

Security alert Gangmasters supply illegal construction workers as well as cockle pickers. And a new act is just part of a government crackdown on their activities, says Angus Darroch-Warren

Gangster rap

This month saw the implementation of the Gangmaster Licensing Act 2004, which aims to regulate the activities of those who supply temporary workers for agriculture work and shellfish gathering. So, what does this have to do with the construction industry?

The problems seen in the agriculture industry are manifest in construction, which has witnessed a growth in gangmasters ready to exploit migrant workers and fill gaps in the UK labour market. Ucatt estimates that there are 200,000 building workers in London, of which about 40,000 are migrants, a large proportion of whom are working illegally.

Reputable companies have to deal with an increasingly sophisticated network of people smugglers and immigration rings run by organised crime syndicates where gangmasters arrange employment at a site. On one north London site, workers from central Europe had to pay the gangmaster £400 to be considered for employment and, after being taken on, they had to make additional payments of £60 a week to ensure continued employment.

Other unlawful deductions were also made from workers' pay packets on an ad hoc basis covering "travel, accommodation and expenses", leaving some with as little as £80 in their pay packet. "Ghost" workers were also found in the company's system, with profiles created through expertly forged documents, submitted by the gangmaster to a compromised employee in the personnel department.

Many of the workers involved found themselves caught in a vicious circle where they were continually indebted to the gangmaster and unable to break away and secure more profitable employment. It is this type of scenario within the agriculture industry that led to the drafting of the Gangmaster Licensing Act, and it is not inconceivable that similar legislation will be brought in to regulate the construction industry, given the problems outlined.

Legislation to prevent illegal working requires all employers in the UK to conduct basic document checks on every person they intend to employ. Establishing identity, relevant experience, competence, training and qualifications necessary to carry out the work



goes some way to ensuring that employers do not break the law by employing illegal workers and, provided that records of cheques and copies of relevant documents are kept, there is a statutory defence against conviction for employing an illegal worker.

As the Home Office tells employers, "We don't expect you to act as an immigration officer", and the process for checking job applicants is straightforward. However, false details and documents are widespread, with the Recruitment and Employment Confederation recently reporting that 77% of its member agencies had handled identity papers and work permits that they suspected to be false.

The use of agency workers is not as straightforward as employing directly and companies should not rely solely on the agencies to ensure workers have the right to

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reside and work in the UK. Ultimately, it is the employer's responsibility and it will be liable if found employing illegal workers. It should ensure the temporary employee is vetted appropriately. Making the assumption that an agency has carried out necessary checks can be costly, particularly as the government is considering harsher penalties for those that flout immigration laws. Do not rely on an agency's verbal say-so and insist on seeing the vetting process. Too often companies assume checks have been completed when in fact this is not the case.

An organisation can find the hiring and training of employees is all too often a major expense. Verifying facts on a résumé can be time-consuming and frustrating, particularly if the employee turns out not to have the legal right to work, or lacks the qualifications, knowledge or skills that were outlined during the recruitment process.

Hiring the wrong person can be costly in many ways, but may be even more so than not hiring at all. With illegal workers, penalties of £5,000 can be levied for each person found working illegally and the government is considering raising fines to as much as £20,000.

Obtaining and analysing relevant information before confirming employment of any employee requires experience and specialist techniques. Vetting should be seen as a continuous process and re-vetting considered at regular intervals, particularly for sensitive positions. Investing in robust pre-employment checks greatly reduces the risks associated with investing in inappropriate personnel and is an essential element of good corporate governance.

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