 2006 the DTI consulted on their guidance on handling the accommodation offset. An EAT had decided that charges for utilities *should* be included in the offset, and the final hearing in January 2007 confirmed that charges for utilities were included in the offset. The DTI has yet to issue definitive advice at the time of writing.

⁵ see www.dti.gov.uk/files/file.13135.ppt

Moreover, the fact that a respondent did not volunteer details of a particular problem does not mean that they had not experienced it, and might have provided details if prompted. Indeed many of those whom, from the data, one might expect to report particular problems, did not in fact do so. Less than half of those who were earning under the minimum wage reported experiencing a problem with pay. This may suggest that either they were ignorant of their rights, had low expectations as to how they would be treated, or considered that having reported their low wages already, it was not necessary to do so again. Nearly a quarter of our respondents (n=115) reported that they had no written contract rising to nearly one third of those who were working for an agency rather than direct for an employer, but only a small minority referred to this specifically as a problem (n=26). This supports other research which has found that workers in insecure, low paid work, can regard contracts as a disadvantage, “tying” them to an employer, and making it harder to leave, which they may feel is one of the only responses open to them when faced with poor working conditions, low wages etc (Anderson et al 2006).

Disputes of course are much more likely if there is no written version of agreed terms, and those who reported that they had no written contract had an increased likelihood of reporting problems – especially those relating to observation of terms of employment, or dismissal. This does not mean that contracts can resolve all problems, and there were also difficulties with contracts not being fulfilled or in a few cases, being unilaterally altered

The agency offered me a very good contract but not everything that was in the contract came true, worse pay, unpaid breaks, and many people in the same accommodation for which they take high rent

There were some employers who seemed to perceive requesting a written version of terms and a more formalized relation as unacceptable:

“employer threw me out of work when I asked for registration and contract, as well as minimum wage”.

This was not the only respondent to report having been dismissed precisely because they complained about the informality of their employment relationship. This is interesting as this was a mail survey of those applying to the Workers Registration Scheme, and, unsurprisingly, 97% of our respondents were registered⁶. However, as noted above, not all EU8 nationals who should register do in practice and one might reasonably expect therefore that our sample are more likely than some other migrants to be in a more formalized employment relation with an identifiable employer. Indeed, 93% either had a national insurance number, or had applied and were waiting for their number. In this case the proportion of migrants working without written terms and

⁶ Given that the vast majority of those responding had registered, it is notable that one in 25 reported difficulties with the registration process. Some (9) reported that one of their employers had refused to confirm their employment, while others who had evidently applied for their certificate through their employer had either experienced delays (6) or had not received the certificate despite having paid for it (7).

conditions becomes even more surprising, and more generally it does seem that there are many problems related to the downside of flexibility whether it be general insecurity (n=10), irregularity of work (11), two complained about the variations in hours, but more (10) felt they did not get enough hours. Not surprisingly these problems were most widely felt by agency workers.

The most common type of problem reported related to pay, with over one in four reporting such issues (see table below). Most of these were issues associated with lack of payment. Not being paid for at least some of the hours they worked was reported by 7.5% (n=36). The ways in which this was implemented were often not straightforward. One person for example, complained of exploitation through piecework and being put on piecework all day, while another explained:

Employer counts one hour as 100 minutes and not 60 minutes. We try to explain this to him but he says that this is such a computer system and he can't change this. If I work complete hours then it's ok, but if I work incomplete hours ...for example... if I work ...85 minutes I have to have another 15 minutes to have a complete hour

In fact non-payment may be more significant than it seems, for instance, twenty three people reported not being paid any money at all for overtime (i.e. not just lack of an overtime rate), but only three of these cited unpaid hours as a problem, when one might reasonably argue that it was a problem for all twenty three respondents. There are similar discrepancies between the “problems” given by those who are paid under the minimum wage, and those who do not have a contract. The incidence of these difficulties (and therefore potentially others) is likely to be greater than the number of problems indicated.

There were also complaints of “too low” pay, errors in calculations, and discrepancies between pay and payslips and timesheets as well as lateness of pay

“Employers don't give or don't fill in timesheets, don't give us a copy and so cheat on the number of hours”

“Pay day is delayed every time; it's bad for me and my family”

“A** -- frequent mistakes with calculations of payment, we don't understand whether we get paid for overtime or not”

There were also complaints at the lack of higher rates of pay for overtime or bank holidays. One hundred and seventy eight or 47% were paid overtime only at the normal hourly rate. This was specifically complained about by some of our respondents. While this is legal in the UK the Polish Labour Code specifies an overtime premium of 50% for weekday overtime and double time for Sundays and public holidays. Our respondents were aggrieved that there was no provision for a higher rate of pay on Bank Holidays (“the rate is the same for weekends and holidays”), while others complained that they did not get paid when on holiday, or that holiday was unpaid (this may have referred to failure to pay for accrued holiday on leaving a job – a common problem encountered in advice surgeries).

Twenty two respondents (4.3%) reported problems with unauthorized deductions. Four had been charged by their employers (agencies in all cases) for finding them work a

practice which is clearly unlawful. There were complaints about deduction for accommodation, including that the deductions were extravagant, particularly given the quality of the accommodation (see section below). Others had complaints about charges for transport (8 replies) while another group (7) complained of not being provided with information about deductions. One complained about being charged for food.

Almost one in ten (9.3%) of our respondents reported a problem with documentation, (this figure does not include those who were not given a written employment contract). This is surprisingly high given, as noted above, that given that these are people who have applied for registration, one might anticipate that they are less likely to have problems with documentation than a random sample. Difficulties included payslips not being provided, or giving erroneous (or false) information, failure to provide P45 or P60 certificates of tax deduction, problems with National Insurance numbers and tax coding, and absence of holiday records. Problems with payslips in general were the most significant in this category.

my first job was illegal and I was unaware of this. My employer didn't give me payslips, no contract, no tax, and paid by cash. I worked in a bakery 10h a day. I was paid £160 per week for 6 days a weeks

There were also complaints about the retention of passports and identity documents:

“Cxx Farm constantly made mistakes when calculating salary; held passport”

Forty one respondents (8.1%) reported a variety of problems with working conditions. this category included some general responses of poor working conditions, or bad atmosphere, but others were more specific, relating the poor working conditions with the intensity of work or aggression or bullying:

I think they practice mobbing -- I feel discriminated against and I think they overuse their power

Some also related poor working conditions to discrimination:

given worse and more dirty jobs that are 'not suitable for the English'

No respect for foreign workers

There were no differences in reporting problems by gender: 51.5% of men (n=167) reported problems compared with 53.9% of women (n=97). There were some differences however in type of problem reported by gender, for example women were more likely to experience discrimination – 13.4% of women compared with 8.4% of men. This was not restricted to sex discrimination; they were also more likely to report discrimination on the grounds of race or nationality. Women were also more likely to complain about erratic, insecure work or not having enough hours. Interestingly, while women generally were lower paid than men, it was men who were more likely to report problems with pay – 46.7% did so, compared with 37.1% of women. Both Polish and Lithuanian workers have the same likelihood of experiencing problems, but those working with a high proportion of the same nationality at their workplace were also more likely to report problems. Age does not seem to impact on problems with the exception of the youngest, 18-21, 75% of whom reported problems. However our sample was weighted to older workers, and there were only 16 respondents under the age of 22, so it is not possible to say if it is significant without further work. There was

no significant difference in number of problems reported by sector but there is some evidence that sector does have some relevance to the kind of problem reported: so those in transport for instance were more likely to complain of erratic work, those in construction were particularly likely to have difficulties around pay, and those in agriculture about working conditions.

Key factors in determining likelihood of reporting problems seem to be firstly whether or not a worker has a written contract, as discussed above, and secondly (and related to contracts) is agency working. Working for an agency clearly increased chance of reporting problems. 65.4% (n=68) of those working for agencies reported problems at work, compared to 49.7% (n=187) of those with other employers. Agency workers were also more likely to have multiple problems – 34.6% (n=36) reported three or more problems, compared with 21.2% (n=80) of non-agency workers. Not surprisingly one of the most notable differences related to problems to do with the erratic and insecure nature of their work – 20.6% (n=14) complained of this (compared with 8%, n=15) of non-agency workers. Although this is the nature of agency work, it suggests that the flexibility of agency work is not always welcome to those having to do it: “I work either too much or too little”. Agency workers were also more likely to report problems not directly related to their employment – for example related to accommodation and transport (17.6% n=12, compared to 9.1% n=17). While reported English language fluency did not seem to correlate directly with reported problems, there are some indications from the data that those with limited English have a different *experience* of problems. For example, of those 48 Polish respondents who described their English as “fluent”, 3 were earning less than £4.85 an hour, and 1 described having a problem with earning below the minimum wage. Of 151 whose English was basic or none, 14 were earning less than £4.85 an hour, but only 1 complained that they were earning below the minimum wage. This suggests that there may be a problem of access to information, lower expectations, and certainly a lower level of reporting of problems.

Accommodation

A surprisingly high proportion (31%) of the sample, certainly a larger proportion than those whose entry was facilitated by an employer, were living in accommodation that was found for them or provided by their employer. This was particularly prevalent in agriculture, hospitality, manufacturing (often food processing) and health and social work. This bears out other research and evidence submitted to the Low Pay Commission (Low Pay Commission Report 2006 sections 4.94-4.116). This is perhaps not surprising, as “live-in” vacancies may be hard to fill since those with dependants or other responsibilities can find it impossible to manage other aspects of their lives if they must live at work. For this reason migrant workers can concentrate in such sectors. Moreover, available accommodation in rural areas can be extremely expensive, meaning that those who would be prepared to live close by, but not at the workplace, are effectively priced out of this possibility. While our sample is weighted towards particular regions, it is noticeable that of those working in London (n=68) over half (n=37) found their accommodation by themselves, and 15% (n=8) were living in accommodation found by their employer, while in the South East Region for example (n=67) nearly half (n=32) were living in accommodation found by their employer.

There may be additional benefits to employers by employing live in workers. Live in labour is highly “flexible”: people are available to work for as long as the job requires, no time is lost traveling to and from work (which can be considerable in rural areas), and it is possible to impose shifts that would otherwise be very difficult to manage. Certainly among our respondents long hours are related to living in. Over 40% of those working over 48 hours a week were living in employer provided accommodation. It may be extremely difficult for those who are living in accommodation provided by their employer to refuse hours or additional work because of the dependence on them created by their housing situation.

They forced me to work more than 60 hours and on Saturday, with threats to fire me and throw me out of the accommodation

An employer providing or facilitating accommodation cannot be equated with employers’ requiring workers to live in tied accommodation. The Low Pay Commission found that employers and labour providers who were located in rural locations and reliant on temporary overseas workers tended to express particular concerns about the accommodation offset, and in particular to distinguish between the traditional model of tied accommodation where living in is an integral part of the employment, and employers who offered workers a “choice” to take up an offer of housing which they are free to decline (Low Pay Commission *ibid*). Our respondents included those who were simply recommended accommodation by employers, and it is not clear from our data what proportion of our sample actually had their employers as landlords, though clearly a number of them did. Twenty two for instance specifically complained about their employers as landlords, including people who complained that they had been forced to live in employer provided accommodation:

required me to live in his accommodation and to sign a contract for 0,5 year;
rent was high (£80) and conditions horrible
when I came from holidays my room was occupied by another person working for the company. I had nowhere to sleep and had to stay at another friend's who was leaving for holiday

One man complained that his employer had given him an empty office space with a bed to sleep on, and further that he was given

no reward for overtime or sleeping in the car from Mon to Friday

The number of respondents who had their employers as landlords is likely to be greater than 22 however, as indications from other parts of the survey suggest that this might be the case, for instance:

for a long time I was receiving letters that I ought to pay some sort of Council Tax. When I asked my boss why, the letters started to come with a different name.

Workers who were living in accommodation found by their employers were the most likely to describe their living conditions as poor or very poor. More than half of those who described their accommodation in these terms were living in housing found by

their employers. Several complained about being moved from one accommodation to another, or having to live in unacceptable conditions,

Recently rats appeared in our house and the employer didn't care about this. We ourselves had to call the guys who eliminate rats.

Abuses of legal rights

It is necessary to exercise caution in accepting the accuracy of complaints made through anonymous surveys. However, experience of advocacy work with migrant workers shows that the complaints are generally consistent with those made by migrant workers presenting themselves at TUC advice surgeries. A high proportion of those cases were settled in favour of the worker (whether by negotiation, conciliation or at Employment Tribunal), suggesting that such complaints should be given serious consideration.

If we accept that most of the complaints are made in good faith, we see that there are two kinds of offence. There are those that are unlawful under UK employment law, and those that are regarded as illegitimate by the workers, even though they may not be in breach of UK legislation. These latter cases might well be practices unlawful in the workers' home country (as with overtime discussed above), a breach of agreed terms or simply a failure to meet the workers' hopes and expectations. Moreover, problems such as:

agency guaranteed work for 12 months and worked only 2,5 weeks and then they said sorry

are likely to come as a shock to workers expecting a higher degree of protection than they might have experienced at home. The lack of regulation of temporary labour agencies in UK contrasts with Poland, where agencies are subject to stringent rules, while in Lithuania, they were almost unknown until recently (TUC 2005).

It is not simple to separate out all of those that might be identifiable breaches of law from the rather limited information on the questionnaires. Nevertheless there are some clear cases. The woman who had been obliged to undergo a pregnancy test before being offered a job had clearly been subjected to breathtaking sex discrimination. Those who did not regularly receive payslips, or were paid less than the minimum wage, or who were not paid for all of the hours they worked, for example, would have legitimate claims even under the UK's limited employment rights. It is notable that one of the negative aspects of the Polish labour market which some of these workers had left behind was non-payment of wages (Sula 2005).⁷

Set out below are those categories of problem most likely to be rectifiable by use of employment law. In order to avoid over reporting we have only included those problems that were recognized and reported as such by our respondents. So while for example, our data indicates potentially 57 respondents being paid below the national minimum wage, we have included only those 6 who reported this as a problem. The figures below therefore are a conservative estimate.

Table 2: Probable breaches of employment law

Reported Problem	Cases	Legislation
Pay below NMW	6	National Minimum Wage Act 1998
Unpaid hours	38	Employment Rights Act 1996, Section 13
Holidays not paid	12	Working Time Regulations 1998
No information on deductions	7	Employment Rights Act 1996, Section 8
Charged for obtaining work	4	Employment Agencies Act 1973 ⁸
Excessive hours	7	Working Time Regulations 1998 ⁹
Holidays not given	6	Working Time Regulations 1998
No contract	26	Employment Rights Act 1996, sections 1 & 2 ¹⁰
Breach of contract	13	Various, including Employment Rights Act 1996 and civil contract law
No payslips	14	Employment Rights Act 1996, Section 8
Total	133 (out of 479 total problems) 128 individuals out of 508	

Source: TUC/COMPAS survey 2006

In addition, many of those problems falling under other categories may be actionable, but harder to pursue – the discrimination and dismissal cases for example. Other deductions from wages not listed above may be lawful if the worker has given their written consent. However, for this to be meaningful, they would have to either speak and read English well, or have had translated documents available.

Others, such as retention of identity documents, tax & NI problems, delays in payment, absence of P45 and P60 forms and problems with accommodation may be taken up by other authorities, such as local authorities or the Inland Revenue.

Exploitation or bust?

It has often been suggested that some businesses simply could not operate without migrant workers willing to accept lower wages, terms and conditions than their British counterparts. If this were so, it might be expected that those businesses whose workers were more likely to report abuse would be those struggling to make ends meet.

We therefore looked at those employers whose names came up more than twice in the survey, where over half of the respondents working for them had reported problems at work.

There were 6 such companies:

Agency S – a medium sized temporary labour and recruitment agency

Company H – a medium sized provider of cleaning and security services

Company D – a high street fast food chain (some of which are franchised)

⁸ If employer was an agency

⁹ Where no written opt-out knowingly signed by worker

¹⁰ Where worker has worked for more than 2 months, or if agency worker, for each assignment

Company A – a chain of restaurants
 Company T – a major food manufacturer
 Company W – a major logistics company

Examination of their accounts found that none showed any losses in the financial year 2005/6 (the year of the survey) or in the previous year (before EU enlargement). Taking the highest paid director’s salary as an indicator of what the businesses could afford, the table below shows that all were able to pay at least one employee generously. This suggests that any advantage supposedly gained from access to a lower paid workforce may simply accrue to already profitable employers and their senior directors.

Table 3: Highest Paid Directors’ salaries of companies where migrants reported problems at work

Company	HPD salary 2005/6 (£000s)	% change 2004/5
Agency S	109	-5.2
Company H	117	+49
Company D	359	+8
Company A	224	-8.5
Company T	187	+5.6
Company W	618	+55

Source: relevant company accounts

Support, Organising and Trades Unions

Although pursuing rights is not without its risk amongst those working for the more ruthless employers, having a union’s support is likely to reduce the chance of immediate retaliation. The problems presented here suggest that there are many “quick wins” to be had for workers prepared to approach unions and secure the assistance. The two questions are: would EU8 workers be prepared to make such approaches; and would union respond enthusiastically?

In general, very few migrants have had any contact with any institution outside work. Among other answers about the people and institutions approached when they needed help the most popular one was ‘I solve my problems by myself.’ This way of solving problems is most popular among those migrants who do not speak English. Some also reported approaching their managers and employers for help. However, these were exclusively older migrants (31+) who had not entered the UK through direct contact with their employer. Other mentioned sources of help were private acquaintances, ACAS, accounts office, Inland Revenue, inspection of employment agencies standards, lawyer, Polish business centre, private Polish persons born in the UK. It also seems that migrants having fewer problems tried to deal with them with help of private persons, while increasing problems had to be dealt with by institutions. Very few reported having contacts with Polish or Lithuanian organizations, and those who did tended to be aged 36 and upwards. In general, British institutions tended to be approached by those who spoke better English. The institution most commonly approached was the Citizens’ Advice Bureau (5.3%).

We asked respondents about their membership and views of trade unions. Thirteen percent had been a member in their home country. This suggests that our respondents are representative in terms of having had experience of union membership at home (Hardy and Clark 2005). Yet only 3% or fewer than one in twenty-five - had joined a trade union in Britain. This group were no more likely to have been members of a trade union in their country of origin. Trades union members in Poland or Lithuania do not have a higher rate of trade union membership in the UK. The Autumn 2005 Labour Force Survey found a union membership of 3.1% of Poles (n=133), and 9.5% of Lithuanians (n=61). These figures are worryingly low, and indeed if one includes all A8 nationals responding to the LFS (573) membership is only 3.6% - as reflected in our survey. The union density described in this survey for the labourforce is 26.7%, and for foreign born workers as a whole is 22%, ie nationals from EU8 states are less likely than certain other nationals (e.g. Filipinos and Indians) to join trades unions. Their much lower membership rate in UK is partly a function of the length of time participants had been in the UK labour market. Union membership more generally increases with age, and with length of service (Grainger 2005). It is also likely to be related to the prevalence of agency working, and some of the sectors where our sample are working (hotels and restaurants, and agriculture in particular) are notoriously badly organised sectors in UK.

Low membership rate does not then necessarily represent antipathy to membership – the clear majority said they would be interested in joining. While only 18 respondents were members of a trade union, 274 or 54% of the total sample, said that they would be interested in joining a trade union. If one considers that within the context of all of those contacted for the mail survey (n=2,210) and makes the extremely pessimistic assumption that all of the non respondents (1,706) did not respond because they were antipathetic to trades unions (rather than, as is more likely a disinclination to complete the questionnaire) the numbers who said that they would like to join a trade union still represents over 12%. This suggests then that even on the most pessimistic assumptions the *interest* in trade union membership (and thereby potential membership) is significantly greater than the actual membership. Indeed of the 129 who were not interested in joining, nearly half cited practical reasons, such as cost, lack of information, and brevity of stay. Less than 10% gave ideological reasons, or bad experiences of unions as a reason for not joining.

Among this sample of EU8 nationals men were somewhat more likely to express an interest in joining unions than women (70.7% compared with 64.1%) and men were more likely to respond to the questionnaire in the first place. Seventeen of the 18 members of British unions were men (LFS data suggests that among A8 nationals, 4% of men are trades union members as compared to 3.2% of women). However the level of interest expressed by women in trade union membership suggests that there is no significant attitudinal barrier on the women's part to membership of British unions. There was no major difference between the age groups, though again it should be remembered that this self selected sample is noticeably older than the population of A8 nationals registering as a whole. The 41-50 group was the most likely to express interest

(74.5%), probably reflecting a more general tendency in the LFS data, for both male and females who are more likely to be a union member above the age of 34.

Those who were in “elementary occupations”, sales and customer service occupations, and sales and secretarial occupations were the most likely to want to join a union. Manufacturing, construction, retail and transport and communication were the sectors where those interested in joining were most likely to work. It should be noted too that the in the response to the survey, workers in manufacturing were disproportionately represented. Moreover, interest in joining a union did not appear to relate solely to having experienced problems. Fifty five percent of those who were interested in joining a trade union had experienced a problem, which reflects the proportion of the sample as a whole. As we saw in the previous section, having a written contract reduced the likelihood of reporting problems at work. Nevertheless the majority who did have a contract still felt the need of a union – perhaps expecting that there might be difficulties ahead - “because I don’t know what problems I may face”, as one explained. Interestingly, working for an agency increased the likelihood of being interested in joining a union – of those responding to questions on both the identity of their employer and whether they were interested in joining a union, 77.4% (n=65) of those who worked for agencies were interested in joining a union, compared with 65.4% (n=195) of those who had other types of employer.

Any contact these workers had with fellow nationals who were trade union members is likely to have reinforced this view. Although only 18 of our sample were members of British unions, all but one of them (94%) had a written contract. The comparable figure for non-members was only 76%. On this measure alone, trade union membership was associated with better regulation of employment relationships – though wrong calculation of hours and not being given payslips were also a problem for union members.

Why join a union

The responses to being asked why they might be interested in joining a union showed a variety of reasons. These were by no means all associated with individual protection, services or “insurance”. The need for a “sword of justice” and a view of the value of collectivism at work also motivated many of those responding. We attempted to group the responses in categories which might then fall into two groups: those that fitted with workers requiring a service from a union such as advice, information and representation for example; and those in which the workers saw themselves as having a more active relationship with the union, or simply believed in the idea of membership.

Table 4: Reasons for wanting to join¹¹

Servicing model	No.	Examples	Organising model/solidarity	No.	Examples
Union support for individual	78	"I need support and legal help"	Union enforcement of rights	68	"Unions fight for employment rights at workplace and for human respect"
Advice	16	"If I have problems, I will know better what to do"	Union support for all workers	42	"this gives me the feeling of solidarity with other workers"
Information	70	"I will get access to news regarding laws.."; "I need more information on everything"	Previous membership	3	"I belonged to a trade union in Lithuania and they helped me a lot"
Combat discrimination	13	"Being a foreigner, I'm afraid of being treated in a worse way"	What I/we can do in union	32	"I could help others who need help"
Total	177			145	

Source: TUC/COMPAS survey 2006

The majority of those expressing interest in joining gave reasons that suggested that they did so because of what the union could do for them. However, a substantial minority gave reasons more consistent with wanting to be part of the process of change which they saw as being needed. This suggests that there is a force to be harnessed by unions wanting to improve conditions in industries in which they currently have low levels of membership and therefore influence.

We also asked those who said that they were not interested in joining a union why this was. Amongst those who did so, the responses fell into two main groups. There were those who felt themselves able to resolve problems without a union, or as one respondent put it "because I'm an individualist" and practical reasons. Even amongst those reluctant to join, the provision of information about the role and function of trade unions might win further recruits. Only a small minority appear to be ideologically opposed to trade unions.

Conclusion

This survey paints a picture of Polish and Lithuanian workers who have found work quickly in the UK, despite often limited language skills. A large proportion are working as agency workers in insecure, poorly paid employment. Many of the problems that they face are shared with UK nationals in the same types of employment. The TUC study on

¹¹ 46 reasons were classified as "Other".

agency workers did not distinguish between UK and migrant workers, but the low level of legal protection for agency staff disadvantages all (TUC 2006). One of the particularities of their situation however is the relationship between accommodation and employment. Nearly one third of our respondents had found accommodation facilitated by their employer. This does not signify that all of these respondents were in tied accommodation but it does suggest that there is a link between housing and employment, whether formal or informal, that gives employers an additional means of control over workers. Certainly there does seem to be a link between accommodation, low pay (below minimum wage) and excessive hours that merits further investigation.

We have observed that some of the problems reported by respondents are not in fact problems in UK law. This does not mean that they are examples of good practice. Some Polish and Lithuanian workers had higher expectations of working in the UK labour market than have worked out for them in practice. They seem shocked and surprised at insecurity, lack of holiday pay and overtime rates. Their indignation is a valuable starting point for unions wishing to extend their influence. We have shown how many of the problems are of a basic nature, which may be relatively easily rectified through informed intervention – perhaps even using only the threat of legal action. These are easy wins for unions that may establish their credibility with the new arrivals. This could then form a stepping-stone towards recruiting the layer of activists necessary to develop the pro-organising mood amongst a significant minority of those interested in union membership.

This survey provides evidence that the newly arrived Polish and Lithuanian workers are interested in joining trades unions, and indeed to be active in trades unions, for their own protection, and to contribute to the struggles of all workers in the UK labour market. It also suggests that their exploitation is not necessary for the operation of the British economy, and that many of them are reluctant to accept that exploitation as their lot. This combination of factors presents an opportunity for unions to wield their “sword of justice”, and in the process win the allegiance of a new generation of activists.

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