mission to the 10th International Conference of NHRIs

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The Corporate responsibility to respect human rights

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Introduction to the Commission

The Equality and Human Rights Commission was established in October 2007. We work to promote equality and human rights for all, eliminate discrimination, reduce inequality, protect human rights and build good relations, and to ensure that everyone is treated with dignity and respect
and has a fair chance to participate in society. Our remit covers race, disability, gender, gender reassignment, age, sexual orientation, religion or belief and human rights. The Commission is a National Human Rights Institution (NHRI) which received ‘A status’ accreditation from the United Nations in 2009.

The Commission works with organisations in the public, private and voluntary sectors to reduce discrimination and promote equal opportunities for all employees, customers and service users. One of our key roles is to provide authoritative advice and guidance across our remit. We are working to define, promote and publish best practice.

**Human rights duties and powers**

The Commission has a duty to promote awareness, understanding and protection of human rights, and encourage compliance with the UK Human Rights Act (HRA) and international human rights conventions, including those covering human rights in the workplace. We regularly submit evidence and reports to national, regional and international human rights committees.

Whilst the Commission does not currently have the power to give legal assistance to individuals claiming a breach of the HRA unless there is also a claim of a breach of equality legislation, it can take judicial review proceedings in its own name in relation to alleged breaches of the HRA. The Commission can intervene in proceedings domestically and in the European Court of Human Rights to provide independent submissions to the courts on claims relating to the HRA and European Convention on Human Rights.

The Commission also has the power to conduct statutory inquiries into matters relating to equality and human rights. We do not need to suspect that there has been a breach of equality or human rights legislations to launch an inquiry. The Commission has the power to give notice to organisations to require them to provide specific information in relation to the inquiry’s terms of reference and to further question the information submitted. A person to whom a recommendation in the report of an inquiry is addressed has a legal obligation to have regard to it.

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1 In relation to human rights issues in Scotland, the Commission has jurisdiction over matters reserved to the Westminster Parliament. In relation to matters devolved to the Scottish Parliament, the Scottish Human Rights Commission has jurisdiction, although the two Commissions can cooperate and do consult each other on human rights issues in Scotland.
Furthermore, a court or tribunal may have regard to a finding of the report, although it shall not treat it as conclusive.

The Commission can also carry out investigations where it has evidence to suspect that an organisation has breached equality enactments.

*Human rights in the private sector*

The Commission welcomes the opportunity to attend the 10th International Conference of NHRIs. We are enthusiastic about the conference theme of business and human rights. The private sector is very important for the Commission’s human rights and equalities agenda, as 80% of people in the UK are employed in the private sector.

To date, our private sector work has focused primarily on eliminating discrimination and promoting equality in the workplace. We have recently produced guidance specifically aimed at small and medium sized businesses (SMEs) on issues such as flexible working, managing the downturn, equal pay and how to create an inclusive workplace. We have also conducted statutory inquiries into discrimination in a number of industries in the private sector, including women’s pay in the financial services industry, race discrimination in the construction industry and employment practices in the meat and poultry processing industry. The meat processing inquiry is discussed in more detail below.

The Commission has made several commitments around business and human rights in its three-year Human Rights Strategy. These include supporting a multi-stakeholder dialogue on business and human rights and building business awareness of the key human rights issues in the UK private sector.

We are currently in the process of establishing a Working Group on Business and Human Rights that will examine ways of raising awareness of key human rights issues in the private sector, and persuading UK businesses to integrate human rights into their business practices. The group will be made up of representatives from businesses, trade bodies, unions, government and civil society. A key

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3 For more information on the Commission’s inquiries, see [www.equalityhumanrights.com/legislative-framework/formal-inquiries](http://www.equalityhumanrights.com/legislative-framework/formal-inquiries).

priority will be to produce guidance on the relevance of human rights to UK businesses.

The remainder of this paper focuses on the Commission’s experience with a specific sector, the meat and poultry processing sector. Our inquiry into recruitment practices in this sector reported in March 2010 and uncovered widespread evidence of mistreatment and exploitation of migrant and agency workers. The Commission is currently coordinating a sector-wide initiative to agree standardised employment practices for the industry and produce tools to help create practical and sustainable solutions to the problems identified in the inquiry.

**Case study: Inquiry into Recruitment and Employment in the Meat and Poultry Processing Sector**

In October 2008, the Commission launched an inquiry using its powers under section 16 of the Equality Act 2006 into recruitment and employment in the meat and poultry processing sector in England and Wales to examine how the people working in this industry are recruited, and how they are treated once they are at work.\(^5\)

**Background**

The food and drink manufacturing industry is the largest manufacturing sector in the United Kingdom. The meat and poultry sector is a significant part of this, employing 88,800 people. The red meat sector is of particular importance to the Welsh economy, employing over 33,000 people and contributing £361 million a year, including exports worth £108 million.

There is considerable use of agency, predominantly migrant, workers in this sector. Overall, migrant workers make up 70 per cent of agency staff in processing firms and over one-third of their employees.

We had received evidence that agency workers were treated differently to directly employed workers in terms of pay and conditions and their treatment at work, and that there were tensions between different nationalities in the workplace. We wanted to explore the extent of these issues and recommend ways of resolving them.

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\(^5\) We looked at employment and recruitment issues related all stages of meat and poultry processing and packaging activity prior to delivery to retail outlets but excluding the slaughter and initial preparation of red meat.
The overall aims of the inquiry were to:

- Understand the issues affecting workers in the sector
- Examine the impact of current recruitment and employment practice on individuals and on relations between workers of different nationalities
- Look for examples of good practice which promote equality of opportunity for agency workers and good relations between different nationalities in this sector.

**Evidence base**

The Inquiry gathered a broad and authoritative evidence base from a wide range of individuals and organisations across England and Wales. We obtained a rounded picture of the supply chain from the agency staff working on production lines; the work agencies that supply them; the processing firms at which they are placed; and the supermarkets who buy around 80 per cent of the meat products from this sector. Our evidence base includes:

- Written evidence from 150 organisations and individuals working in this sector, this included 120 submissions from individuals working in the industry three-quarters of which were in languages other than English, half being in Polish
- Written evidence from supermarkets, unions, industry representative bodies, regulators, and government departments
- 140 face-to-face interviews with meat processing workers in 15 different locations across England and Wales, of which 120 were migrant workers
- Surveys of meat processing firms and agencies – 190 responses from meat and poultry processing firms and 131 responses from work agencies supplying labour to this sector
- Case studies into seven organisations – both processing firms and work agencies – which were recognised as displaying good practice in terms of recruitment, employment, equality and integration.

**Key findings**

The inquiry uncovered widespread and frequent breaches of the law and licensing standards in meat processing factories – many of which supply
the UK’s biggest supermarkets – and the agencies that supply workers to them. The licensing standards of the Gangmasters Licensing Authority (GLA), the government agency responsible for protecting food processing workers from exploitation, are drawn from International Labour Organisation (ILO) indicators. We also found conditions which flout minimum ethical trading standards and basic human rights. The main breaches we found were:

- Verbal and physical abuse
- Failure to provide a safe working environment
- Failure to provide understandable information about employment conditions
- Non payment of wages, including holiday pay
- Coercion, including forced overtime
- Unlawful deduction from wages
- Recruitment of workers based on nationality
- Harassment on racial grounds
- Segregation of workers by nationality
- Dismissal of workers based on nationality, colour and pregnancy
- Failure to conduct risk assessments on pregnant women.

Whilst the Commission found some examples of good practice in particular areas, it wasn’t able to identify any firms that have good practice across the board. It is clear the current system is not working adequately to prevent unlawful and unethical treatment of agency workers by agencies or processing firms.

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6 Over one-third of workers said they had experienced or witnessed verbal abuse. Around one-fifth of interviewees reported being pushed, kicked or having things thrown at them.
7 Concerns about health and safety were raised in over half the interviews, particularly concerning the failure to provide adequate personal protective equipment (PPE).
8 Over one-third of the migrant workers interviewed did not understand the contents of the documentation their agency had given them and felt under pressure to sign up to it.
9 Some migrant workers had been forced to work – sometimes when they were tired after a long shift, ill or pregnant – under threat of losing their job and any further work from the agency. One in six workers providing written evidence referred to this.
10 A quarter of workers mentioned poor treatment of pregnant workers including summary dismissal.
Recommendations

The final report was published in March 2010 and contains 49 recommendations aimed at the key bodies in the industry: supermarkets, work agencies, processing firms, and their national representative bodies, as well as regulatory agencies (including the Commission itself), the government and trade unions.

The recommendations are designed to ensure a level playing field for businesses and to protect vulnerable workers from the problems identified in our findings. Their emphasis is to reduce the onus on workers to challenge the agency or meat processing firm when they are discriminated against or treated unfairly. The recommendations address the need to:

- Reduce the causes of vulnerability
- Hold organisations to account
- Promote equality, human rights and good relations.

The report recommends that the Commission undertake a review of the extent to which relevant bodies have effectively implemented the report’s recommendations twelve months after it has been published— and take enforcement action as appropriate against named firms. We recently sent a letter to all processing firms in England and Wales informing them about the inquiry findings, recommendations and planned follow-up.

Follow-up work

One of the report recommendations is the creation of a representative industry task force to produce standardised recruitment and employment practices for the industry. The Commission is facilitating this task force in partnership with the Ethical Trading Initiative (ETI).

The task force is comprised of trade associations and other representative bodies; supermarkets; regulatory bodies, including the Gangmasters Licensing Authority (GLA) and the Health and Safety Executive (HSE); the Department for Business, Innovation and Skills (BIS); the Ethical Trade Initiative (ETI), selected work agencies, processing firms and relevant trade unions.

Over the next several months it will work to produce tools to:

- Promote awareness of relevant legislation and statutory standards
- Identify and disseminate good practice
- Create practical and sustainable solutions.

The type of tools that will be produced will be determined by the task force members. It is vital that they are aimed at industry, accessible and easy to use. They must clearly explain what is required by the law and provide information about best practice. We will seek to disseminate these tools strategically, for example through other regulators.

After the task force has completed its work, the Commission will undertake a formal review of the extent to which relevant bodies have effectively implemented the report’s recommendations, and take enforcement action against any named organisations that remain in breach of the law.