

Research Paper

Employer use of migrant labour –
motivations, experiences and HR responses

Ref: 03/09

2009

Prepared by:

Dr Sonia McKay (Working Lives Research Institute, London Metropolitan University)

On behalf of Acas Research and Evaluation Section

For any further information on this study, or other aspects of the Acas Research and Evaluation programme, please telephone 020 7210 3673 or email research@acas.org.uk

Acas research publications can be found at www.acas.org.uk/researchpapers

ISBN 978-0-9559264-6-4

***Employer use of migrant labour – motivations,
experiences and HR responses***

Dr Sonia McKay
Working Lives Research Institute,
London Metropolitan University
www.workinglives.org



2009

DISCLAIMER

The views in this report are the author's own and do not necessarily reflect those of Acas. Any errors or inaccuracies are the responsibility of the author's alone.

CONTENTS

EXECUTIVE SUMMARY	4
1. INTRODUCTION	9
2. METHODOLOGY.....	12
3. A BRIEF REVIEW OF RECENT LITERATURE ON MIGRANT LABOUR IN THE CONSTRUCTION AND HOSPITALITY SECTORS	17
3.1 An overview of the construction sector	17
3.2 An overview of the hospitality sector.....	18
3.3 Occupational trends.....	18
3.4 Employment conditions	19
4. APPROACHES TO THE MANAGEMENT OF HUMAN RESOURCES.....	22
4.1 Policies and practices.....	23
4.2 The regulation of migration	24
5. THE IMPACT OF THE EMPLOYMENT OF MIGRANT LABOUR ON EXISTING HR PRACTICES	27
5.1 Communications with migrant workers	27
5.2 Greater involvement in welfare issues	29
5.3 Greater reliance on testing competencies	29
5.4 Looking for specific skills	30
5.5 The training environment for migrant workers.....	31
5.6 Changing methods of recruitment.....	32
5.7 Managing staff and client relationships	33
5.8 Using formal audits, particularly in relation to agency workers.....	36
6. THE FLEXIBILISATION OF EMPLOYMENT RELATIONS.....	37
6.1 Requirements for more flexible workers.....	37
6.2 Agency and job type.....	39
6.3 The value of new boundaries of employment relationships	39
7. THE ETHNIC COMPOSITION OF THE WORKFORCES.....	44
7.1 A substitution factor	44
7.2 Focusing on particular nationalities	46
8. KNOWLEDE AND USE OF ACAS.....	48
9. CONCLUSION.....	50
APPENDIX A: THE CASE STUDY COMPANIES.....	53
APPENDIX B: INTERVIEW SCHEDULES	59
REFERENCES	69

EXECUTIVE SUMMARY

This study, conducted between April and September 2008, had as its principle aims to investigate the procedural and employment relations' challenges surrounding the employment of migrant labour. The particular focus of the study was to consider both whether HR policies and practices influenced the employment of migrant workers; and also whether their use had a subsequent impact on HR arrangements. Although small in scale, and for this reason exploratory, the emerging data has provided a good basis upon which a more detailed and in-depth study could be developed. The study is based on six case study companies – three in the construction sector and three in the hotel and catering sector. All had different histories and structures related to their size and to the labour markets in which they operated. These histories and structures were explored mainly through face-to-face semi-structured interviews with a range of managers in the six companies.

A typology was developed to categorise the HR practices in the six case study companies. Company practices were identified as either: consultative, imposed or absent. The model has provided a useful heuristic device in differentiating between certain company practices. It is important to emphasize that, with an exploratory study involving a small number of case studies covering more than one sector, the analogies that can be drawn between practices in different companies are only tentative. Nonetheless, in relation to the case studies the following can be noted:

HR policies and recruitment

The study began by exploring whether the particular HR environment in a company might or might not pre-dispose it to hiring migrant labour. The study finds that whether or not HR policies were highly formalised made no particular difference to hiring decisions. Decisions to hire migrant workers were associated either with local labour shortages, with particular types of work or with the perceived need for casual or more 'flexible' workers. In the construction companies, factors such as labour or skill shortages, together with a perception of migrant labour exhibiting a greater willingness to work, had made recruiting migrant workers an imperative. Within the hotel companies, the recruitment of migrant workers was sometimes expressed as part of an accepted business model which valued diversity, as a reflection of the international environment within which the hotel sector operated.

Where the presence of formal HR policies did make a difference was in relation to how recruitment took place. Those case study companies with developed HR policies were less likely to rely on word of mouth for recruitment, as they were more aware of its potential for discrimination. However, the 'solution' adopted by all three hotel company case studies was to outsource much recruitment for low-skilled, low-paid jobs to employment agencies. These agencies in turn did use word of mouth to recruit workers, but in the view of the hotel employers, this was a decision taken by the employment agency that the hotel bore no responsibility for. Furthermore, even in relation to directly employed staff, the existence of recruitment procedures that were highly formalised did not mean that they were automatically applied in all circumstances. There were cases where they would be by-passed when low-paid workers were being directly recruited. For example, while the procedures for recruitment might set down a requirement for a specific

level of English language knowledge, staff were recruited who had no or very little English language skills, as these were perceived as not necessary in the kitchen and housekeeping sections of the business. This was possible because the degree of day-to-day control which local management exercised in each of the hotels permitted them a substantial amount of autonomy, even within the confines of large multinational companies such as those in the three hotel case studies.

While the three hotel companies applied their own company HR procedures, the three construction companies were more likely to refer to and to follow an industry agreement or practice, even where they were not a party or a signatory to it. Particularly in relation to employment terms and conditions, they placed greater reliance on these national policies.

Changes in HR practices had generally involved the adoption of new methods of communication with migrant workers; a greater degree of company involvement in the provision of welfare; more use of testing for skills and language ability; changing methods of recruitment with a greater reliance on direct recruitment from abroad; more emphasis on the management of staff and of client relationships; and a greater reliance on formal audits, particularly with regard to agency workers.

Recruitment methods had changed through the development of:

- Chains of migration, which provided a constant supply of new recruits and consequently a better knowledge of the availability of labour, without having to formally advertise;
- Easier access to jobs through the use of Internet advertising and in particular a much wider pool of labour, potentially drawn from worldwide labour markets. The growing use of Internet advertising, particularly that appearing on the companies' own websites, had replaced other forms of recruitment, especially for the hotel sector case studies; and
- A greater willingness to recruit directly from abroad; in some cases to establish recruitment bases in countries of origin, combined with a growing number of employment agencies sourcing labour directly in the country of origin.

We also found that HR managers generally presented a more orderly picture of procedures and practices in the company than did other interviewees. For instance, they were more likely to assert that recruitment policies were always applied – particularly in relation to knowledge of the English language. At line manager level, there was more likely to be an assumption that while these attributes might be desirable, in practice, particularly where labour was sourced through agencies, the policy was not always followed.

Most employers had taken steps to translate key documents – particularly concerning health and safety – into the language of the main migrant groups. They saw this as an essential pre-condition to the employment of migrant workers. However, this did in some cases lead to favouring particular linguistic groups when it came to recruitment, as the management of relatively few languages of origin was seen as being less problematic.

There was greater reliance on formal testing of competencies, both of the English language but also more widely in relation to skills.

Supervision and training

New systems of supervision had been developed to respond to the needs of a changing and linguistically diverse workforce. Some of the case study companies had created linguistically defined levels of supervision with bi-lingual staff acting as a communication channel between workers and the established supervisory structure in the firm. Some interviewees referred to other changes to HR practices, introduced to ensure the smooth running of staff relationships and to prevent antagonisms arising, particularly between locally recruited and foreign workers. These included a greater degree of discussion and information about recruitment policies.

In the construction case studies participants related the requirement for migrant labour to particular skill shortages, especially specific craft occupations (for example welders or plumbers). In the hotel sector the requirement for migrant labour was less likely to be associated with a particular skill shortage. Instead, migrant workers were identified as labour willing to do jobs that local workers had rejected, either due to poor conditions, its physically demanding nature or poor pay.

The six case study companies all stated that there were training programmes that covered migrant workers. However, there were some differences between the responses of the construction companies and the hotels with regard to the type of training available. In construction, training was generally related to the attainment or development of specific skills or sometimes was part of a process of evaluation of existing skills. It could also be provided within the context of health and safety procedures. In hotels, training was more usually seen as training for progression, as part of a process of career development.

In some of the case studies there had been adaptations or changes to training procedures to accommodate the needs of migrant workers. These might include training in languages of origin or pre-employment training. Some employers had also conducted audits of firms supplying agency workers, which was a reflection of their concern over these employment relationships. These audits included independent audits of agency workers' pay or more investigation of agency workers' competences.

The flexibilisation of employment relations

Within the two case study sectors some participants noted that employment relationships had changed, particularly since May 2004. Within construction they spoke of an increased reliance on sub-contracted labour, with most workers having the formal status of self-employed, whether working directly for the end user employer or working through a supply-side company. In the hotel case studies they referred to an increased use of agency employment, with some jobs in particular being associated with agency labour.

A majority of the employers identified a need for higher levels of productivity and this was a basis for the use of migrant labour in general and agency labour in particular. However, migrant agency labour was often pigeonholed into specific jobs, often very low-paid, although some high-paid jobs were also included.

Four of the six case study employers emphasised their need for flexibility in labour supply in the workplace. Usually this was seen in relation to the use of

agency workers, but it was applied more generally to migrant workers who were perceived as representing a more flexible or 'adaptable' workforce, whether employed directly or through agencies. In this context, flexibility was conceptualised as worker willingness to work to whatever system the employer favoured. It was not perceived as a way of providing the type of employee flexibility, which promoted work/life balance.

For three of the six companies, employment relationships at a distance (through agencies) were seen as offering specific advantages in relation to flexible work. Where advantages (and disadvantages) with regard to the employment of agency migrant workers were mentioned by employers, these were conceptualised in terms of less pressure to provide job security together with the existence of inferior terms and conditions.

Most interviewees did not view the use of agency workers negatively. Agency workers were generally said to be working at the national minimum wage, although in construction the average rate paid was higher, but even in a tighter labour market (which was the case in the period when the case study data was being collected) employers were still able to reduce their direct staff costs by using agency workers.

At the same time the employment of migrants had encouraged some of the case study employers to look beyond the immediate workplace and its requirements to consider what additional support migrant workers might require. This had led them to provide a range of welfare services, particularly around access to banking and accommodation, which employers felt that they had a particular duty to provide for recent migrants.

The ethnic composition of the workforce

The study finds no clear evidence of conscious decisions on the part of employers to alter the ethnic composition of the workforce by replacing local minority workers with more recent migrants. However, within the hotel case studies we were told that recent migrants had replaced local minority ethnic workers. The employers believed that this change had occurred because local workers had been able to source better jobs, but they presented no evidence for how this had occurred.

In the hotel case studies, the interviews demonstrated a greater employer commitment to diversity issues than was the case for the construction case studies. The hotels were more likely to actively encourage applications from individuals with diverse national origins, to reflect their customer base. In the construction companies there was greater focus on recruiting from a narrower range of ethnicities as this was seen as easier to supervise.

Regulatory environments

For some employers regulatory mechanisms could also be regarded as constricting employer decisions about recruitment, particularly where they required a large amount of paperwork and were perceived as being slow or rigid. For others, particularly within construction case studies, regulatory systems were viewed as essential for the smooth running of the sector.

Hotel respondents were less critical of the existing regulatory systems for two reasons. First, concerning the work permit scheme they generally only directly employed highly skilled non-manual workers and could plan for the length of time it would take to go through the work permits system to fill the jobs. But they also were aware of agency employment being a way of bypassing the regulations by switching the obligation to check the status of workers from the end user employer to the agency.

Acas

While most of the participants were aware of Acas, few had used its services and half had difficulty in providing examples of where an independent organisation such as Acas could provide them with assistance. Some participants expressed the view that Acas was not the organisation for them, either because their company was too large or because it was non-unionised and they associated Acas with the promotion of social partner relationships.

1. INTRODUCTION

In October 2007, the Advisory, Conciliation and Arbitration Service (Acas) commissioned the Working Lives Research Institute (WLRI) to conduct a small-scale, exploratory research project on employer use of migrant labour. Involving a case study methodology, the aim of the research was to consider the motivations and business models involved in employers' decisions to use migrant rather than long-term resident labour in the construction and hotels and catering sectors. The proposal for the study grew out of earlier research conducted by WLRI that had shown that a high proportion of migrant workers are employed indirectly through agencies or labour providers (McKay and Markova, 2008). The scope of this exploratory project therefore took in both an investigation of decision-making concerning the direct employment of migrant workers, and where appropriate, of decision-making in favour of sourcing labour through employment agencies.

This research study aimed to investigate the procedural and employment relations' challenges that may arise as a consequence of the use of migrant labour. The study was seen as being specifically relevant to Acas, which has a major interest in understanding the dynamic processes within the UK labour market and in promoting cohesion through better employment relations, promoting best practice in the workplace through easily accessible advice and services, and believing that prevention is better than cure. The study aimed to inform Acas in both respects, with the wider objective of enabling it to improve the quality of its services as the number of requests from migrant workers increases.

A number of previous studies have investigated factors influencing employers' use of migrant labour, including a large-scale study by the Institute for Employment Studies, commissioned by the Home Office (Dench et al., 2006) which concluded that, particularly for low-skilled jobs, employers believed that their businesses would suffer or could not survive without migrant labour. The primary reasons they offered for recruiting migrants were labour shortages, with domestic workers unwilling to take these posts, as often the conditions, pay, hours or nature of the work were unfavourable to them and migrants were more amenable to these conditions. They also cited more motivation and commitment, lower turnover and absenteeism and a preparation to work longer and flexible hours. Employers were more reluctant to discuss financial imperatives for employing migrants, although the fact that they acknowledged that their pay levels were unattractive to local workers, suggests that in their motives for employing migrants, wage levels are relevant. Given the recent dispute over the employment of non-UK workers at the Lindsay oil refinery (February 2009), the pay and conditions applicable to migrant workers have come under greater scrutiny.

This study has focused on the employment of documented migrant workers only. While we recognise that some migrants are undocumented, the case studies were not intended to explore these forms of employment relationships, since our purpose has been primarily to focus on the extent to which employers might have changed policies and practices to accommodate migrant workers and our hypothesis is that changes to HR management are less likely to be found where workers are undocumented.

The central research hypothesis is that recent large-scale migration to the UK might be likely to have consequences for employment policies and practices and for the representation of diverse worker interests. It also investigated the extent to which the increased diversity of the UK labour force, as a consequence of new large-scale migration, was likely to have had an impact on workplace employment relations, an issue at the core of Acas work. In addition, some of the sectors where recent migrants have been concentrated have traditionally not been well regulated, with an absence of established workplace practices and procedures and few formal systems of information and consultation. For this reason the study also aimed to explore the extent to which new practices or procedures may have been introduced. It also considered whether there was likely to be an increased call on Acas services in the future – both from employers and workers.

The study was primarily exploratory to provide some baseline material for a fuller and longer-term ESRC or similar funded project. The research aims were to:

- Build on existing data – both WLRI data and other available research data;
- To explore further the motivations of employers in recruiting migrant workers, whether directly or through agencies, with a specific focus on the measures that employers use to encourage the development of effective employment relations;
- To complement the WLRI project on vulnerable agency workers and to expand the research questions beyond those related to agency sourced employment;
- To provide an employer-focused companion piece to earlier research undertaken by WLRI on behalf of Acas on migrant workers' experiences in the hotel and catering sector (Wright and Pollert, 2006).

Key questions addressed in the study included:

- The extent to which formal HR policies affect decisions as to whether to employ migrant workers or not;
- What impact the employment of migrant labour has on existing HR practices and does this differ dependent on whether labour is directly or indirectly sourced.
- Whether changing boundaries to employment relationships (increased duties and exit costs – i.e. greater vulnerability) have a bearing on the way employers manage migrant workers;
- The extent to which the conceptualisation of the employment relationship differs across different groups/ and from our own construct;
- Whether particular minority ethnic groups are replacing others;
- What factors lead to employer decisions to hire (or not hire) migrant workers;
- What factors might encourage employers to focus on migrant workers of one nationality/ethnic origin;
- What is the impact of regulatory environments on both hiring and procedural decisions;
- Whether the employment of migrant workers reflects a requirement for specific skills;
- What is the training environment in relation to migrant labour, both directly and indirectly employed; and
- What relationship is there between labour costs and profitability and the hiring of migrant workers.

This report consists of seven sections. Section 1 explains the methodologies that were used in gathering and analysing the data. Section 2 then sets out the recent literature on agency and migrant working in the construction and hotels sectors. Section 3 looks at HR policies and procedures pertaining to recruitment and explains how HR practices may circumvent formal policies. It also discusses the regulation of migrant labour. Section 4 goes on to explore whether the recruitment of migrant workers affects the ways that employers apply their HR policies. Section 5 discusses how the boundaries of employment relationships are changing, both through requirements for more 'flexible' workers and through the greater use of agency workers. Section 6 investigates the extent to which the ethnic composition of the case study workplaces has changed through the employment of migrant workers. Finally, section 7 looks at the case study knowledge and involvement with Acas and with trade unions. The appendices provide a more detailed background to the case study companies. They also set out the research instruments utilised in the course of the project.

2. METHODOLOGY

The study used a variety of methods:

- A review of the relevant literature on migrant labour in general and, more specifically, covering the two sectors – construction and hotels. This review focused, in particular, on the recent literature;
- Desk-based research: Internet searches of the six case study companies, primarily to ascertain how their recruitment policies operate in practice but also to determine how much information on working conditions and work procedures is publicly available to prospective job applicants, especially where they are likely to come from abroad;
- Case studies of six companies – three in construction and three in hotels – comprising face-to-face interviews with a range of managers and employee representatives (where they existed) in each case.

We proposed the use of a case study method as this was seen as most appropriate for an in-depth exploration of how new patterns of employment impact on relationships and procedures in the workplace. In particular, by interviewing more than one participant, the method allowed us to test the interview data itself. In fact, we discovered some differences of emphasis between the responses of the individual with primary responsibility for HR and those of the individual with primary line management responsibility. In five of the six cases, where the thesis could be tested, HR managers presented a more orderly picture of procedures and practices in the company. They were more likely to assert that procedures applied – particularly in relation to worker knowledge of the English language as an attribute for employees. At line manager level there was more likely to be an assumption that while these attributes might be desirable, in practice, particularly where labour was sourced through agencies, it was not essential.

The aim was to conduct case studies in six workplaces in two sectors, primarily in one region. This method was supplemented by desk-based research and through the conduct of a literature review. For the desk-based research we conducted Internet searches on the six case study companies, looking in particular at their recruitment practices as detailed on their web pages. We also examined staff handbooks and other documentation, where this was available, to confirm or otherwise provide information on the procedures and processes utilised by the six companies in the management of their workforces.

We accessed case study participants through the following networks: London Citizens; UNITE the union, SERTUC, the TUC, UCATT, Construction Skills, the Federation of Master Builders; the Major Contractors' Group; the Docklands Business Club; the East London Business Alliance, the Engineering Construction Industry Association

The six case studies eventually selected conform to the basic model agreed with Acas at the commencement of the research. This was that:

- At least one case study would be of a large employer (1,000 workers or over);
- At least one would be of a small employer (100 workers or under);
- The two sectors were to be the hotel and catering sector and the construction sector, chosen as they offer contrasts between a regulated versus an unregulated sector; and

- The regions in which the case studies would be based would be either London or the East of England (in order to minimise research fieldwork costs).

Our aim was to conduct between 20 and 25 interviews, including three face-to-face interviews with Acas regional officers with operating experience in either or both sectors. In each of the six case study companies we set out to interview:

- A senior manager with HR responsibilities;
- A senior manager with finance responsibilities;
- A line manager with direct staff responsibilities.

We also aimed to conduct interviews with some trade union workplace representatives and, in those companies where migrant labour was sourced wholly or in part through an employment agency, we aimed to interview representatives of the agency. However, in the event, only one of the six case studies had any trade union presence and we conducted an interview with the trade union representative there. However, this did not mean that there were no trade unions anywhere within the other organisations. The fact that many of the case study companies were large or operated at a number of different locations meant that trade union organisation could be evident at some locations and absent at others. Additionally for the construction sector companies at least, the mobile nature of their operation meant that they would sometimes conduct their operations in locations where there was a well-established trade union presence. For this reason it is difficult to categorise the case studies as either unionised or non-unionised. Union organisation, in reality was a much more fluid concept. Within the hotels, consultation procedures were more likely to exist, but these did not necessarily imply the presence of trade unions.

Table 1: Involvement with trade unions

Case study company	Trade union presence	Local representatives
Construction A	Not at this site	Dependent on site
Construction B	None	
Construction C	Not at this site	On some sites, dependent on client
Hotel A	Not at this site	Dependent on site but not on the case study site. There was however a developed system of consultation.
Hotel B	None	Some communication systems in place
Hotel C	Yes	Negotiated with the trade unions

At Construction A there was a trade union presence at some sites; however, representation was dependent on local circumstances and on the location of the operation. The Director of Operations Support noted that they had '*very good trade union shop stewards with whom we have developed good co-operation and work together to improve employment relations in the company*'. However, trade union representation was limited to the power station sites where the company

worked and there was actually no trade union presence at the construction site that we investigated. Similarly, at Construction C one participant stated categorically that there was no trade union presence while another pointed out that there could be a trade union on some of the sites to which it supplied labour, but that the company did not negotiate directly with the trade unions.

At Hotel A, there was no trade union presence at the particular site investigated – although, again, there was some trade union presence in other hotels in the group – but there was a system of formal consultation with workers. The company had established an 'Associate Relations Committee', conducted quarterly 'Associate Forum/Town Hall' meetings and used notice boards, team and department meetings, and opinion surveys to communicate with its staff. Hotel B had no formal trade union presence at any of its UK sites. There was a system of representation for health and safety issues through 'health and safety champions' and these, together with the annual appraisal system and a personal development programme, were the only areas identified as being related to staff communications. Hotel C was the sole exception where there was a trade union presence and negotiation with the trade union, at least at site level. There was a formal recognition agreement with UNITE and the agreement had been maintained even through a transfer to a larger hotel chain had meant that, at UK level, there was no formal trade union channel for negotiation or consultation. Although one interviewee thought that the new company was described as being one that '*does not like trade unions*' but at the same time all the participant interviewees were pleased that their hotel had scored high in a staff opinion survey, due to its active involvement with the trade unions. Union representatives sit on the Associate Committee that meets monthly and pay is negotiated locally with the trade union. The hotel maintains its own negotiated redundancy agreement with the trade unions.

In terms of employment agency staff, one of the case study companies actually operated two separate business units. One was an employment agency sourcing mainly Polish migrant workers, while the other was a construction company directly employing its own construction workers. We thus conducted interviews both in relation to its agency section and its construction business side.

To obtain the case studies we approached around 30 construction companies that fitted the profile we were looking for. We were aware that the sector was already beginning to experience the first signs of recession and in this climate few were willing to take the time to participate in the study. One HR manager whom we had followed up for some weeks finally refused stating that the company was very busy in trying to secure work, commenting '*the last three months have been the hardest for the sector since the beginning of the 1990s. We have to survive so have no time to take part in any research*'. Similarly a construction company contacted in London reminded our researcher of the '*really gloomy times that the sector is going through. Even companies in London are laying off people every day as there is no work*'. Two other large companies stated that they could not participate because the way that the sector operated meant that they, like most major construction companies, directly recruited very few staff and therefore the issues that we wanted to address were generally not relevant to companies like these. This company spokesperson stated that in her view '*the research is quite politically sensitive*' as companies like hers recruited only through sub-contractors so that their '*HR practices operate in a very fragmented even if transparent way*'. Within the hotel sector we had less difficulty in locating the case studies.

We interviewed 18 individuals in all:

- Three Acas officials – two in the London region and one in the East of England
- In the construction sector we conducted eight interviews;
- In the hotels sector we conducted seven interviews

Table 2: Profile of case study companies

Case study company	Staff	Description	Participants interviewed
Construction A	5,000 hourly paid workers	Multi-specialist energy services company	Strategic construction manager, Support manager, Director of operations support
Construction B	80-100 workers at six sites	Specialises in conversion, refurbishment and new build residential	Project manager with responsibility for project budgets, recruitment and management
Construction C	80 workers in the UK	Supplies unskilled labour to the construction sector and highly skilled workers to the engineering sector	Group sales director, Office manager, Operations director, Welfare officer
Hotel A	160 permanent staff + agency labour	Part of a worldwide hotel group	HR manager, Director of services
Hotel B	6,000 employees globally	Part of a worldwide hotel group	HR and development manager, Area resourcing manager
Hotel C	200 staff	Part of a worldwide group and largest UK site	HR director, Housekeeping manager, trade union representative in housekeeping

*For a full description see Appendix 2

The primary reason for conducting fewer interviews than planned had to do with the institutional structures of the case study companies, particularly in relation to their financial management. This role was either not separately assigned or was not located at the level of the company where the case study data was being sought. Our aims had been to explore how procedures operated in practice and in relation to migrant workers and this required us to conduct interviews at the level of the workplace, where we could explore, with actual actors, the steps that they took in relation to the management of migrant worker staff. In investigating the structures of the companies we found that they did not match the model we had

anticipated. The fact that some of the case study companies operated as semi-autonomous units within large multinational companies meant that they did not have a separate senior manager with responsibility for finance, but this role was conducted at the level where the case study was being carried out, by individuals with dual responsibilities – for example with HR or line management responsibilities.

What this did mean was that we were able to explore the issues with individuals who were steeped in the day-to-day management of the workplace. In Construction A, the Director of Operations Support had line management responsibility but also had responsibility for finance. In Construction B, one individual carried out the HR, line manager and finance roles. In Construction C the Group Sales Director was one of the original founders of the company and had both an HR and finance responsibility. In contrast, in the hotel sector, the senior manager with financial responsibility was always located at company head quarters. Furthermore, in discussions with the heads of HR in the three case study hotels, it was clear that, in relation to day-to-day financial responsibilities, these often were intertwined within the role of the HR manager.

We note that the structures operating in many large companies like those studied, although often presented as uniform, in fact are multi-varied when it comes to the implementation of company policies at local level. This means, for example, that a company may have concluded a union recognition agreement with a union at one location but have no union members in another. It may employ migrant workers on some sites but not on others; and it may use sub-contracted or agency staff in some of its establishments but employ only directly hired staff in others. This means that the generalised labels often attached to such companies are unhelpful when it comes to understanding their procedures and processes 'on the ground'. It highlights the importance, in large organisations, of exploring workplace relations at the micro-level, to fully understand the dynamics of employment relationships as the experiences of workers may vary within the same company and their assessment of its employment relations environment may also be different, depending on where they are located. This is particularly likely to be true for migrant workers as their experiences, when entering a workplace where there is an existing, well-developed organisational model for the employment of migrant workers, will differ significantly from those where they are isolated and where the management or supervisory structure has no experience of managing a diverse workforce.

3. A BRIEF REVIEW OF RECENT LITERATURE ON MIGRANT LABOUR IN THE CONSTRUCTION AND HOSPITALITY SECTORS

This study for Acas covers companies in the construction and hospitality sectors. In relation to these two sectors some recent literature should be referred to.

3.1 An overview of the construction sector

The construction industry structure is complex, with organisations taking different roles from pure management to contracting, with main trades and specialist sub-contractors and high levels of self-employment. Until recently it had a high vacancy rate, with the number of vacancies reported in an ONS survey between September 2006 and August 2007 amounting to 10,383 jobs (Home Office, 2007). As of late 2003, about 37% of the construction workforce was self-employed (Lindsay and Macaulay, 2004). It is a sector in which an international market of labour exists, which has encouraged the development of a mobile international labour force, which Wells (2006) argues has a significant if indirect effect on wages and working conditions for construction workers in many countries and that indeed the threat from an excess supply in the world's labour markets (a possible consequence of the current economic crisis) may create a downward pressure on wages throughout the world.

The majority of construction companies are very small, with 97% of firms employing fewer than 25 employees and accounting for 47% of employment within the sector. However there are strong regional variations in the level of construction employment, given that demand will be depend on the strength of the regional economy and skill shortages associated with major building projects and local industry success.

A series of economic indicators and industry surveys show the UK construction sector has experienced steady growth since it retracted during the recession of 1989-90. This expansion has meant more jobs, with the sector employing an estimated 2 million people and accounting for 6% of GDP (Anderson and Rogaly, 2005). Most forecasts had predicted that the sector would continue to expand over the next few years, albeit at a slower pace than in the late 1990s (Glover, 2001). However, a sharp recession began to hit the sector in the middle of 2008, occurring prior to the banking crisis of the autumn of 2008. This has led to a reduction in the number of jobs, with increasing competition from indigenous workers for jobs in the sector. Indeed, one of the construction company case studies noted a return of demands for work from Scottish and Irish workers, who had been substantially absent from the London construction labour market in recent years. Growth in the construction industry, up until mid 2008, had been taking place at a time of acute shortage of labour and skills, perpetuated by the fact that 'work in construction is not highly regarded and tends to be shunned by local workers' (Wells, 2006).

Chan, Clarke and Dainty (2008) found that around 50 per cent of employers in the construction industry look to migrants for their workforce, especially in the traditional building trades. They furthermore suggest that migrants may even be preferred because of their wider occupational profiles and greater problem solving, transferable social and personal skills, compared to those imparted under UK NVQs. However, Trajkovski and Loosemore (2006) found that low English

proficiency on construction sites had negative consequences for health and safety on construction sites.

3.2 An overview of the hospitality sector

The hospitality sector employs over 250,000 workers with a country of birth outside the UK, amounting to about one in five of all workers in the sector. The June 2008 Accession Monitoring Report shows that 159,035 workers were registered as working in hospitality and cleaning. The report does not separate out the two sectors, but Matthews and Ruhs (2007), in a recent study, estimate that around 36,000 A8 workers are employed in hospitality alone. Within the hospitality sector, Mathews and Ruhs explore the nature of staff shortages in the sector. They found that employers' recruitment decisions were driven by three major objectives:

- Minimising labour costs;
- Reducing the indeterminacy of labour through recruiting 'good attitude' rather than technical skills; and
- Managing the mobility of workers to find the optimal balance between the labour retention and flexibility needs of the business.

Matthews and Ruhs found a preference among employers for migrant workers over British workers and a tendency to recruit workers largely based on nationality, based on employer stereotypes of 'national characteristics'.

Lucas et al (2008) describe the hospitality sector as reliant on particular types of workers that are associated with being marginalised within secondary labour markets, in particular young people, students, women, ethnic minorities and migrants. Personnel practices are depicted as 'poor' and migration has been a key factor in profit maximisation. They suggest that the sector will continue to employ a significant proportion of international and migrant workers, many in jobs that are temporary. In relation to vacancies the distribution, hotels and restaurants sector had 57,091 vacancies, between September 2006 and August 2007, the highest vacancy level after banking, finance and insurance (Home Office, 2007).

3.3 Occupational trends

The occupational composition of the workforce in construction is distinctive from most other industries, in that a high proportion (approximately 50%) of the workforce is made up of people with well-developed manual skills (such as bricklayers, steel erectors, roofers, carpenters, glaziers etc), compared to around 10% in the economy as a whole. Consequently, employment tends to be proportionately less concentrated in managerial and professional occupations. Migrant workers have increasingly been filling most of the skills shortages, with particularly large influxes of workers and firms from Eastern Europe into the construction industry. The trend towards the recruitment of migrant workers as an integral part of the construction workforce has also been reflected across the EU-15 member states (Wells, 1996). In France, the building industry is the only sector where foreign labour is over-represented and in Austria, 18% of the construction work force was born overseas. Additionally under the new freedom of movement rules, Eastern European countries can employ workers in their own countries while servicing contracts in the UK (Building, June 2004).

In the UK, an estimated 88,000 non-UK workers were employed in the construction industry in 2003 (Construction News, Jan. 2003) and a survey conducted by the Considerate Constructors' Scheme (2004) suggested that there were up to 100,000 workers on UK building sites for whom English was a second language. Most of these migrant workers were employed through chains of sub contractors, often as labourers, and hence are extremely difficult to quantify. Although there were no schemes under which construction workers could enter the UK, it has been possible to enter the UK as a self-employed person and then find work: as Anderson and Rogaly (2005) explain, this contributes to the invisibility of migrants.

Dainty et al. (2008) find that within the construction sector foreign inflows comprise younger workers, operating in the lower skilled end of the labour market. Moreover they found that the prevalence of migrant workers in the projects they examined was much greater than the official statistics suggest, in some cases, virtually all the general labour and most of the trades were migrant. Only 30 per cent of the workers they interviewed had worked in construction prior to migration, although a majority had worked exclusively in construction since arriving in the UK.

Matthews and Ruhs (2007) found that almost 240,000 migrant workers are employed in hotels and motels, of whom 56 per cent are female and almost half are under the age of 30. They estimate that around half of the migrants employed in hotels and motels have been in the UK for less than five years.

3.4 Employment conditions

The construction sector by its very nature provides work that is time bound, seasonal and often on-off, demanding a corresponding flexibility in labour arrangements. Most of the labour arrangements work through sub contracting chains, with construction workers being hired as if they are fully independent or self employed, by different sub contractors who feed up their supply of workers to larger sub contractors and so on. This system is known as the 'LOSC' market: labour only sub contracting. This implies that while the number of workers employed on site may be large, the actual numbers on the rolls of the main builders may be very small.

In addition, there is also considerable variation in the number of employees depending on the task at hand during the different stages of the construction process. This often leads to workers having short-term contracts rather than long-term direct employment. Workers are usually recruited through a long chain of recruitment agents, or by word of mouth. Payment is usually on a daily or weekly basis, and conditions of work are often difficult due to the nature of the industry and the physical effort required in some jobs (McKay et al., 2006). The project-based nature of construction work leads to high occurrence of non-payment of wages.

A research report (IIF, 2005) found that 19% workers in the construction industry were temporary workers, who were more likely to be migrant workers. However, the regional spread varied significantly: in the North east region, the majority (90%) were indigenous to that region, while in London and the South East, only 40% were indigenous to the region, with 9% of the workers coming from outside the UK. Black workers were found to be more likely to be new to the industry and

working as labourers/general operatives. Further, working for an agency was quite common for recent entrants into the industry (17% of those in the industry less than a year do so), as was working on a self-employed basis (21%). Agencies are mainly used for labouring and general operative positions, jobs that have high risks associated with them.

Migrants thus form an important pool of cheap labour in the construction industry. Their lack of awareness about their rights, combined with the vulnerability accorded due to irregular contracts and a more 'patron-client' relationship rather than an employer-employee relationship can be important factors in increasing the risks that they face in the sector. For example, Anderson and Rogaly (2005) found that non-payment or payment at less than the agreed rate was common in construction workers. A study of Central and Eastern European migrants in the UK construction sector, estimated the mean hourly rates of pay at £8.29 and found that full-time employees in the sector worked longer than average hours at 45.6 hrs per week and just over 40% reported working overtime (Anderson et al, 2006).

Within hospitality, research has highlighted the persistence of informal approaches to recruitment, training and procedures (Lucas, 2005). The sector is characterised by high labour turnover, low union density rates and a high incidence of part-time working. Matthews and Ruhs (2007) found that in relation to the large hotels where interviews were conducted, employers sought to resolve the tension between the requirements of flexibility and retention through the combined use of recruitment agencies and variable contracts, especially when hiring housekeeping staff and in some cases kitchen porters. However, they also note that, in relation to a postal survey, which they also conducted, the proportion of hotel employers using agencies was very low (at just four per cent). This illustrates the point that we make in the report, which is that the use of agency labour is focused in particular sectors of the hotel and its use may go unrecognised by those managers with HR responsibility.

Wright and Pollert (2006) in their study published by Acas found that the National Minimum Wage was commonly paid to basic grade staff and that long working hours was a feature of employment in the hospitality sector. There were poor perceptions of job security, an increasing use of casual and agency staff and limited training, although in relation to the hotel side of the sector, there was some recognition of the neglect of training in the past and staff were being offered the chance to pursue NVQs.

This section has focused mainly on the recent academic literature on the two sectors, specifically where it has looked at the recent employment of migrant workers. There is of course a much wider body of academic and grey literature (produced by the industry, the trade unions or by interest groups), which relates to the sectors more generally, but as this report has migrant workers as its focus, this literature has not been covered in depth. The six case studies conducted for this research reflect many of the attributes identified in the literature review. The three construction companies had all experienced labour shortages during the period of construction boom and had been forced to seek migrant labour to fill both skilled and unskilled jobs. Most of the work was sub-contracted and the majority of construction workers were hired through sub-contractors, but as self-employed workers. The hotel companies specifically identified migrant agency labour as appropriate for the lower paying, low skilled jobs in kitchens and in

cleaning, in particular. The informal approaches to recruitment, identified by Lucas (2005) were a factor in some of the hotel case study companies. In keeping with Wright and Pollert's (2006) findings we also found an increased use of agency staff.

4. APPROACHES TO THE MANAGEMENT OF HUMAN RESOURCES

In this section we:

- Develop a typology of company approaches to the management of human resources; and
- Show how, regardless of whether or not a company has highly formalised HR policies, the practices encouraged by these policies may not filter down to the levels where they employ migrant labour.

The section also looks at the regulation of migration, exploring:

- The impact of regulation on employer decisions to hire or not to hire migrant workers; and
- The extent to which they found these regulatory mechanisms useful or restrictive.

The six case study companies had different approaches to their management of human resources and to understand their employment practices better we found it useful to develop a typology, consisting of three different categories, identified as 'consultative', 'imposed', or 'absent'. These categories were useful in observing how labour relations were managed, particularly in relation to the recruitment of migrant workers.

Consultative HR practices: we associate these with either a trade union presence or the presence of other formal channels of communication – staff forums, discussion panels or surveys. In these cases there is likely to be an established grievance and disciplinary procedure, which would be utilised by staff and management. There would be a formal method of recruitment, even if it was not applied in the case of recruitment to the low-skilled jobs that migrant workers were employed to do. These consultative practices may also operate in tandem with the widespread use of agency labour, and this labour would have been hired without reference to any formal recruitment policy. Construction C, Hotel A and Hotel C fall into this category.

Imposed HR practices: we associate these with cases where there the company has formal human resource management policies based on national company guidelines or national social partner agreements. However, at site level there would be an absence of any method of consultation with staff or with employee representatives (indeed there might not be any such representatives) and policies would be imposed on the workforce without any consultation. Construction A and Hotel B fall into this category.

Absent HR practices: here there would be a total absence of any formal human resource management policies and procedures. The management of staff relations would be 'ad hoc' and dependent on the individual skills of the individual manager. Recruitment would be entirely by word of mouth and the employer's reputation as a fair company to work is considered more important than its adoption of formal policies. Construction B falls into this category.

By *policies* we intend mainly strategic equality and diversity policies or policies concerning recruitment or retention; by *procedures* we mean the formal processes by which policies are implemented; by *practices* we mean the customary way in which the organisation conducts its management of human resources.

The first thing to note is that the categories cannot be associated with one sector rather than the other and indeed the small-scale nature of the study would prevent the drawing of any such conclusions. Although it was only one of the construction case studies that fell into the category '*absent HR practices*' this was more related to the size of employer than to the sector. Had there similarly been a small family run hotel among the hotel case studies we hypothesize that this too might have revealed similar absence of formal HR practices.

4.1 Policies and practices

We began this study by examining existing formal policies on recruitment in the six case studies, to understand the extent to which these policies were applied in practice and furthermore to investigate their application in relation to the recruitment of migrant workers. We found that while all three hotel companies, for example, had well-developed HR policies that formally set out how recruitment was to be conducted, in practice, these policies were not always applied at site level, particularly where low skilled labour was being sought. It simply was 'easier' for employers to recruit directly through word of mouth or indeed to have an arrangement with one or more employment agencies to find workers rather than to go through the formal procedures. Thus while such policies might caution against word of mouth recruitment; might set out how information about job offers was to be circulated; and might be aimed at encouraging a diverse workforce, there were no measures that guaranteed that the policies would always be applied. Our study, within the constraints of its exploratory nature, found limited evidence to suggest that such policies were automatically applied in relation to the employment of migrant workers.

One issue that needs to be considered in relation to HR policies and procedures is that the presence of a highly formalised system does not automatically mean that it applies in all circumstances. We observed that even in those companies with highly formalised procedures, these might be by-passed in relation to employment practices connected with lower graded jobs. For example, in Hotel A there was a standard system of recruitment. However, in practice, methods of recruitment differed, dependent on employee grade, and lower grade jobs, particularly those in hotel cleaning, were more likely to be filled through the use of less formal methods, but principally by devolving recruitment to employment agencies. In turn migrant workers also almost exclusively carried out these types of jobs.

Another example is in relation to language proficiency. All the case study employers claimed that they required minimum standards of English language proficiency for all jobs. However, in practice, this requirement was frequently ignored in relation to lower graded jobs. Sometimes this information emerged from the interviews with the line managers and not with the HR managers who generally portrayed a more unified concept of HR practices. An example is in the interviews at Hotel A, where the HR manager claimed that knowledge of English was a requirement for the entire workforce, whereas the line manager responsible for housekeeping staff acknowledged that many of her staff did not speak any English.

Within the construction sector, whether the HR arrangements met the 'consultative' or 'imposed' aspects of the model, reliance was more likely to be placed on the existence of an agreement, which had to be conformed to and which gave limited scope for divergence. The policy might set rates of pay, might

constrain working hours and might even determine how the employment relationship was to be conducted. In the hotels sector, policies were more directly shaped by individual employer practices and this could affect how HR policies were conducted. All of the three hotel case studies were in large companies where a degree of flexibility, in relation to employment practices, had been devolved down to site level.

What all six case study employers had in common was that they all employed migrant workers and there was no correlation between the type of HR regime that they followed and decisions in relation to the employment of migrant labour per se. Irrespective of the typology of HR practice, there was no greater propensity to hire or not to hire migrant workers. This may have been because HR practices are less obviously enforced for lower grade levels where migrant workers operate, mainly because management did not view these workers as a permanent or key component of the labour force. This was particularly the case where migrant labour was also agency sourced. Even though the same workers might work for the company for months at a time (in the hotel sector) the fact that they were not directly employed removed them from the circle where HR practices were deemed appropriate. In the construction sector, the use of sub-contracted labour had a similar construct with workers regarded as a temporary element for which formal policies were not relevant.

Having asserted that HR practices do not directly influence employers' motivations for using migrant labour, it should be noted that methods of recruitment *were* found to differ significantly according to the typology of HR practice. In the three case studies with consultative HR practices (C3, H1 and H3) HR practices were standardised, there was a strong commitment to staff development, a commitment to diversity and to the development of talent. However, even in these companies this commitment focused on directly employed staff, which meant that agency, migrant workers were much less likely to be a focus of any training and staff development strategies.

4.2 The regulation of migration

The employers in the case studies made reference to a number of regulatory mechanisms confronting them with regard to migrant workers. For some employers these were advantageous, in that they provided formal assurance of the workers' competencies (via accreditations, quality controls etc.). However, regulatory mechanisms could also be regarded as constricting employer decisions in relation to recruitment, particularly where they required a large amount of paperwork, were slow or rigid. In general, construction employers who were sourcing labour through a third country government-regulated scheme viewed this arrangement as being advantageous, although they also acknowledged disadvantages, where schemes limited or determined the worker's length of stay or where security clearance was needed for workers to be placed on particular construction sites and this was more difficult to obtain for migrant workers from certain countries. In the hotel case studies there were no experiences of this type of external regulation, but employers were more likely to express their frustrations with current immigration rules in relation to work permits.

At Construction A, the POEA system for the regulation of agency workers sourced from the Philippines was highly regarded¹. It guaranteed that the workers supplied would be suitably qualified and provided the company with a speedy process for the removal of any workers deemed unsuitable. Contrasting the Filipino regulatory system with that of the UK, the Strategic Support Manager noted:

'The UK work permit system is very insular. The Filipino system is much more aligned to employment in a global market. The UK system does not seem to reflect what is acceptable for the Philippines. It is much more complicated because of work permit issues. It is costly for the company to apply for work permits from the Home Office and there is also a risk of the application being rejected. Very often there are huge delays in receiving the permit that exceed any useful period.'

This participant referred to having received work permits for a number of Filipino workers some 14 weeks following application, noting that *'the Home Office model, of delaying or rejecting work permits does not appreciate the seasonal contracts in the sector'*. Construction C similarly made a distinction between what they perceived as being a highly bureaucratic UK system with that of the Philippines, where *'all foreign clients have to do is to get permission from the state to recruit Filipino workers'* and this is facilitated by an agency based in the Philippines. Again, this respondent spoke of the UK work permit system being too complicated and that *'It's hard to justify that you can't find these skills in the European Union'*. Other problems regarding the length of the work permit were also raised. Work permits are issued for a 12-month period, yet it was said to be unusual in the construction sector for employers to issue a contract of longer than six months. This meant that the agency had to source work for each worker for the whole of the contract period. The alternative was to source migrant workers from A8 countries, thus avoiding the need for work permits altogether. Here the company encountered difficulties with security clearance, particularly as it undertook construction work on nuclear power sites as clearance included a requirement for workers with a very good level of English, which many A8 nationals did not possess. It also required a detailed employment history and again, according to this participant, *'the trouble with East Europeans is that most of them have previously worked in the shadow economy and have not paid taxes'* making it difficult for the company to security clear this migrant workforce.

Hotel respondents were generally less critical of the existing regulatory systems. This was for two reasons. First, they generally only directly employed highly skilled non-manual workers through the work permit system, and in these cases could take account of the length of time that would be needed to obtain the permits. With regard to unskilled, primarily manual workers in the kitchens and in housekeeping – since these were primarily agency-sourced staff, the companies avoided any obligations in relation to securing work permits or other permissions to work. This was viewed as being within the area of responsibility of the agency. Hotel C, however, referred to difficulties regarding Romanian women who were *'desperate to work'* and whom the hotel wanted to employ because they were viewed as having been *'very good workers'* when they had previously worked through an agency. However, the company was unable to employ them directly because they had no formal right to work in the UK, except as self-employed

¹ This is administered through the Philippine Overseas Employment Administration (www.poea.gov.ph).

workers. Here, the HR manager made the point that the company was thorough in its checks of any staff that it directly employed, making sure that they had a right to work – but it was clear that this care did not extend to agency supplied workers. The company wanted to employ Bulgarian and Romanian workers in the reception area but they did not meet the skills level for work permit applications.

Summary

- The study found that even where companies had well-developed HR policies that formally set out how recruitment was to be conducted, in practice, these policies were not always applied at site level, particularly where low skilled labour was being sought.
- There was no correlation between the type of HR regime the companies followed and their decisions in relation to the employment of migrant labour.
- The study also found that some employers acknowledged the benefits of regulatory mechanisms for the employment of migrant labour, particularly where these were associated with guaranteeing the skill levels of workers whom they were employing. However, regulations could equally be seen obstructive, particularly where they limited the pool from which workers could be drawn or where they imposed time limits, which slowed down the process of recruitment.
- Agency labour, particularly for the hotel sector employers, was viewed as advantageous, specifically because it allowed the employer to opt out of having to deal with immigration rules.

5. THE IMPACT OF THE EMPLOYMENT OF MIGRANT LABOUR ON EXISTING HR PRACTICES

This section explores the extent to which:

- Employers have had to develop different methods of communication to manage their migrant workers;
- Whether the recruitment of migrants has encouraged employers to look beyond standard workplace issues, to investigate the welfare needs of migrant workers;
- Whether recruitment methods have been changed to place greater reliance on competence testing and on the need for the closer management of client staff relationships; and
- Skills competencies and training for migrant workers.

The research was conducted in the period immediately preceding the adoption of the European directive on agency workers. While none of the interviewees made specific reference to the directive, it is clear that once the UK legislation is in force, employers will need to review their employment practices in relation to migrant, agency labour. Particularly in those companies where agency labour has been employed on a long-term basis, the fact that the law will give a right to no less favourable treatment, means that employers may want to reflect on their policies and practices in relation to the hiring of agency workers.

Among all six case study companies, changes had been introduced with respect to HR practices specifically to take account of the presence of migrant labour, and in particular where labour was being drawn from non-English speaking countries of origin. Although the extent to which changes had been made varied from company to company, most had taken steps to translate key documents, such as contracts of employment or health and safety material into the languages of origin of the dominant migrant groups. This very process could be said to encourage the concentration of particular linguistic groups in particular workplaces, as the management of relatively few languages of origin was deemed less problematic. Language also had an impact on existing supervisory structures, with some companies creating linguistically defined lines of supervision. For example, in Construction A, bi-lingual supervisors (Polish/English or German/English) had been appointed.

The study finds that some HR practices have changed to adapt to the requirements of a migrant labour force. These changes chiefly involved:

- New methods of communication with migrant workers;
- A greater involvement in welfare issues;
- More testing of competencies;
- Changing methods of recruitment;
- The management of staff and client relationships; and
- A greater reliance on formal audits, particularly in relation to agency workers.

These areas of change are now considered in turn.

5.1 Communications with migrant workers

Regardless of both the sector in which they operated and the HR typology they could be located within, a number of interviewees spoke of having needed to

ensure that key documents were translated into the languages of the dominant migrant groups within the workplace and that arrangements were made to guarantee that essential communications were understood. More usually this was related to health and safety information, and this was a particularly dominant discourse within the construction case studies, but in some cases it was recognised as necessary to ensure that staff understood the conditions under which they were being employed. Construction A pointed out that since the company placed a lot of concern on safety it was necessary to *'put a lot of effort into translating documents for migrant workers'*. For this company language issues were judged as *'very important when delivering safety instructions to migrant workers'*. Indeed, the company employed 25 bi-lingual supervisors and in each team of migrant workers there was at least one English language speaker. Construction B spoke of using a *'mediator'* – someone sharing the worker's country of origin but who was fluent in English – to pass on instructions and information. At Construction C communication with migrant workers was considered *'particularly difficult especially when their English is not good. It's the biggest challenge'*. For this reason the company paired one English-speaking worker with up to five or six non-English speaking workers on all its sites. Prior to the offer of a contract, workers were supplied with documentation in their language of origin and given time to consider the offer before acceptance. The contract provided information on taxation and national insurance in the UK, as well as on the terms and conditions on offer. All induction documents were translated into the workers' home languages.

The hotel sector companies we studied placed less stress on language. Even though they identified and discussed internal policies that required a degree of fluency in English, their employment practices meant that these policies were often ignored in favour of a pragmatic approach to finding workers. At Hotel A the Director of Services stated that while it was company policy that all staff had at least Basic English, she accepted that there was a need to change some practices to enable her to communicate with staff. She used a variety of methods; these included using some staff to translate for others; speaking more slowly when addressing migrant workers; and using different methods of communication (she had, for example, developed a number of visual methods to assist in communication). All of this however was acknowledged as *'time-consuming'* and as the *'downside of employing migrant workers'*. Hotel B also provided some translation. The Area Manager was working with a bi-lingual member of the team, particularly in relation to health and safety information, so as to ensure that procedures were translated into the main languages. This also meant that the company *'recognises that it might need to move more slowly on its procedures to make sure staff understand the processes'* and working with another member of the team to translate or assist. The company would also translate pay slips if required. Hotel C had introduced signs in different languages and had provided some training in languages other than English. For example, fire training was conducted first in English but followed by a session given in the workers' own language, using supervisors who were bi-lingual (meaning that this particular training time increased from 30 minutes to 90 minutes). However, its Area Manager also acknowledged that while contracts were provided in English only and while knowledge of English was considered as essential for reasons of health and safety, in practice these requirements were *'less stringently applied in the kitchens and among the housekeeping staff where in some cases there is a very limited knowledge of English'*.

5.2 Greater involvement in welfare issues

The presence of migrant labour can be seen to have impacted on the supply of non-work related provisions, generally those coming within the ambit of welfare provisions. Migrant labour appears to have encouraged employers to look beyond the immediate workplace and its requirements, to consider what additional support migrant workers might require. However, this was most likely to apply in the 'imposed' model of HR practice, rather than in the 'consultative' model. In most of the six case studies welfare provision had been structured, specifically in relation to migrant workers. At Construction A the strategic manager stated that they had '*increased the number of people dealing with support activities*' to provide advice and assistance to migrant workers, particularly in relation to safety, accommodation, medical services and so on – all described as '*key areas of support*'. A Polish worker, employed as a resource co-ordinator, assisted workers with welfare issues '*in an informal way*' according to the Director of Operations Support. At Construction C additional migrant welfare staff had been recruited to support newly hired migrant workers on the sites and were present on some sites specifically as support staff. In addition, as the office manager reported, the company had employed a Polish welfare officer who dealt with health and safety inductions and with client liaison. This officer was also responsible for assisting the newly recruited Polish workforce with setting up bank accounts, arranging for National Insurance numbers and with registering under the Worker Registration Scheme. The company also arranged transport from the airport and provided accommodation on arrival. These welfare costs led the Group Sales Director interviewee to question the extent to which such labour was indeed 'cheaper' than local labour. Referring specifically to labour sourced from the Philippines, his assessment was that the additional costs of the welfare package provided (which included some costs towards accommodation), significantly narrowed the gap between their hourly pay, which was the minimum for their craft (£13 an hour) and the £20 which might induce local workers to apply. Hotel B was also considering expanding its welfare provision to take account of the needs of migrant workers. Its HR and Development Manager for the UK spoke of the company '*looking to support organisations for Polish workers*'. The company already provided information in different languages but was '*considering what we could offer in relation to transfers of money to Poland as this seems to be a service we could offer*'. The Area Manager for Hotel B saw her role as one that included responsibility for assisting staff. She had also been working to see how arrangements could be made for the sending of remittances through a trustworthy sourcing company.

Tuckman and Harris (2009), in their complementary study for Acas on the employment of migrant labour in the East Midlands, also found that the employment of migrant workers had encouraged employers to take on a wider welfare role, in particular in relation to housing and associated accommodation needs.

5.3 Greater reliance on testing competencies

The employment of migrant labour meant that for most of the case studied companies – and this was particularly the case in relation to the construction case studies – employers placed greater reliance on competence testing. Respondents accepted that it was more difficult for them to interpret qualifications received abroad and that it was necessary to have some form of testing. In some cases testing was carried out in country of origin, prior to employment; in others skills

and competencies were tested on the job. At Construction A, where the majority of the migrant workforce was from Poland, the Strategic support manager spoke of *'increased competence surveillance for new recruits'*, as the company tested for both language and job skills. Specialists from the company visited countries of origin and conducted an initial assessment of worker skills there. A second round of assessments would then be conducted in the UK, on those workers who had got through the first round. Migrant workers recruited to the company would spend the first week being tested on safety; they would be set a written exam and if successful would receive a safety certificate. Construction C had developed its own testing site in Poland. It had an agreement with a professional school in Katowitz in Poland to train and test welders in a fully equipped site. The company would also arrange for its clients – to whom it sourced the labour – to visit the site, either to themselves conduct the tests on the skill competencies of the migrant workers it supplied, or to observe the testing.

5.4 Looking for specific skills

In the construction case studies, participants associated the requirement for migrant labour to particular skill shortages, especially specific craft occupations – for example welders or plumbers. In the hotel sector the requirement for migrant labour was less identifiable with a particular skill shortage. Instead migrant labour was identified as labour willing to do jobs that local workers rejected either due to poor conditions, their physically demanding nature or poor pay. The exception was in the case of a small number of professional jobs where the skill sets demanded were not locally available – for example as chefs.

The Strategic Support Manager for Construction A explained that the company was using agency migrant workers all year round, even though the company would prefer not to, but had *'no other option to deal with skill shortages'*. He gave as an example the fact that the company had been training plumbers for the last seven years but could not find any permanent plumbing workers because *'plumbers after obtaining their qualification certificates go to work as self-employed for more money'*. Skill shortages had also arisen as UK workers had either been promoted and no longer worked on the sites or were more selective as far as their career patterns were concerned, preferring to work in the areas where they live and/or requiring much higher rates of pay. Construction C similarly related skill shortages to rates of pay. The Group Sales Director stated that a company to which the agency sourced labour was experiencing skills shortages for welders since it paid them £13 an hour, whereas no such problems would exist if the company was prepared to increase the rate significantly

In the hotel case study companies, skill requirements were not usually referred to beyond the need for workers to have sufficient spoken English, particularly if they had guest-fronting jobs. More usually, participants referred to physical terms and conditions. For example, at Hotel A, the Director of Services spoke several times of the work being *'very physical and not the kind of work that UK workers want to do'*. For this participant the most important factor was that she had a sufficient supply of workers willing to do this kind of physically demanding work. The Area Manager participant at Hotel B stated that the company also sought migrant workers partly *'to do with different cultures and their relationship to hospitality work, which is seen as more professional in many EU countries, unlike in the UK'*. She spoke of EU workers from other member states possessing higher standards of qualification and of being better trained. She continued:

'UK workers reject the industry partly due to their perceptions of it, fostered through the media, that it is bullying [she specifically referred to the "Gordon Ramsey" culture] and that hours of work are long. Parents and teachers do not have a high regard for the industry.'

Similarly, at Hotel C the HR Manager stated that the company *'relied on migrant workers because UK workers do not want to work in hotels, it isn't seen as a popular job and has no prestige'*. The line manager respondent accepted that this was the case but thought that this image might be changing a little.

5.5 The training environment for migrant workers

The six case study companies all stated that there were training programmes that covered migrant workers. However, there were some differences between the responses from the construction companies and the hotels with regard to the type of training available. In construction, training was generally related to the attainment or development of specific skills, or was sometimes part of a process of evaluating existing skills. It could also be provided within the context of health and safety procedures. In hotels, training was more usually seen as being for progression, as part of a process of career development. Training was more dependent on the type of job the individual was undertaking.

A number of the case study employers had adapted training procedures to take account of the needs of migrant workers. In some cases this was to include access to language training. Hotel A would in principle provide assistance in English language training – however, since knowledge of English was a requirement of the job, there was little or no take up of this. At Hotel C staff were encouraged to take English language classes provided at a local college. Indeed, within the housekeeping department, it was a requirement of the job for which the company gave an hour off work – provided that workers took their lesson on a day when they were not rostered to work, so as to minimise disruption to the work schedule. Tuckman and Harris (2009) similarly report extensive employer involvement in language training, as well as on ensuring that key information was translated into the principle languages of migrant workers.

At Construction A training was high on the company agenda, with some 600 apprentices being trained over the previous year. Training for migrant workers however, was provided more commonly in the context of health and safety procedures. Migrant recruits underwent a practical trade assessment at the beginning of their employment and a review at the end to evaluate their developing skills. A portfolio of every individual the company employed including its migrant workers was developed in the course of their employment. Training certificates were issued to all workers who had undergone training within the company. Training was in the context of a national agreement: *'The national agreement used is a very rigorous system of care, validating people's competence and training'*. The company provided a one week induction programme for newly arrived migrant workers, and this training went beyond specific health and safety matters to include cultural awareness, instructions on how to open bank accounts, how to obtain National Insurance numbers, as well as an in-depth assessment of skills and equipment to be used on site. Induction also included the translation of documentation, the use of photographs as handouts and the use of mother tongue interpreters. Risk assessment information was always delivered in the first language of those taking part in the training and migrant workers were teamed with a bi-lingual supervisor.

At Construction B training was delivered entirely 'on the job' whereas at Construction C about 10 per cent of workers' time was set aside for both internal and external training. However, this training was limited to administrative and management grades and focused on person management, recruitment, interview techniques, sales and IT training. For skilled manual workers, employed by the company, some training was conducted in Poland prior to the workers' departure for the UK, as the company had access to a professional school for the training of skilled construction workers. ESOL training was also provided, both in Poland and in the UK, while for administrative staff, business English classes were also offered.

In relation to the hotel case studies there was little training that was specific to migrant worker issues, although two of the three companies did facilitate language classes. In general, whereas the context in construction was of training either for skills but always for health and safety issues, in the hotels training was more consciously associated with career development, while most migrant workers were not in jobs that were seen as offering career opportunities. At Hotel A there was a group-wide training scheme that included providing placements for workers in different hotels worldwide. However, this was only open to senior administrative and management staff. It was acknowledged that the amount of training available to its staff was dependent on the job that they did, with entry-level jobs *'having a different level of training needs than higher level staff'*. At Hotel B training was seen as the responsibility of the company, both for directly employed and agency staff. Its mission statement commits the company to providing its employees with *'opportunities to develop yourself and pursue a rewarding career'*. The statement also emphasises the company's commitment to training.

All agency workers at Hotel C had a minimum of two days' training provided by the company. It was the case that agency workers received the same training (for the jobs that they did) as directly employed workers, but given that agency workers made up almost the entire housekeeping force, the fact that they had the right to be treated the same as directly employed workers had little significance, since there were few or no directly employed staff with whom they could be compared. There was no training specifically for migrant workers other than language training. For housekeeping staff there were some opportunities for training to NVQ 2 level (and in a few cases to NVQ 3). Health and safety training, particularly on manual handling and risk assessment, was also regularly carried out.

5.6 Changing methods of recruitment

Based on the case study evidence it was in relation to methods of recruitment that the greatest changes in HR practice appear to have occurred. Recruitment methods were altered due to the development of:

- Chains of migration, which provided a constant supply of new recruits and consequently a better knowledge of the availability of labour;
- Easier access to jobs through the use of Internet advertising and in particular a much wider pool of labour potentially drawn from world-wide;
- A willingness to recruit directly from abroad (i.e. the companies were more likely to go to countries of origin to find workers, rather than waiting for migrant workers to arrive in the UK and then to seek work); in two cases they had either established recruitment bases in countries of origin or had specifically travelled to countries of origin to recruit. Additionally some

used employment agencies that were sourcing labour directly in the country of origin.

In relation to the typologies, direct recruitment in country of origin was more likely to be associated with *imposed* HR practices; chains of migration were associated with *absent* HR practices; while more formal methods of recruitment were associated with *consultative* HR practices.

Construction B relied on chains of migration and word of mouth as its primary sources of new labour. Avoiding 'cold' recruitment, the firm now recruited almost entirely through word of mouth and on the recommendation of pre-established workers. The senior manager for the company described this as '*the first point of call whenever the company has to recruit is to see if any existing members of staff have someone to recommend for work*'. Construction C had initially recruited only local people for clients based in the region. However, with EU accession, it had opened an office in Poland and this supplied it with skilled engineers for the construction sector. The change to recruiting abroad also coincided with its growing market, serving clients beyond the UK. Hotel B recruited specialist chef staff directly from abroad, having established relationships with chefs' training colleges in Germany and Hungary. The arrangement had been facilitated by one of the company's existing chefs, who had arrived from Germany and whose skills, acquired through his college training there reflected better the range of skills which the company was seeking and which it did not have access to in the UK.

The growing use of internet advertising – particularly that appearing on the companies' own websites – had replaced other forms of recruitment for most of the case studied companies, particularly those in the hotel sector. While this recruitment method applied both to local and migrant labour, the open access that the Internet offered meant that, particularly for the hotel case studies that were parts of large multinational chains, interviewees made the point that they now received applications from all over the world. Their sphere of recruitment was no longer confined by geography. But two of the construction companies also relied on the Internet to attract job applicants and this extended the boundaries of recruitment. At Construction A, a Polish worker had been appointed as 'resource co-ordinator' specifically using Polish websites established in the UK to advertise company jobs. Construction C similarly now uses the Internet, having initially advertised vacancies in newspapers and through job centres (although it continues to use recruitment agencies for senior management posts). Here, the recruitment of migrant workers had begun in 2004 when a local client had been unable to source construction workers in the area and those that had been recruited were perceived as being unreliable and lacking commitment to the job. Advertising had uncovered no better source of labour and it had created its own agency section, which in turn had sourced workers through a Polish recruitment agency. Hotel B also mainly recruited through the web, with a specific careers web address and using a separate address for jobs in catering. Recruitment now took place globally, with a large number of enquiries through the company website, particularly from applicants based in the Indian sub-continent.

5.7 Managing staff and client relationships

Reference has already been made to the establishment of new systems of communication based on having at least one bi-lingual person on every migrant worker team. However, one of the case study employers had gone further,

introducing new systems of supervision to respond to the needs of their changing workforce. This was at Construction A, where a team, working specifically on ensuring that migrant workers employed had the right documents had been established and a new grade of bi-lingual supervisor had been brought into the supervisory structure in the last year.

Most participants made no specific reference to the impact of migrant labour on staff relations, but a minority did refer to specific changes to HR policies, which had been introduced to ensure the smooth running of staff relationships and to prevent antagonisms arising, particularly between locally recruited and foreign workers. This was particularly the case in two of the three construction companies, where the interviewees spoke of needing to reassure local workers over the employment of migrant workers; to explain why these workers were being employed; and to set out what skills they brought. In the hotel companies the employment of migrant workers was conceived as less problematic, as in the hotels, in the words of one interviewee, the *'culture of the industry is one that needs to relate to guests from all over the world. [It is] a melting pot culture that staff generally bring into their work, otherwise they would not choose to work in the sector'*.

The Strategic Support Manager at Construction A referred to potential tensions between local and migrant workers, particularly in those cases where migrant workers were not fluent in English. In such cases local workers needed *'to be educated to deal with migrant workers'* while at the same time assisting them in observing *'the company's standards of behaviour and levels of performance'*. The company representative had observed a greater receptivity from UK workers to those who came from South Africa or from the Philippines, simply because they already spoke English. He stated:

'It is easier to communicate with them and there is no fear [on the part of UK workers] of the unknown. Poles do not speak English, which immediately poses barriers. UK workers perceive the new EU workers as a permanent threat to their employment, while they are very tolerant of non-EU workers.'

At Construction C, the Group Sales Director stated that while the company was not aware of conflicts between Polish and English workers in the offices, *'sometimes the English workers get annoyed when Poles speak in Polish, when there are work issues to be resolved'*.

At Hotel A the HR manager also referred to *'culture clashes'*, but noted that the company did offer diversity training to its managers to equip them to deal with people from different cultures. However, the line manager, while stating that she did not perceive any difficulties between different groups of migrants, described them as *'sticking together with people from their own country they mainly look out for each other'*. At Hotel C the HR Director noted that there were few tensions between permanent and agency staff as *'permanent staff tend to look after people from their own cultures, in a way that English people would not'*. She described employee relationships in the workplace as generally good:

'There are no particular tensions between local and migrant workers. This is in part due to the culture of the industry as being one that needs to relate to guests from all over the world. It is a "melting pot" culture that staff generally buy into or would not choose to work in the sector. There may be some "horseplay" but in general this is not an issue.'

Other issues raised included the managing of client relationships where there had been an initial distrust of migrant labour. Construction A, in particular, referred to the need to take steps to re-assure clients of their ability to provide services in relation to the employment of migrant labour. The Strategic Support Manager spoke of some of their clients initially being very reluctant to take on any migrant workers and consequently of spending quite a lot of time dealing with clients and trying to persuade them that their migrant workers were very competent and professional, noting that the company:

'Is making a lot of effort in educating clients. [Once they have] attended the training offered to migrant workers and all the checks and assessments they undergo, clients got more relaxed. The company even received an excellent feedback on their performance.'

At Construction C, where support for English as a second language training was provided, the agency part of the business had also taken on a number of Polish workers to deal with the many applications from Polish workers seeking employment through the agency. This required the training of staff to deal with telephone calls from applicants who would often expect to be able to speak to an advisor in Polish. Staff had to be trained in how to keep individuals on the phone, how to reassure them that their call would be dealt with and how to locate Polish-speaking personnel. In the case of Construction B, the company had provided some assistance to individuals in acquiring Basic English, at least with regard to being able to understand health and safety instructions. While it did not provide language training or offer time off to attain it, the company had sometimes amended its procedures (which required a basic knowledge of English on starting work) to give a new worker a short space to acquire the basics of the language before being formally tested in it. Hotel A had also adapted training methods to introduce more visual methods. The interviewee, who was Director of Services, had found that direct verbal or written communication was *'ineffective and it is difficult to know whether workers have understood what is being said'*. She spoke of *'blank stares'* and of particular concern regarding the communication of health and safety information, this having led her to develop her own materials, using photos and other visual tools.

A few case study employers identified the introduction of other new systems to take account of the needs of their migrant workforces. These related primarily to annual leave and payroll arrangements. Hotel A had introduced a new form for workers to complete when requesting time off. Even though the workers at issue were all employed through an agency, the company had felt that it was necessary to introduce some formal procedure in order to have a clearer idea of when workers would be available. The availability of cheap travel between Eastern Europe and the UK meant that workers frequently returned home, particularly when needing medical treatment, and therefore their presence could be erratic. Furthermore, the fact that almost all housekeeping staff were not directly employed meant that the manager could not utilise the company disciplinary procedure against migrant workers taking unscheduled breaks, and the only sanction available – that of not accepting the particular worker – was more punitive than she would have desired. By introducing this procedure the company had reduced this uncertainty and furthermore had acted as an incentive to staff to remain in post.

Construction C also had experienced problems regarding payroll information. The Group Sales Director noted:

'The main problem with recruiting migrant workers is the payroll. Payroll is a nightmare. Difficult names to input into the system. They are always making mistakes with spelling difficult Polish names.'

5.8 Using formal audits, particularly in relation to agency workers

Some case study employers had introduced additional systems of auditing, particularly where migrant workers were being employed through employment agencies. Employers exhibited a concern that agency workers were not being treated according to the law, and believed that it was their duty as the end-user employer to monitor this. At Construction A the company had recently started using an independent representative to audit both the company's payroll and the agency workers' payslips. The audit was conducted annually with the aim of ensuring that agency workers were receiving the correct rates of pay. At Construction C, in relation to the agency side of the business, the company took responsibility for checking on working conditions on sites and for making sure that health and safety regulations were observed.

Summary

- Case study companies were likely to have taken steps to translate key documents into the languages of the dominant migrant groups within the workplace and arrangements were made to guarantee that essential communications were understood.
- The recruitment of migrant workers had encouraged employers to look beyond the immediate workplace and its requirements, to consider what additional support migrant workers might require
- Most participants made no specific reference to the impact of migrant labour on staff relations, but a minority did refer to specific changes to HR policies, which had been introduced to ensure the smooth running of staff relationships and to prevent antagonisms arising, particularly between locally recruited and foreign workers. Other issues included the managing of client relationships where the latter had demonstrated an initial distrust of migrant workers.
- Some changes had been made to provide training that was specific to the needs of migrant workers, with language training and health and safety training being the dominant forms.
- New systems had been introduced primarily in relation to annual leave and payroll arrangements
- Some case study employers had introduced additional systems of auditing, particularly where migrant workers were being employed through employment agencies.

6. THE FLEXIBILISATION OF EMPLOYMENT RELATIONS

This section focuses on:

- Whether a growing reliance on flexible forms of labour have encouraged the hiring of migrant labour as opposed to local labour, because the former is viewed as more flexible;
- Whether the fact that employers have fewer duties and responsibilities towards self-employed and agency workers makes hiring such workers more attractive; and
- Whether requirements for functional flexibility are perceived as more easily met when employment relationship is at a distance.

Our case study evidence suggests that both sectors operate in environments that are reliant on flexible forms of labour in particular; both experience peaks and troughs and have different labour needs at different times of the year. Within construction there is an increased reliance on sub-contracted labour, with most workers having the formal status of self-employed, whether working directly for the end-user employer or working through a supply-side company. In the hotels sector, there was evidence of an increased use of agency employment, although this appeared to be dependent on the type of work being undertaken, with some jobs – both high skilled and low skilled – being particularly associated with agency labour.

6.1 Requirements for more flexible workers

In the interviews with employers, most made reference to the advantages of flexibility within the workplace. However, flexibility was rarely conceived as of a type that offered the worker the opportunity for a healthy work/life balance. Instead flexibility was spoken of with reference to the need for workers that were willing to work at times and locations convenient to the employer. Four of the six case study employers emphasised the need for this type of flexibility. More usually this was seen in relation to the use of agency workers, but it was a concept applied more generally to migrant workers who were perceived as representing a more flexible or 'adaptable' workforce, whether employed directly or through agencies. In all three hotels, for example, whereas most employees worked directly for the company, agency employment dominated among housekeeping staff. In some cases there had been attempts to bring this work in-house but this was problematic due to a difficulty in directly sourcing staff. It was felt that agencies were better able to locate willing workers since the recruitment methods used by the hotels (primarily on-line applications) were unable to reach out to the types of workers seeking relatively low-graded and poorly paid work.

Employers provided a number of reasons for using agency labour, which can be grouped around two basic concepts:

- In response to skill/labour shortages or to deal with peaks in production; and
- To make hiring and firing less problematic.

Participants in four of the six case studies cited numerical flexibility as a reason for using agency-supplied workers – one of the three construction companies and all three hotel case studies. They mainly stated that they needed agency workers to cover for peaks/spikes in production. However, in describing the circumstances when this flexibility was required, it was clear that they were actually describing

functional flexibility, using agency labour to operate their processes more flexibly. In the construction company and in two of the three hotel companies, agency workers were also employed on different (and usually worse) terms and conditions.

At Construction A, migrant workers could be recruited directly but there was an increasing reliance on agency workers. According to the Strategic Support Manager, while agency work was identified with seasonal/peak period work (usually in March, April and October) the company was using agency staff throughout the year, claiming that there was '*no other option*' if it was to deal with the skill shortages it was experiencing. This participant gave as an example the sourcing of qualified plumbers. Even though the company had been training plumbers for the last seven years, '*at present we can't find any permanent staff plumbers. After obtaining their qualification certificates they go to work as self-employed for more money*'. However, in this case, the Director of Operations Support from the same company provided a different assessment, stating that the company preference was for directly employed workers and suggesting that only around one per cent of their workers on site were recruited through an agency and these were used to 'top up' numbers where there was a skills shortage.

Hotel A also related the employment of agency staff to periods of peak activity in the sector when additional staff were required. For the HR Manager agency staff represented an advantage to the company precisely because they allowed it to regulate numbers better. This did not, however, mean that it only used agency workers during peak periods, rather it meant that by using agency workers constantly they could match their activity needs more closely to the number of workers supplied.

Again this stated requirement for numerical flexibility (which agency labour provided) concealed a desire for functional flexibility. As the Director of Services in Hotel A pointed out:

'The advantages of using agency workers is in their willingness to work additional hours, without being constrained by an employment contract that sets out the maximum number of hours. [Agency] workers will regularly come in on their day off if needed.'

In this case, while she was careful not to specifically link agency labour with functional flexibility, the Director of Services' description of the working hours of agency staff suggested that they varied from week to week. Moreover, it was clearly identified as being advantageous to the company that '*staff can be used or set down, dependent on the level of room occupancy. I am able to cancel staff if occupancy is low*'. Conversely, at Hotel B agency staff were used only to cover for annual leave and other short-term absences but company policy was to offer direct employment to those agency workers who were felt to be '*good*' and it had recently permanently employed five agency workers who had been working in the hotel for a year. Indeed, the company had a formal agreement with each of the agencies, which allowed them to take on two to three agency workers directly, after a period of agency employment, provided that the overall number of workers that the agency continued to supply did not fall.

Hotel C had a more developed system of using agency workers, drawing on four different agencies to provide housekeeping and stewarding staff. As a

consequence, more than half (55 per cent) of the housekeeping staff were agency-supplied workers. However, company policy was to try to shift back to higher levels of direct employment, with an ideal target of around 25 to 30 per cent agency staff. This better represented the model, which had been in place seven years earlier, when the Housekeeping Manager had begun working for the company. It had been increasingly difficult to recruit staff directly thereafter, as the hotel competed for labour with a nearby airport, where terms and conditions were considered more advantageous. This had forced Hotel C to rely more on agency-supplied workers.

6.2 Agency and job type

Agency work was also associated with particular types of job in one of the construction companies and in one of the hotel companies. In both cases these jobs were identified as being 'appropriate' for agency work. At Construction C, recruitment agencies were used for highly-skilled professional appointments such as accountants. But as this company also had its own internal recruitment agency, it did not rely on external sources of agency labour for the construction side of the company. At Hotel B, agency work was associated with housekeeping work, with around 90 per cent of all such staff being employed through an agency.

6.3 The value of new boundaries of employment relationships

For three of the six case study companies, employment relationships at a distance (i.e. through agencies) were seen as offering specific advantages. However, in one of these firms, agency labour was also seen as having some disadvantages. Similarly, in relation to migrant workers, employers perceived both advantages and disadvantages as to their employment. Advantages were conceptualised around notions of migrants being more ready and willing to work, while disadvantages were expressed in terms of language and uncertainty over the likely length of their stay. In relation specifically to agency workers, the main advantages which employers identified were:

- They were easier to dismiss;
- The employer had no involvement in the setting of their terms and conditions;
- In some cases agency work was subject to external regulation;
- There was a minimal obligation to control workers, thus reducing HR involvement; and
- Agency workers were on different, and inferior, terms.

For Construction A, one advantage of agency work related to the degree of regulation that agency workers were subject to. The company recruited some 300 workers a year to work on short projects of mainly three to six months' duration. Its workers from the Philippines were hired through an agency that checked and tested skills and which would quickly remove workers who were deemed unsatisfactory. The Filipino recruitment system was described as being highly regulated. Specifically, a Philippines Government association of agencies issues licences to recruitment agencies. Moreover, workers needed to be individually licensed to apply to work abroad, and were required to have gone through extensive medical checks prior to departure. The interviewee stated:

'The main benefit to the company is that if a Filipino worker does not do the job properly, we can report the worker to the POEA (the Filipino association of agencies) and he/she can be banded from work abroad. The POEA helps everybody to behave honestly.'

The company also recruited in South Africa, but in this case the workers were employed directly through a sister company. At Hotel A the housekeeping staff were supplied through agencies. The company mainly worked through three agencies, all based in the UK. Terms and conditions were set by the agency and the hotel took no part in these. It did not even see a copy of the contract with the agency and contractual matters were those that they *'leave to the agency'*. However the hotel would ensure that the national minimum wage was paid to workers. The line manager pointed out that she did check staff payslips to make sure that that workers were being paid the national minimum wage, but at the same time she knew that different agencies offered workers different terms and conditions. At Hotel C agency workers were also paid significantly less than directly employed staff. While the latter received £6.18 to £6.28 per hour, agency workers received just the national minimum wage, which at the time of the interview was £5.52 an hour. Agency workers also lost out on other benefits like the right to reduced room rates. Here too, as in Hotel A, the respondent stated that some agencies they had worked with did not treat their staff well and that she would intercede with the agency, for example, if workers were not getting their proper pay. Construction A similarly noted that there had been problems with agency workers getting paid late, which was one of the reasons why the company had developed its own internal agency. Only one of the six case study companies indicated that it played a role in the setting of agency worker pay rates. It would negotiate the rate for the job with the agency to ensure that the agency had a sufficient administrative margin, so as not to reduce the pay of the agency workers it supplied.

Most of the participants did not view the use of agency workers negatively, however, for one of the six case study companies, agency workers were seen as creating some difficulties – mainly because, in the view of the HR Manager, *'not all of them are trained and they are not as committed'*. Construction A expressed a preference for direct recruitment; however, a tight labour market meant that this was not always possible. Hotel C favoured directly employed staff since their standards were perceived as being better, while agency costs were higher: *'With the National Minimum Wage going up we have to pay the agency on top'*. Similarly, with regard to migrant labour, the participants generally expressed their satisfaction with the work that these workers did. If there were any concerns they were in relation to the question of English language knowledge (Hotel B).

The fact that some case study companies recruited staff directly did not mean that these staff were employed under standard contracts of employment of indeterminate length. Given the nature of the two sectors studied, it was inevitable that a high presence of non-standard contractual arrangements would be found. In construction, self-employment was the standard contractual arrangement in two of the three case study companies – Construction B and C. At Construction B all workers, including the individual who had HR and line management responsibilities, were self-employed. The respondent described his previous job as being *'genuinely'* self-employed, in so far as he had managed his own small construction company, whereas in this company, although his formal legal status remained the same, his seniority entitled him under the contract to

terms such as paid holidays and sick pay (entitlements that were unavailable to those not defined as 'key' workers, whose contracts did not cover these terms). At Construction C most workers, including migrant workers, were treated as self-employed, being employed under temporary contracts related to the specific job. Temporary employment was a specific feature of employment in this company, and with the exception of the Business Manager and Technical Director, all workers on the company's construction sites – where the company employed around 1,000 workers – were employed on temporary contracts, of whom around half were migrant workers. Temporary employment was a particular feature of employment during summer months, when permanent staff were on annual leave. Similarly, at Construction C, migrant workers were employed on contracts of between two to three months and at most six months duration. These workers travelled without their families and at the end of their contracts either moved back home or to another contract.

In contrast to the employment of agency staff, most of the case study companies stated that migrant workers, if directly employed, received the same terms and conditions as local workers, with five of the six case study companies stating this to be the case. At Construction A:

'Contracts are the same as for everybody else in the UK (under the National Agreement). All workers are treated equally. For example, Filipino workers are usually paid less than European workers in the Middle East, the same phenomenon is tolerated in the USA, but in this company they have very good treatment. When Filipino workers come to work for the company and learn that they will be paid the same as UK workers, they are shocked.'

At Construction B, with around 95 per cent of the workforce being of non-UK origin, terms and conditions were the same as for local workers and *'where there are differences these relate to length of time in the job or recognition of the worker performing a more senior role, like project manager or team leader'*. The company found the attitudes of migrant workers *'very receptive'* and that *'migrant workers try to give them best they can'*. At Hotel A all directly employed staff had the same written contracts containing standard terms which were also set out in the Staff Handbook, available to all employees. Its terms and conditions are published on its website and these show that the company provides incentive payments; offers medical and other insurance benefits; provides a pension scheme, discounted hotel rooms, flexible work arrangements and holidays; and views itself as offering competitive wages. Hotel B also employed migrant workers under the same terms as applied to UK workers. The company's declared aim was to create *'a workforce that demonstrates loyalty to the company and direct employment is a way of achieving this'*.

At the same time, in most of these cases, migrant workers were paid no more than the National Minimum Wage and were entitled only to the minimum statutory holidays. This was usually the case for migrant workers employed in the hotel sector. In construction, skill shortages in some areas meant that migrants were being paid more than the national minimum wage – although usually at the minimum rate for the sector where there was a sectoral agreement covering the job. At Construction C it was stated that employment regulations were applied to all workers, regardless of whether they were local or migrant. However, it was also stated that migrant workers represented a cheaper source of labour, with one participant noting that, despite the difficulties in obtaining work permits for

non-EU workers, *'it is all worth it because of the workers' commitment and the relatively low wages they are getting'*.

While this study has focused on employer attitudes towards the employment of migrant and agency labour and on the consequences for human resource management, we did find that employers sometimes expressed unprompted views as to the motivations of migrants themselves for working in the UK. This was almost always expressed in terms of a 'hunger' or 'need' for work which UK workers were said not to possess. Running through all of the discourse on migration was a feeling that migrant workers were more willing to put up with harsh working conditions, because they did not have other alternatives. For example, one participant from Hotel C described some migrant workers as being *'desperate to work'*. Similarly, when discussing agency employment, another participant suggested that, whereas *'most agency staff would prefer to be directly employed some staff prefer to work through an agency as they can take three to four months off each year to return to their own country'*. A participant from Hotel B stated that migrants *'want to work. Also hotel work is not perceived as a profession in the UK to the extent that it is in other countries. As far as the migrants who work for the hotel are concerned, they tend to be looking for relatively short-term employment solution'*.

At one of the construction companies we were also able to conduct a short interview with a migrant worker. Although it was not our aim to seek migrant worker views in this study it is opportune to reflect on his views of his and his wife's migration journey because in many ways it chimes with the employer perceptions of why migrants come to work in the UK. Essentially it is seen as a way of accessing opportunities which otherwise would not be available:

'We decided to come to work in the UK in order to save money for a flat. In Poland we were living with our parents. I believe that in a couple of years we will have saved enough money to go back. My Polish friends who came to the UK in 2004/05 are already going back because they have saved enough for a flat in Poland.'

The view furthermore reflects those documented in the earlier Acas report, specifically where migration was seen as a 'stepping stone' towards specific objectives (Wright and Pollert, 2006).

Summary

- The study found an increased reliance on sub-contracted/agency labour in all of the case study organisations.
- Employers generally suggested that agency labour was being used either in response to skill/labour shortages or to deal with peaks in production or to make hiring and firing less problematic, responding to a need for functional flexibility.
- Participants mainly stated that they needed agency workers to cover for peaks/spikes in production. However, in describing the circumstances when this flexibility was required, it was clear that they were using agency labour to operate their processes more flexibly.
- Agency work was associated with particular types of job with a view that certain jobs (and low paid jobs in particular) were 'for agency work.
- For three of the six case study companies, employment relationships at a distance (i.e. through agencies) were seen as offering specific advantages

but at the same time it was recognised that they also offered disadvantages. Advantages were conceptualised around notions of migrants being more ready and willing to work, while disadvantages were expressed in terms of language and uncertainty

- In all the hotel cases, migrant workers were paid no more than the National Minimum Wage and were entitled only to the minimum statutory holidays. In construction, skill shortages in some areas meant that migrants were being paid more than the national minimum wage – although usually at the minimum rate for the sector where there was such a rate.

7. THE ETHNIC COMPOSITION OF THE WORKFORCES

This section considers:

- Whether there is any evidence from the study of one group of minority ethnic workers being replaced by another;
- Which factors might lead to employer decisions to hire (or not to hire) a particular group of migrant workers; and
- Whether there are factors that might encourage employers to focus on migrants from one particular nationality/ethnic origin.

It was found among the limited number of case studies in this research that there is no strong evidence of a positive policy of replacing UK minority ethnic workers with recently arrived migrants; in practice the factors encouraging the recruitment of migrants result in their taking up work that previous generations of UK minority ethnic workers have carried out.

7.1 A substitution factor

A number of recent studies (for example, French, 2006; Gilpin, 2005) have suggested that migrants arriving from Eastern Europe since 2004 may be replacing longer-established minority ethnic populations in UK workplaces, with employers consciously favouring recent A8 migrants in particular. The data collected from this study suggests that although there may be a substitution factor, this may have occurred in conjunction with the opening up of somewhat better jobs to longer-established migrant workers, with recent cohorts of migrants moving to occupy the low paid jobs vacated by them. In these cases the jobs that migrants were doing were identified as being ones that no local person would do if there was a better paid alternative.

The construction sector in England has traditionally not employed workers from visibly different minority ethnic communities in significant numbers. Although the sector has always been heavily reliant on migrant labour, this mainly came from Ireland and to some extent Scotland and Wales. In relation to visibly different minority ethnic communities, very few have worked in construction, with just 2.9% of workers in the sector coming from a visibly different minority ethnic group (*Construction Statistics Annual Report 2006*). Since 2004 migrant workers from Eastern Europe have been drawn to the sector partly in response to labour shortages of skilled, semi-skilled and unskilled construction workers. The reasons for these labour shortages are many, including: that the sector has experienced growth; that traditional sources of labour have declined; that the requirement of job mobility in construction makes the work less attractive to local workers; and that the decline in apprenticeships has meant a fall in the number of workers with the required skills. At Construction A, for example, the company worked in different geographical regions of the country and on short term projects and, as the Director of Operations Support pointed out, *'it's difficult to find people who are willing to leave their homes and families to do the work'*.

It is perhaps for some or all of these reasons that the interviewees in the Construction sector in general did not discuss the potential for labour substitution although they did occasionally refer to conflicts between local and migrant workers. Construction A acknowledged that there was the potential for conflict between local and migrant workers over the issue of labour substitution – however, the company was taking steps to assure local communities that it was

not displacing locals through its recruitment of migrant workers, but that migrants were being hired simply because the skills required did not exist in the available local labour force. To emphasise this fact, the company had also planned to create an additional 70 new apprenticeships for the next year. At Construction B the respondent noted that the ethnic composition of the labour force had changed and was likely to continue to change. The company had been recruiting migrants mainly from Eastern Europe at a time when there were no local applicants and when order books were full. However, since the beginning of 2008 he had noted a further change, with *'an increased number of applications from Irish, Scottish and North of England builders, reflecting a fall in construction jobs in the sector'*. Although the company continued to hire recent migrants, the availability of locally sourced labour might have consequences for the future direction of employment. However, at the same time, this participant made it clear that:

'Nationality or origin is not a factor in recruitment. I am comfortable with a workforce of diverse national origins and do not see this as problematic in any way. I am opposed to attempts to stereotype workers by nationality having had experiences of good and poor workers from all different nationalities.'

In contrast, the hotel sector has for some years been an employer of UK minority ethnic workers. Over a third of minority ethnic workers (35.1 per cent) compared to 26.1 per cent of white workers) are employed in hotels and catering, distribution and transport and communications (CRE Factfile No. 1). Yet some evidence from our study proved counter-intuitive in this respect. Certainly in the three hotel case studies, recent migrant workers, and in particular workers from Eastern Europe, were employed in those parts of the hotel sector which participants stated had previously been served by UK minority ethnic workers. All of the case study participants who were line managers directly managing staff noted that the ethnic composition of the workforce had changed. HR directors were less likely than line managers to make this observation (with only one of the three HR participants doing so), but this was within the context of them generally not having sufficient data to be able to comment formally on recent changes in the ethnic composition of the workforce, together possibly with a reluctance to confront the issue. However, given the small scale of the study, this can be advanced only as an observation, which arises from the particular locations and experiences of the companies studied. As the Area Manager in Hotel B pointed out:

'The workforce in each hotel differs in terms of ethnic composition and this reflects the ethnic composition of the area where the hotel is based. Some hotels are almost all white British, while others are A8 dominated and still others have Black African staff. In terms of recruits the company still gets a large number of international students under the graduate programme.'

At Hotel A, the HR manager respondent did not view recent migrant workers as having displaced UK workers. For her, *'the company's concern is to recruit the 'right' person and where they come from is not relevant. There is no focus on any particular country of origin'*. At the same time around 70 per cent of the hotel's workforce was of non-UK origin, and since 2004 *'lots of applications have come from A8 nationals'*. In housekeeping, where many non-UK staff were employed, the Director of Services noted that:

'There were never many UK workers doing the job, however, before May 2004 the majority of staff were European or from the Caribbean. They

were supplied by the agency and I have no knowledge of what they are doing now'.

She intimated that these were the sorts of jobs that individuals did only if they had no other options, and assumed that other jobs had become available for these groups. But whatever the reason – the participants did not have a clear picture of what was happening – it does seem that the ethnic composition of the workforce had changed. At Hotel B around 12 per cent of the workforce was of A8 origin. The HR manager did not have any data on the extent to which the ethnic composition of the workforce had changed over time and described her knowledge as primarily '*anecdotal*' as there was no company-wide data, but in her view the A8 workforce had already begun to reduce as the value of the pound sterling declined, making work in the UK less attractive to Eastern European workers. At the same time, while stating that there was no hard evidence that A8 migrants were replacing minority ethnic UK workers, she made the point that '*the quality has got better*' – suggesting that the company had been dissatisfied with the supply of labour it could access prior to accession and the arrival of A8 migrants once the legal restrictions on their right to work had been lifted. At Hotel C, the line manager responsible for housekeeping staff also pointed out that around 85 per cent of her staff was of non-UK origin, although some had been in the UK for many years and were UK citizens. The hotel had some 35 nationalities among its staff and in housekeeping there were workers from Poland, other Eastern European countries, Nepal, India, Pakistan, Italy, Portugal, the Seychelles and Jamaica. However, in relation to recent migrants working for the company, almost all were from Eastern Europe, although one of the agencies that the company sourced labour from supplied Nepali workers only. This respondent had seen a change '*from employing a lot of Indian women in housekeeping (who can now get better jobs at the airport in cleaning or in the business lounges) to now employing more Eastern Europeans*'.

7.2 Focusing on particular nationalities

An employer response to the procedural complexities of dealing with an ethnically and nationally diverse workforce may be to focus on particular nationalities as the primary source of labour. The advantages for employers are that this makes the linguistic challenges, already highlighted in earlier sections of this report, more manageable. The employer can make provision for translation/supervision in one language, can source workers from a single source and may be better placed to construct a workforce that has a more uniform understanding of practices and procedures. This study, however, offers no evidence of a desire to focus on particular nationalities – particularly as regards the hotel case studies. Indeed, employers expressed a positive attitude to workforces with large numbers of nationalities. In Hotel A there were around 20 to 30 nationalities and in Hotel B 40 nationalities were represented, while in Hotel C there were 35. Hotel participants emphasised the advantages of having an ethnically and nationally diverse workforce – in particular since it meant that the composition of the hotels' client bases could be mirrored in those of its staff. As the HR Manager at Hotel A noted:

'Migrants help to create a diverse workforce. They bring different cultures into the hotel and give our employees the opportunity to know about the world. Since we have guests from all over the world this is important. We would like an even wider pool of staff to reflect London's diversity.'

Hotel A, while drawing its migrant workforce primarily from A8 countries, also employed large numbers of Australian, South African and North American workers. Indeed the hotel saw its workforce, according to the HR manager, '*as part of a worldwide movement*'. Construction companies were less likely to advance a business case for diversity itself, and their decisions on whether or not to source migrant labour, and from where, were pragmatic and more related to the skill base that they were seeking.

Within the construction sector, the range of nationalities employed was narrower, and the majority of migrant workers were likelier to be of one nationality – in all three cases Polish. Indeed, Polish workers were the single largest migrant group in Constructions A, B and C. Given the dominance of self-employment within the sector, Bulgarian nationals – whose right to work in the UK is limited to self-employment – were also likely to be employed in the sector, with Construction B and Construction C both employing a number of Bulgarian nationals.

At Construction A migrant labour originated mainly from Poland, Germany, Portugal and South Africa and in the last 12 months the company had also begun recruiting from the Philippines. The company HR participant made specific reference to the challenges it faced in employing A8 nationals, given that they often lacked sufficient knowledge of English. At the same time the fact that they had an unqualified right to work in the UK removed the procedural difficulties encountered in employing non-EU nationals. Construction B, while stating that there were no nationality barriers in relation to employment, in practice had a labour force composed primarily of three national groups – South East Asian, Polish and Bulgarian workers. This ethnic concentration was the result of the company's method of recruitment through word of mouth with a particular emphasis on recruitment through existing family groups. Construction C recruited primarily from A8 country nationals, with around a quarter of its entire workforce (around 300 people) in that category. At the time of the research the company was just about to begin to recruit workers from the Philippines.

Summary

- The experience of the case study organisations examined in this study suggests that the extent to which migrant labour may have substituted for the employment of UK black and minority ethnic workers, had occurred in conjunction with the opening up of somewhat better jobs to longer-established migrant workers, with recent cohorts of migrants moving to occupy the low paid jobs vacated by them.
- The study, however, offers no evidence of a desire on the part of employers in the hotel sector to focus on particular nationalities, with employers expressing a positive attitude to workforces with large numbers of nationalities. However, within the construction sector, the range of nationalities employed was narrower, and the majority of migrant workers were more likely to be of one nationality

8. KNOWLEDE AND USE OF ACAS

This final section explores the extent to which the case study companies had knowledge of Acas or had been involved with trade unions. It looks at whether:

- Knowledge of Acas leads to a use of its services and how Acas might help;
- There was a perception, among those interviewed, of Acas being involved only with certain types of employers, conceptualised as employers different from them in sector or business size; and
- Where there was either a knowledge and/or use of Acas, this occurred in those case study companies with some form of trade union presence.

Each of the participants in the case studies was asked whether they knew of Acas and of the services it provided; whether they had ever made use of its services; and furthermore whether there were areas where they felt that Acas could assist them in their conduct of work relationships with migrant labour. It should be noted that while most of the participants were aware of Acas, few had used its services and half had difficulty in providing examples of how an independent organisation like Acas could provide them with assistance. Another view was that Acas was not an organisation that was intended for them because their company was either too large or it was non-unionised.

Table 3: Heard of Acas or had used Acas services

Case study company	Knowledge of Acas Y/N	Use of Acas Y/N	Ideas for use of Acas Y/N
Construction A	Y	N	N
Construction B	N	N	Y
Construction C	Y	N	N
Hotel A	Y	Y	Y
Hotel B	Y	Y	Y
Hotel C	Y	Y	N

Construction A knew of Acas, the company but never had any issues which might have required it to use Acas' services. The participants associated Acas with the presence of trade unions and, given that there was no trade union representation in the firm, it had not felt the need to seek external support. It did conform to the national agreement that was negotiated with the relevant trade unions, but there was no day-to-day trade union involvement beyond this. Construction C also knew about Acas, but again did not identify a need for its services, as some HR and employment law issues had been outsourced to a consultancy which provided advice to the company. At Construction B, while the respondent had not been aware of the existence of Acas, he could conceive a role for an independent body to assist small companies such as his. For this respondent (who carried the triple roles of HR manager, line manager and was responsible for company budgets), the main problems identified were in relation to:

'Knowing the rights, rules and regulations. It is almost impossible to obtain information on these issues. Everything is in legal jargon, which I and other workers cannot understand. The rules change so frequently it is impossible to know how the rules apply. What I want is something without

the legal jargon, in plain English, simple bullet points. I need to know things like what rights to holidays workers should have and how pay should be broken down. I would also like information about welfare, but most of all information about taxation.'

At Hotel A, the HR Director knew about Acas and was one of the participants to have used its services, by consulting the website on occasion, which she described as providing '*good information*'. When asked to suggest how Acas could assist her, initially she could think of no way in which Acas could improve its services to her company. However, when pressed, she felt that advice or information on emerging research on how to deal with staff turnover would be useful to the company, as would assistance in making contact with local organisations working with migrants. The Line Manager at the same company, however, had no knowledge of Acas and no suggestions for how it might assist her.

The HR Manager at Hotel B was the best informed about Acas of all interviewees. She was both knowledgeable about the services Acas provided and had used these services frequently, describing them as '*very good*'. She felt that while large companies like her own had less need for the kind of specific advice that Acas could offer, it had a greater role to play in relation to small employers. For example, Acas could offer additional support including providing employers with special information packs containing information on the employment of migrant workers. The Line Manger interviewee at the company had also frequently used Acas services. For her Acas could provide more assistance in the translation of generic documents into migrants' main languages. Again, she stressed that, in a large company such as hers, this could be done internally, whereas in smaller companies it would be '*really useful*' if they were able to download basic contractual documents (as templates) in the main migrant languages.

Summary

- Most participants were aware of Acas although few had used its services;
- Those that had used its services were generally very positive about the organisation.
- Half had difficulty in providing examples of how an independent organisation like Acas could provide them with assistance.
- Some participants expressed the view that Acas was not an organisation intended for them because their company was too large or non-unionised.

9. CONCLUSION

From a small exploratory study such as this one, the conclusions that can be drawn need to be very specific to the research. Our aims were to look at a small number of employers in two sectors – construction and hotels and catering. Both are sectors where large numbers of migrant workers have been employed. They are also both sectors that are subject to fluctuation, experiencing seasonal peaks and troughs. Both sectors have low levels of trade union organisation, although this does not mean that they do not operate under specific rules and procedures. Employment relationships in the construction sector are influenced by the existence of national agreements and, as noted in our case studies, employers were aware of the terms and conditions set by those national agreements. In the hotels sector, among the large multinational hotels, such as the case study hotels, even though there may be a large measure of autonomy within each hotel, there is an understanding of the role of procedures in regulating employment relationships.

As with the Tuckman and Harris (2009) report for Acas, this research shows that employers have changed practices and procedures even where there has been no formal acknowledgement of a policy change as a result of the employment of migrants. The fact that a number of the employers had recognised a need to change their practices, for example, in relation to communication with staff is one example of the impact of employing migrants. Another factor identified has been the way that the employment of migrant workers has forced employers to consider their duties to their employees beyond the workplace – for example in providing accommodation, translation and assistance with bank and financial matters. These changes suggest a new more inclusive role for employers, perhaps creating a greater sense of obligation between the parties.

But at the same time the research confirms that there is a dominant view among employers of migrant labour representing a new form of flexible labour; flexible in terms of its willingness to work the shifts and hours desired. This employer desire for flexibility is also the outcome of new work processes, in particular the growth of agency and sub-contracted work, which distances the employer from the workforce.

Thus the research highlights two opposing models of employment in respect of migrant labour. On the one hand it shows that employers have taken on more responsibility for the workers they employ, but on the other hand the employment relationship may also be distanced, where third party employment relationships are prevalent and, as we found in both the sectors, this is the case for at least some groups of workers – the housekeeping staff in the hotels sector being one example.

Recent events in relation to migrant workers, for example, the disputes at the Lindsay oil refinery and at the South Hook liquid gas plant in Milford Haven, mean that the argument of migrant labour as 'substitutionalist' is more likely to represent the future dominant discourse, particularly during a period of recession, when workers will compete, even for the less well-paid jobs. Our case study interviews all took place before the severity of the current recession was identified, although it should be said that in relation to the construction companies, there was already awareness that the industry was facing problems.

Indeed this was one of the reasons why we had difficulty in locating the case studies and gaining employers' consent to participate.

The employers whom we interviewed did not state that they had employed migrant workers in preference to local workers. Rather they suggested that local workers were not available. However, their comments in relation to migrant labour – that it was more hard working and compliant – certainly suggests that they did at least weigh up employing local workers or migrants. In the hotels sector, in particular, we questioned the employers as to which workers had done the jobs that were now being carried out by agency migrant workers prior to their arrival and although most were hesitant about replying and unusually vague, when probed, they stated that the jobs had mainly been done by British black and minority ethnic workers. Their explanation as to why these workers were no longer employed was that better jobs had opened up for them and that they had moved on for this reason. It may well be that such workers had exploited the new opportunities which a tight labour market had presented. However, the situation in this regard will clearly change and the thrust of the recession may be to push them back into desiring these jobs.

Employers also advanced the view that recruitment was often difficult for them, and that employment agencies therefore performed a valuable role in identifying workers who were prepared to take up the jobs that needed to be done. This was particularly the case where the work was casual or of short duration; where it was located in out-of-the-way areas; or where it demanded a degree of flexibility that agency, migrant workers were viewed as possessing.

This research was conducted in the period immediately prior to the adoption of the agency workers' directive by the Member States and the European Parliament in December 2008. The directive is intended to ensure the equal treatment of agency workers, comparing them to directly employed workers. Although it does not specifically refer to migrant workers, their dominance among agency workers, particularly in low-paid jobs, means that any regulation of the employment of agency workers will reflect on the labour conditions of migrant labour. The UK government commenced its consultation on the shape of the future UK legislation in May 2009, publishing a document, *Implementation of the agency workers' directive*. This consultation ended on 31 July 2009 and the new legislation is likely to be published before the end of 2009. The guarantee of equal rights to agency workers will not apply to all workers from their first day of employment, as the UK government is likely to take up the option to restrict entitlement to those agency workers who have worked for at least 12 weeks in the same employment. Nevertheless its consequence is that many migrant workers, such as those in this study, who have been working for the same company for lengthy periods, but working through an employment agency, will get access to equal treatment rights.

It is for all of these reasons that this subject merits further study. We need to understand how employers have utilised their migrant workforces using a much larger number of case studies than this small exploratory study has permitted. More importantly, we need to study these issues in the context of the current financial and economic recession, in order to understand its impact on terms and conditions and on practices and procedures where labour shortages are no longer evident, and where local and migrant workers may be competing for work. Some studies have suggested that migrant workers will return to their countries of

origin as jobs become more difficult to find (ippr, 2008). However, it is difficult to confirm that this has been happening, given that the only statistical data, the Worker Registration Scheme, shows that, while the numbers may be declining, some 141,000 newly arrived migrants registered to work in the 12 months to March 2009 (the latest date for which the figures are available). The case study methodology which this project has used would be useful for this type of further study, although it would need to take account of a wider range of voices, in particular those of the workers themselves, both local and migrant.

APPENDIX A: THE CASE STUDY COMPANIES

In this section we provide a description of each of the case study companies, with a short commentary on their recruitment in relation to migrants. We also provide some information on the participant interviewees.

Construction A

Construction A is a multi-specialist energy services company, one section of which deals with the construction of energy power products. The company employs some 5,000 hourly paid workers of whom the majority are directly employed. The amount of work varies throughout the year, with peaks in the summer months. Much of the work is short-term and is in different locations, making it difficult to attract locally based workers.

The company began recruiting from outside the UK about three or four years ago. Initially it recruited from Poland, Portugal and Holland. However, problems were experienced regarding the quality of some recruits and the company subsequently expanded recruitment to the Czech Republic, Slovakia and Eastern Germany. Poland is regarded as the best source and in the last 12 months all of its migrant workforce were from A8 countries.

HR environment

All four respondents described the company's HR policies as '*fairly formal*'. The company is a member of the Engineering Construction Industry Association; it conforms to a national agreement for the sector; its terms and conditions are the same for migrant as for local workers; and its commitment to health and safety is seen as high. In relation to recruitment, the company does advertise in the newspapers but its main source of recruits is through the Internet, particularly in relation to craft worker positions. Its preference is to recruit directly, and although it will contact previously hired workers when new work becomes available, it prefers to deal with applications through its established advertising channels.

The participants

Participant A held the position of Strategic Construction Support Manager within the company. He had worked for the company for almost 17 years and is currently responsible for designing the long-term construction strategy of the company.

Participant B held the position of Director, Operations Support and had worked for the company for 32 years. His area of expertise includes finance and accounts as well as strategic management.

Construction B

Construction B was founded in 1998 and specialises in conversion, refurbishment and new build of residential and some commercial properties primarily in Central and West London. Two individuals jointly own it, one a builder by trade and the other a property developer. It employs around 80 to 100 construction workers and currently operates on around six sites. There is no trade union presence in any of the sites and work is organised around a complex set of sub-contracting partners. In most cases these sub-contractors work almost exclusively for the

company. The company regards itself as a good employer, and believes that this encourages workers to remain with it for longer.

The company has always employed migrant labour, originally from Ireland and more recently from A8 and A2 countries, primarily Poland and Bulgaria. Around 95 per cent of the workforce has a migrant worker background but this includes individuals from the Indian Sub-Continent with a long period of residence in the UK. All workers in the company are formally self-employed.

HR environment

The Project Manager with responsibility for all areas of the business described the company's HR policies as informal; recruitment is by word of mouth only, with a very high reliance on recommendation as a route into employment. Much of the current workforce come from two family sources, an employee of South Asian origin who had introduced a number of family members and friends to the company and an Eastern European worker who had done the same. This was by far the company's preferred method of entry. Staff turnover was a major concern and the company tried to combat this through its word of mouth recruitment and through being identified as a '*good*' employer to work for, '*workers are not picked on*' and this was felt to contribute to better retention rates. They also paid above the current going rate for the sector.

The participant

Participant A is the Project Manager but also has responsibility for all aspects of the business from the beginning of the building process through to completion. He is responsible for project budgets, for working to timetable and for health and safety. He also has responsibility for recruitment and for disciplinary and dismissal issues. He has worked for the company for less than 12 months and previously had run his own construction business. He is classed as self-employed within the company although he benefits from some contractual terms beyond those available to most self-employed workers in the company.

Construction C

This is primarily an agency supplying labour to the construction sector and is the primary supplier of labour to Construction A. The company was founded in 1998 with the aim of building up long term client partnerships in the management of contract, temporary and permanent recruitment. The company directly employs around 80 people in the UK and nine in Poland, in its Warsaw office. It supplies unskilled labour to sub-contractors in the construction sector and also supplies skilled labour to the engineering sector. It consists of a number of separate divisions, each specialising either in the supply or the direct use of labour, in the engineering and construction sectors. Some four years ago the group set up a separate company, which directly employs its own labour. There was no trade union presence at the site investigated. The company consists of a number of specialist sections, one of which is a member of the Engineering Construction Industry Association

The company has since 2004 been sourcing migrant labour direct from Poland. It has an office in Warsaw and both trains and recruits skilled construction workers there before sending them to work for clients in the UK.

HR environment

The company's HR policies were described as in keeping with the national agreement. The company is a member of the Engineering Construction Industry Association (ECIA) and complies with its agreement regarding the employment of sub-contracted agency staff. It also stated that there existed a partnership agreement with the relevant trade unions, but there was no trade union presence in the workplace that we had chosen to study. Its HR practices are described as standardised throughout the company and its health and safety procedures are closely regulated.

The participants

Participant A is the Group Sales Director and is a founder member of the company. Participant B is the Office Manager with overall responsibility for the administration team in the company and for HR in general. He has worked for the company since it was founded. Participant C is the EU Operations Director and has prime responsibility for the company office in Poland. This includes liaising with UK clients and the organising of competency testing for prospective Polish workers. Participant D is a Polish Welfare Officer who has been working for the company for just over a year. He is responsible for the welfare of Polish workers in the UK.

Hotel A

Hotel A is a part of a worldwide hotel group with several thousand staff worldwide. It was founded in the USA in the 1920s and remains a family-owned business. The hotel where the case study took place has around 160 permanent staff but also employs agency workers mainly in housekeeping. It operates a well-developed system of employee relations with regular forums, noticeboards, team meetings and so forth. In the UK it is an Investor in People employer. It has a staff handbook that provides detailed information to staff on main terms and conditions and on the procedures in relation to disciplinary and grievance matters. There is a strong company policy statement against discrimination and harassment, however the statement does not refer to migration nor does it contain any details of how the company would tackle discrimination, beyond the policy reference.

In general the workforce at Hotel A is young and it employs many students who study and work. The housekeeping workforce, which is primarily agency staff, is an almost entirely female workforce; however, while a majority is young, the ages of the staff range from 20 to people in their 50s. Some of the agency workers have had a background in the hospitality industry but a number are working in the sector because their limited knowledge of English mean that they cannot get the type of jobs that would be commensurate with their work skills.

HR environment

HR policies are described as '*very formal*'. There is a trade union presence at some of the hotel sites (but not at the one where the case study is conducted). The company however organises open surveys of staff and conducts consultation forums. There is an annual survey of all staff with follow up meetings and reports to staff on the survey results. It believes that these provide it with appropriate and effective consultation channels and the respondent HR Manager described the

procedures as *'very formal'*. It conducts regular performance reviews of all staff. Its grievance procedure is devised to *'guarantee fair treatment and an open door policy'* and had recently been updated. There is an annual survey of all staff and follow up meetings to report on the results. The disciplinary procedure, along with the health and safety procedure and the system of recruitment (with heavy reliance on e-recruitment), were all described as highly formalised, although some disciplinary issues had arisen recently, mainly due to lack of training. The existence of the policies did not affect either decisions to employ migrant workers or how they were employed. Migrants were mainly working in housekeeping as agency staff.

The participants

Participant A is the HR manager at the hotel site. He has worked for the company for four years since this particular hotel opened. Previously she had worked for a transport company, but in that job had no involvement in HR. Participant B is the Director of Services at the hotel. She has worked for the company for eight years, working her way up the career structure to her current post. She is responsible for all housekeeping staff at the hotel, 90 per cent of whom are agency staff.

Hotel B

Hotel B is part of a large hotel chain established in the USA in the 1950s. It remains US owned although its global headquarters is now based in the UK. The company operates on a franchise basis and this means that there are different management structures within each of the hotels, although there is an obligation to adhere to certain standards throughout the group. The company overall employs 6,000 workers of whom a majority (57 per cent) are female. Sixty per cent of the staff are full-time, while 40 per cent are part-time. Two-thirds (67 per cent) of staff are on the National Minimum Wage. The average age of staff is 34 years. The company does not generally employ agency workers, other than for short term cover. Some agency staff have been taken on as permanent staff.

Around 12 per cent of the company workforce is from A8 countries. This figure does not include agency staff (employed in housekeeping) the majority of whom are migrant workers. The company has a relatively low staff turnover (around 38 per cent).

HR environment

HR policies described as both *'quite formal'* or *'highly formal'* by the by the HR manager, which for her provided an important element of consistency but which had no impact on decisions as to whether or not to employ migrant labour. There was an established disciplinary and grievance procedure that followed the legal requirements and, even though there was no trade union presence, the HR manager pointed out that the grievance procedures were well utilised and that in her view, employees could raise concerns. The line manager interviewee also described the policies as *'quite formal'* describing this as *'necessary in a large company like this one'*. For her too, formal polices allowed for consistency of treatment, *'the practices help ensure transparency and all line managers can use the tools more easily if the procedures that are in place are standard'*. However, at the same time formal procedures engendered a large amount of paperwork and in her experience, this was met with some resistance from some managers.

The participants

Participant A is the HR and Development Manager for the UK and has worked for the company for just over three years, having more recently been appointed to her current position. She has been working in HR for more than 20 years and is highly experienced in HR issues. In her view the practices of Hotel B are more formal than those that she had operated in previous workplaces.

Participant B, the Area Resourcing Manager for the South and South West, had worked for the company for two years, always in her current post. She was responsible for recruitment for the whole of the region. She had previously worked for another hotel and found that the employment practices of it and Hotel B were quite similar.

Hotel C

Hotel C is part of a large US owned hotel chain, with hotel properties in the USA and in 67 other countries. The company was established around 80 years ago. It has a strong diversity culture and is committed to becoming 'a *global diversity leader*', with a diversity programme going back to the early 1990s. The company exhibits a strong commitment to a workforce with a rich cultural background, believing that this gave it a competitive advantage. The company has established a Committee for Excellence to drive its diversity programme and has set a goal to have at least 10 per cent of its establishments minority owned. The company is a winner of a number of prizes relating to company diversity although there have also complaints of bullying and harassment from some minority ethnic staff. Hotel C opened in the early 1970s and became part of the group around ten years ago. It is the largest hotel (by bed numbers) in the group within the UK. The hotel employs 200 staff on permanent contracts, together with another one third on zero hours contracts. The latter are mainly students, limited to working just 20 hours a week under UK immigration rules. The hotel is generally regarded as economically successful given in particular its geographical location.

Around half the hotel workforce worldwide is comprised of minorities and women and some 85 per cent of the workforce in some sections is not British born. The hotel, given its location near a major airport, has a high turnover of rooms, which means that housekeeping work is particularly heavy. There are 40 identified nationalities working in the hotel.

HR environment

There was a strongly voiced commitment to ethnic and gender diversity and this meant that migrant workers were more integrated within the organisation. For example, the trade union representative was a migrant worker who had been in the UK for less than a decade. The company mission statement is committed to achieving diversity and to attracting and retaining a dynamic workforce. Unlike the other case study participants, in this hotel – itself part of a large chain – there was an organised trade union presence that was welcomed by the manager interviewees, one of whom had remained a trade union member, following her promotion to a management grade, as had a number of management colleagues. The line manager pointed out that for her:

'Having good HR policies are important in dealing with problems and I believe that the reason why there are so few grievances in my department are to do with the fact that individuals can raise problems with me and I would try to resolve them.'

For these interviewees a trade union presence also made it more likely that the company would follow established procedures. The existence of a trade union meant that they were able to exercise more independence of action from the parent company. Rather than referring to national agreements (as in the case of two of the construction companies) or to national policies (as in the case of the other two hotel case studies) these interviewees indicated that, for example, in relation to the company redundancy policy they were prepared to maintain their previous policy, thus diverging from the national company policy. In this case a new multinational proprietor had only recently acquired the hotel at the time of the research and this desire to continue with previous policies was both an expression of continued 'independence' together with a desire to retain an organisational relationship with the trade union.

The participants

Participant A is the HR director and has worked for the company for 24 years, beginning in a low-paid job and working through different departments until arriving in HR around seven years ago. Participant B is the Manager in housekeeping and has worked for the hotel for around seven years. She had previously worked in other hotels both in and outside London. Participant C is the trade union representative at the workplace.

APPENDIX B: INTERVIEW SCHEDULES

Employer interview – Topic guide Senior manager with HR responsibilities

A. Personal information

1. How long have you worked for the company?
2. Have you always held your current position?
3. Have you previously worked in HR in other companies?
4. If yes, how do you compare HR practices in these companies and in the current company?

B. Work/employment

5. Can you tell me about the business? (How long established; operations covered; its client base (if any)?)
6. Could you describe the management structures in the organisation?
7. What kind of workforce do you employ?
8. How do you recruit your workforce? Where do you advertise? How does the recruitment of migrant workers fit into this?
9. How would you describe the general employment relations' climate in the company?
10. Is there a trade union presence and what arrangements/facilities are made available?
11. In your view are the structures perceived as allowing employees to raise concerns?
12. In relation to structures for raising concerns and for communication and involvement how would you classify them (essentially formal or informal)?

C. Migrant workers in the workforce

13. What proportion of the workforce is migrant? (Has this changed and why, over what period?)
14. What are the characteristics of the migrant workforce (what are their origins, demographics)?
15. What is the nature of the employment contracts for migrant workers? Formal/informal/written/verbal (Are there differences between local workers' and migrant workers' contracts?)
16. What are the main terms of their 'contract' – terms and conditions/length etc
17. In relation to migrant workers, are they directly employed or employed through an agency?
18. If employed through an agency, how do their contracts compare with those of directly employed staff, in relation to the terms on offer?
19. If agency staff are used, is this during particular periods of the year, year-round or to cover for specific reasons?
20. Why do you employ migrant workers? What are the advantages and disadvantages of employing them?
21. Similarly, if migrant workers are also agency sourced, what are the advantages and disadvantages of employing them?
22. In your experience is there any evidence of particular minority ethnic groups replacing others?
23. What factors might encourage the company to focus on migrant workers of one nationality/ethnic origin?

24. Does the employment of migrant workers reflect specific skill shortages or skills mismatches?

D. HR practices

25. How would you describe the company's HR practices? (e.g. highly formalised, generally informal)
26. For you what are the advantages/disadvantages of the HR practices you follow?
27. If highly formalised, to what extent does that affect decisions as to whether to employ migrant workers or not?
28. What impact the employment of migrant labour has on existing HR practices and does this differ dependent on whether labour is directly or indirectly sourced?
29. Have the changing boundaries to employment relationships (increased duties and exit costs) have a bearing on the way employers manage migrant workers?
30. Have regulatory environments any impact on your hiring practices?
31. In relation to HR practices, what factors might lead the company to hire (or not to hire) migrant workers?
32. In relation to HR practices, what factors might lead the company to use (or not to use) agency workers?
33. Can you talk about the range of training that the company offers to staff (including on/off the job health and safety training)? Is this available to all staff and if not what is the criteria?
34. In relation to migrant workers are there any specific training programmes?
35. In relation to agency workers is there any programme of training?
36. How do you assess relationships between workers and supervisors?

E. Rights and responsibilities

37. What do you see as your responsibilities as an HR manager?
38. Do these responsibilities differ in relation to employing migrant workers?
39. How do they differ from the responsibilities of an agency, if you engage one?
40. Is there a formal grievance and disciplinary procedure? Is it written? What does it say in terms of the steps that need to be taken, etc? How are employees made aware of it?
41. Have you adapted/ amended it recently (in last two years)? If yes what were the reasons for this?
42. Have you needed to make any changes to adapt to employing migrant workers and/or agency workers?
43. What provisions are there in relation to health and safety, including communication/consultation, managing health and safety?)
44. Have you had to revise these in the light of the employment of migrant workers and/or agency workers?
45. Have there been any accidents in this workplace, involving migrant and/or agency workers?
46. Have you had any specific training from the company in HR matters relevant to the employment of migrant and/or agency workers?
47. Has the company developed any links with local migrant organisations?

F. Knowledge of ACAS

48. Do you know what the role of ACAS is?
49. Have you ever had reason to contact it?

50. If no, why do you think that is?
51. If yes, what was the reason for contacting it and how did you assess the guidance you received?
52. Do the changes that have been taking place in the workforce make it more/less likely that you might feel the need to contact ACAS?
53. Do you think that ACAS could do anything specific to make your company operate more effectively?

End of interview

Employer interview – Topic guide

Line manager/supervisor

A. Personal information

1. How long have you worked for the company?
2. Have you always held your current position?
3. Have you previously worked as a line manager/supervisor in other companies?
4. If yes, how do you compare supervisory duties in these companies and in the current company?
5. What would you say are the main attributes needing in managing a diverse team, including migrants and non-migrants?

B. Migrant workers in the workforce

6. What proportion of the workforce that you are responsible for is migrant? (Has this changed, over what period and why?)
7. What are the characteristics of the migrant workforce you supervise (what are their origins, demographics)?
8. Are you aware of the nature of the employment contracts for migrant workers? (Are there differences between local workers' and migrant workers' contracts?)
9. In relation to migrant workers do you know if they directly employed or employed through an agency?
10. If employed through an agency, do you know how their contracts compare with those of directly employed staff, in relation to the terms on offer?
11. If agency staff are used, is this during particular periods of the year, year-round or to cover for specific reasons? Are you responsible for determining whether agency workers are required and how many?
12. Why does the company employ migrant workers? In your view what are the advantages and disadvantages of employing them?
13. Similarly, if migrant workers are also agency sourced, what are the advantages and disadvantages of employing them?
14. In your experience is there any evidence of particular minority ethnic groups replacing others?
15. What factors might encourage you to press the company to focus on migrant workers of one nationality/ethnic origin?
16. Does the employment of migrant workers reflect specific skill shortages or skills mismatches? Why do you think these exist?

C. HR practices

17. How would you describe the company's HR practices? (e.g. highly formalised, generally informal)
18. For you what are the advantages/disadvantages of the HR practices in your company?
19. If highly formalised, does this make your job in supervising migrant workers easier/more difficult/no different to local workers?
20. What impact the employment of migrant labour has on your existing supervisory practices and does this differ dependent on whether labour is directly or indirectly sourced.
21. Have the changing boundaries to employment relationships (increased duties and exit costs – i.e. greater vulnerability) have a bearing on the way you manage migrant workers?
22. Have regulatory environments any impact on your supervisory practices?

23. In relation to HR practices, what factors might lead the company to hire (or not to hire) migrant workers?
24. In relation to HR practices, what factors might lead the company to use (or not to use) agency workers?
25. Is training available to all staff and if not what is the criteria?
26. In relation to migrant workers are there any specific training programmes?
27. In relation to agency workers is there any programme of training?
28. How do you assess relationships between local and migrant workers?
29. How do you assess relationships between directly employed and agency staff

D. Rights and responsibilities

30. What do you see as your responsibilities as a line supervisor?
31. Do these responsibilities differ in relation to employing migrant workers?
32. How do they differ from the responsibilities of an agency, if you engage one?
33. Is there a formal grievance and disciplinary procedure?
34. Has it been adapted/ amended it recently (in last two years)? If yes do you know what the reasons were for this?
35. Have you needed to make any specific changes in the way that you supervise migrant workers and/or agency workers compared to local workers?
36. What provisions are there in relation to health and safety?
37. How do you communicate health and safety information to migrant workers and/or agency workers?
38. Have you had to revise these in the light of the employment of migrant workers and/or agency workers?
39. Have there been any accidents in this workplace, involving migrant and/or agency workers?
40. Have you had any specific training from the company in the supervision of migrant and or agency workers?

E. Knowledge of ACAS

41. Do you know what the role of ACAS is?
42. Have you ever had reason to ask the company to contact it?
43. If no, why do you think that is?
44. If yes, what was the reason for contacting it and how did you assess the guidance you received?
45. Do you think that ACAS could do anything specific to assist you in being more effective in your role?

End of interview

Topic guide

Senior trade union representative

A. Personal information

1. How long have you worked for the company?
2. How long have you held your current trade union position? Which trade union?
3. Have you previously been a union representative in other companies?
4. If yes, how do you compare the trade union environment in these companies and in the current company?

B. Migrant workers in the workforce

5. 1. What proportion of the workforce that you are represent is migrant? (Has this changed, over what period and why?)
6. 2. What are the characteristics of the migrant workforce you represent (what are their origins, demographics)?
7. 3. Are you aware of the nature of the employment contracts for migrant workers? (Are there differences between local workers' and migrant workers' contracts?)
8. 4. In relation to migrant workers do you know if they directly employed or employed through an agency?
9. 5. If employed through an agency, do you know how their contracts compare with those of directly employed staff, in relation to the terms on offer?
10. 6. If agency staff are used, is this during particular periods of the year, year-round or to cover for specific reasons? Is the union consulted over the use of agency workers?
11. 7. Why does the company employ migrant workers? In your view what are the advantages and disadvantages of employing them?
12. 8. Similarly, if migrant workers are also agency sourced, what are the advantages and disadvantages of employing them?
13. 9. In your experience is there any evidence of particular minority ethnic groups replacing others?
14. 10. What factors might encourage you to press the company to focus on migrant workers of one nationality/ethnic origin?
15. 11. Does the employment of migrant workers reflect specific skill shortages or skills mismatches? Why do you think these exist?

C. Relations with the company

16. How would you describe the company's HR practices? (e.g. highly formalised, generally informal) and how would you describe the general employment relations' climate in the company?
17. In your view are the structures perceived as allowing employees to raise concerns?
18. In relation to structures for raising concerns and for communication and involvement how would you classify them (essentially formal or informal)? For you what are the advantages/disadvantages of the HR practices in your company?
19. If highly formalised, does this make your job in representing migrant workers easier/more difficult/no different to local workers?
20. What impact the employment of migrant labour has on your existing representative role and does this differ dependent on whether labour is directly or indirectly sourced.

21. Has having regulatory mechanisms e.g. Gangmasters' licensing Authority or National Minimum Wage had any impact on your representative role?
22. Is training available to all staff and if not what is the criteria? Is training an issue that is consulted over?
23. In relation to migrant workers are there any specific training programmes?
24. Has the union pressed for any specific training?
25. In relation to agency workers is there any programme of training?
26. Has the union pressed for any specific training?
27. How do you assess relationships between local and migrant workers?
28. How do you assess relationships between directly employed and agency staff

D. Rights and responsibilities

29. 1. What do you see as your responsibilities as a union representative?
30. 2. Do these responsibilities differ in relation to representing migrant workers?
31. 3. How do they differ from the responsibilities you have to agency workers?
32. 4. Would you represent workers who are not union members? If yes, in what circumstances?
33. 5. Is there a formal grievance and disciplinary procedure?
34. 6. Has it been adapted/ amended it recently (in last two years)? If yes do you know what the reasons were for this?
35. 7. Have you had to represent any members at disciplinary/grievance meetings over the last two years? If yes, what were the main issues? Expand on right to accompaniment issues. Also explore use/barriers to use of d and g among agency/migrant workers
36. 8. Has the union taken or threatened any industrial action over the last two years?
37. 9. What provisions are there in relation to health and safety?
38. 10. How do you communicate health and safety information to migrant workers and/or agency workers?
39. 11. Have there been any accidents in this workplace, involving migrant and/or agency workers?
40. 12. Have you had to revise the way that you communicate this information?
41. 13. Have you had any specific training from the union in representing migrant and or agency workers?
42. 14. Has the union developed any links with local migrant organisations?

E. Knowledge of ACAS

43. 1. Do you know what the role of ACAS is?
44. 2. Have you ever had reason to contact it?
45. 3. If no, why do you think that is?
46. 4. If yes, what was the reason for contacting it and how did you assess the guidance you received?
47. 5. Do the changes that have been taking place in the workforce make it more/less likely that you might feel the need to contact ACAS?
48. 6. Do you think that ACAS could do anything specific to make your union role more effective?

End of interview

Topic guide
Agency representative

A. Personal information

1. How long have you worked for the agency?
2. Have you previously worked for any other agencies?
3. If yes, how do you compare these with your current agency?

B. Work/employment

4. 1. Can you tell me about the business? (How long established; operations covered; its client base?)
5. 2. Could you describe the management structures in the organisation?
6. 3. What kind of workforce do you employ? How do you recruit them?
7. 4. What is the employment status of the agency workers you source?

C. Agency workers

8. 5. What proportion of the agency workers supplied is migrant? (Has this changed, over what period and why?)
9. 6. What are the characteristics of the migrant workforce (what are their origins, demographics)?
10. 7. Are there differences between local workers' and migrant workers' contracts?
11. 8. Why does the agency supply migrant workers? What are the advantages and disadvantages of supplying them?
12. 9. Do you have any information on the terms and conditions of directly employed workers?
13. 10. Does this company use agency staff during particular periods of the year, year-round or to cover for specific reasons?
14. 11. What advantages do you think there are for the company in using agency workers?
15. 12. In your experience is there any evidence of particular minority ethnic groups replacing others?
16. 13. What factors might encourage the agency to focus on migrant workers of one nationality/ethnic origin?
17. 14. Are migrant agency staff employed because they hold particular skills that are in short supply?

D. HR practices

18. 1. How would you describe the agency's HR practices? (e.g. highly formalised, generally informal)
19. 2. For you what are the advantages/disadvantages of the HR practices it follows?
20. 3. What impact the employment of migrant labour has on existing HR practices?
21. 4. Have regulatory environments any impact on your practices?
22. 5. To what extent does the agency see itself responsible for training?
23. 6. In relation to migrant workers are there any specific training programmes?
24. 7. How do you assess relationships between directly employed and agency workers in this company?
25. 8. Has the company ever asked you not to supply particular workers?

E. Rights and responsibilities

- 26. 1. What do you see as your responsibilities as an agency?
- 27. 2. Do these responsibilities differ in relation to migrant workers?
- 28. 3. How do they differ from the responsibilities of the end use employer?
- 29. 4. What provisions are there in relation to health and safety?
- 30. 5. Have you had to revise these in the light of the employment of migrant workers?
- 31. 6. Have there been any accidents in this workplace involving workers whom you have supplied?
- 32. 7. Have you had any specific training from the agency on matters relevant to the sourcing of migrant workers?

F. Knowledge of ACAS

- 33. 1. Do you know what the role of ACAS is?
- 34. 2. Have you ever had reason to contact it?
- 35. 3. If no, why do you think that is?
- 36. 4. If yes, what was the reason for contacting it and how did you assess the guidance you received?
- 37. 5. Do you think that ACAS could do anything specific to make your company operate more effectively?

End of interview

Employer interview – Topic guide
Senior manager with finance responsibilities

A. Personal information

1. How long have you worked for the company?
2. Have you always held your current position?
3. Have you previously worked in finance in other companies?
4. If yes, how do you compare finance practices in these companies and in the current company?

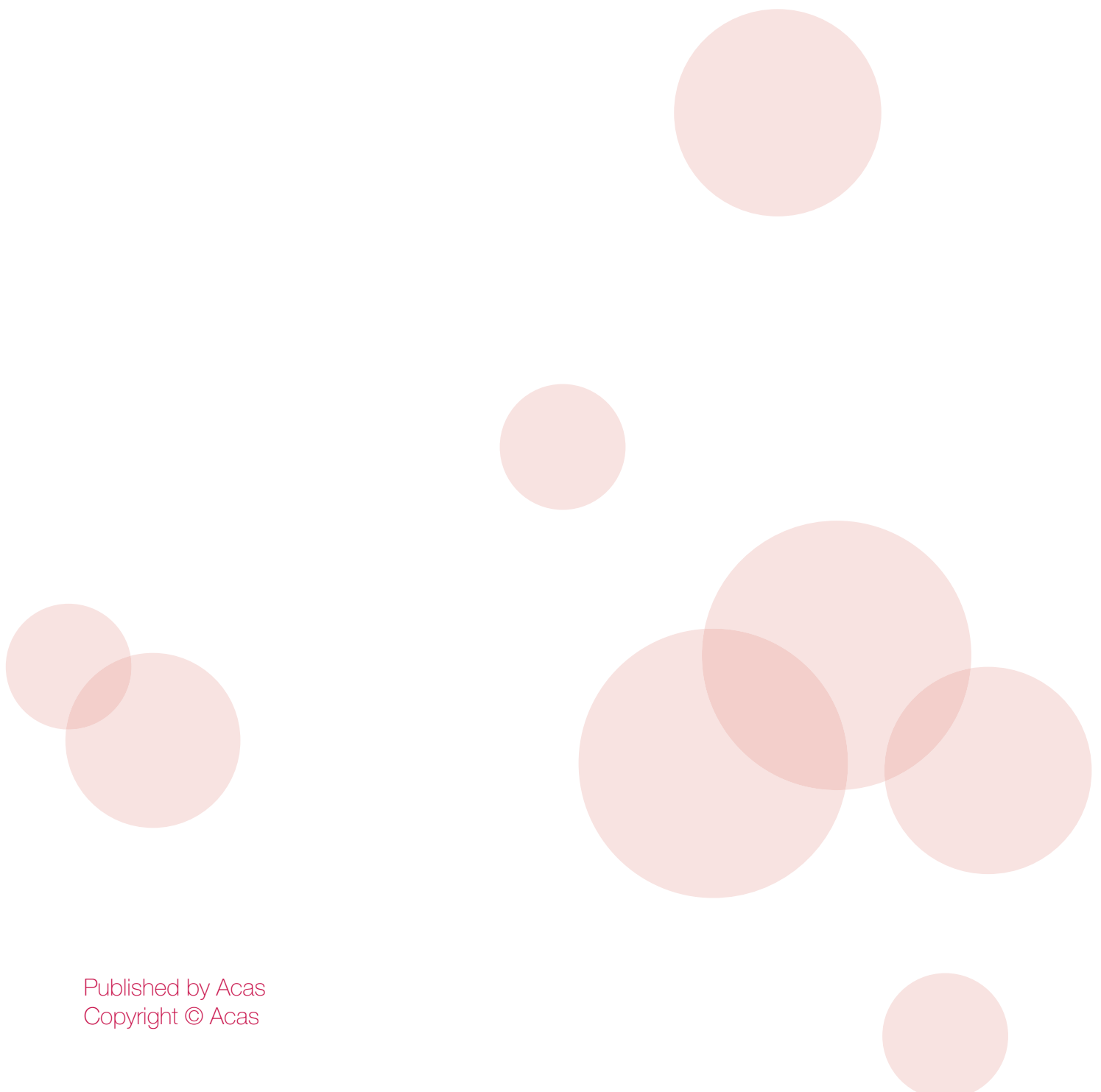
B. Financial situation in the company

5. Can you tell me about the business? (How it is structured financially; how profitable)?
6. How tight are your margins? Are you affected by competition from other companies?
7. Is the company part of a larger organisation? If yes, is the overall budget set by the parent company?
8. Is it UK owned/foreign owned/family owned/
9. Has there been a need (in the last two years) to declare redundancies?
10. Could you describe the management structures in the organisation?
11. How does the company operate structurally? How do HR and Finance work together?

C. Payroll matters

12. How are payroll costs allocated (e.g. do agency costs fall under payroll or under other expenditures)?
13. What proportion of total costs do staff costs account for?
14. Are there any specific pressures in relation to staff costs?
15. What proportion of staff is on the national minimum wage?
16. Does the availability of migrant labour have any specific impact on payroll costs?
17. Does the availability of agency labour have any specific impact on payroll costs?
18. If using agency labour, has a cost/benefit analysis been done over its use? What is the outcome and what factors are taken account of?
19. In relation to payslips and pay information how is this communicated to migrant workers?
20. Is there any relationship between labour costs and profitability and the hiring of migrant workers.

End of interview



REFERENCES

- Anderson, B, Rush, M., Rogaly, B. and Spencer, S (2006) *Fair Enough? Central and Eastern European Migrants in low-wage employment in the UK*, Compas: Oxford
- Anderson, B. and B. Rogaly (2005) *Forced labour and migration to the UK*, TUC, London.
- Building* (June 2004) 'The Bigger picture: How eastern European workers will change British Construction', News feature.
- Chan, P. L. Clarke and A. Dainty (2008) *Staff shortages and immigration in construction*, paper prepared for the Migration Advisory Committee: London.
- Dainty, A. A. Gibb, P. Bust and C. Goodier (2008) *Health, safety and welfare of migrant construction workers in the South East of England*, Loughborough University, Institution of Civil Engineers: London.
- Dench, S. J. Hurstfield, D. Hill, K. Akroyd (2006) *Employers' use of migrant labour*, Home Office, London.
- French, S. and Möhrke, J. (2006) *The impact of 'new arrivals' upon the North Staffordshire labour market*, Low Pay Commission, November 2006; DWP Working Paper 29,
- Gilpin et al, *The impact of free movement of workers from Central and Eastern Europe on the UK labour market*, February 2006
- Glover, S (2001) *Migration: an economic and social analysis*, RDS occasional Paper No 67, London, p29
- Home Office (2007) *The economic and fiscal impact of immigration*, A cross-departmental submission to the House of Lords Select Committee on Economic Affairs, Cm 7237, London.
- IIF Research Ltd with the University of Warwick (2005) *Workforce mobility and skills in the UK construction sector*, Research report prepared for Construction Skills, DTI and ECITB.
- Lindsay, C. and MacCaulay, C. (2004) 'Growth in self-employment in the UK. Further investigation into the causes of the increase in self-employment in the UK since 2002', *Labour Market Trends*, 112, 399-404.
- Lucas, R. and S. Mansfield (2008) *Staff shortages and immigration in the hospitality sector*, paper prepared for the Migration Advisory Committee: London.
- Lucas, R. E. (2005) *Employment relations in the hospitality and tourism industries*, Routledge: London.
- McKay, S. and Markova, E. (2008) *Understanding the Operation and Management of Employment Agencies in the UK Labour Market*. London: Working Lives Research Institute, London Metropolitan University.
- McKay, S. D. Chopra and M. Craw (2006) *Migrant workers in England and Wales: An assessment of migrant worker health and safety risks*, HSE, RR502: London.
- Matthews, G. and M. Ruhs (2007) *Are you being served? Employer demand for migrant labour in the UK's hospitality sector*, WP No. 51, Compas, University of Oxford: Oxford.
- Trajkovski, S. and M. Loosemore (2006) *Safety implications of low-English proficiency among migrant construction site operatives*, *International Journal of Project Management*, Vol 24:5.
- Wells, J. (2006) 'Labour migration and international construction', *Habitat International*, Vol. 20:2, pp. 295-306, Elsevier.
- Wells, J. (1996) 'Labour migration and International Construction', *Habitat* Vol. 20, No. 2
- Wright, R. and A. Pollert (2006) *The experiences of ethnic minority workers in the hotel and catering industry: routes to support and advice on workplace problems*, ACAS 03/06, London.