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MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC  
ASPECTS OF MIGRATION

MISC20(05)

MINUTES 1<sup>st</sup> AND 2<sup>nd</sup> CANCELLATION NOTICE  
MEMORANDA 1-10

CAB 130 / 1630

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MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

2005

MEETINGS

| MTG             | DATE            | SUBJECT                                                                                                                                                                                                                                                                   |
|-----------------|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1st             | 27 January 2005 | 1. Morecambe Bay<br>2. Implementation of the Gangmasters Licensing Act 2004<br>3. Departmental Enforcement Resources<br>4. MISC20 Strategic Action Plan<br>5. Relationship Between MISC20 and ER(W)<br>6. Possible Illegal Employment of Slovakian Nationals in Sheffield |
| 2 <sup>nd</sup> | 6 April 2005    | Cancellation Notice                                                                                                                                                                                                                                                       |

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**MISC20 (05)**

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**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**2005**

**MEMORANDA**

| <b>MEMO</b> | <b>SUBJECT</b>                                                  | <b>DATE</b>       |
|-------------|-----------------------------------------------------------------|-------------------|
| 1           | Dealing with the Problems at Morecambe Bay                      | 25 January 2005   |
| 2           | Dealing with the Problems at Morecambe Bay                      | 25 January 2005   |
| 3           | Tackling the Problem of Illegal Migrant Working in Morcambe Bay | 15 September 2005 |
| 4           | Implementation of the Gangmasters (Licensing) Act 2004          | 25 February 2005  |
| 5           | Departmental Enforcement Resources                              | 25 January 2005   |
| 6           | MISC 20 Strategic Action Plan                                   | 25 January 2005   |
| 7           | Relationship Between MISC20 and ER(W)                           | 27 January 2005   |
| 8           | Possible Illegal Employment of Slovakian Nationals in Sheffield | 27 January 2005   |
| 9           | Composition and Terms of Reference                              | 13 April 2005     |
| 10          | Dissolution of the Committee                                    | 16 September 2005 |

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MISC20(05)1<sup>st</sup> Meeting

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**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**MINUTES** of a Meeting held in the Large Ministerial Conference Room, House of  
Commons  
on **THURSDAY 27 JANUARY 2005 at 11.45am**

**PRESENT**

Desmond Browne MP  
Minister of State  
Home Office  
(In the Chair)

The Rt Hon The Lord Rooker  
Minister of State  
Office of the Deputy Prime Minister

The Rt Hon Jane Kennedy MP  
Minister for Work

John Healey MP  
Economic Secretary to the Treasury

The Lord Whitty  
Parliamentary Under Secretary of State  
Department for Environment, Food & Rural  
Affairs

Anne McGuire MP  
Parliamentary Under Secretary of State  
Scotland Office

The Lord Sainsbury of Turville  
Parliamentary Under Secretary of State  
Department of Trade & Industry  
(Items 1, 3, 4 and 5 only)

**SECRETARIAT**

Ms N Smith  
Mr P Blaker

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**ITEM 1: DEALING WITH THE PROBLEMS AT MORECAMBE BAY**

The Committee had before it three papers on the issues at Morecambe Bay. A memorandum from the Minister of State for Work (MISC20(05)2) considered the health and safety risks at Morecambe Bay and other cockle-beds and how to handle those risks; considered the potential benefits of a licensing scheme for cockling at Morecambe Bay, instead of the enhanced permit scheme due to be implemented from 1 February; and set out how permitting or licensing may help tackle some of the wider illegal working issues. A memorandum from the Minister of State, Home Office (MISC20(05)3) set out the Immigration Service (IS) activity underway to address the problem of illegal migrant working in Morecambe Bay. A note from the Secretaries (MISC20 (05) 1) gave an overview of the proposals and invited the Committee to consider the reported anti-social behaviour problems at Morecambe Bay; local co-ordination work; and media handling for the anniversary of the tragedy which occurred on 5 February 2004.

Introducing her memorandum, the MINISTER FOR WORK said it provided an honest assessment of the situation at Morecambe Bay and other cockle beds around the UK. While it might be tempting to believe that licensing would be a suitable response to the problems at Morecambe Bay, she did not believe this to be the case. The Health and Safety Executive (HSE) was confident the permit scheme could make a difference, provided the associated arrangements such as information sharing with the Immigration Service, Department for Work and Pensions and Inland Revenue, were put in place. She proposed the effect of the permit scheme should be monitored and assessed after three months. In the meantime, she recommended the Committee agree the proposals in the paper for proportionate, intelligence-led action which should be supported at a local level through the Government Office for the North West.

Introducing his memorandum, the MINISTER OF STATE, HOME OFFICE said there had been significant IS activity to tackle illegal migrant working at Morecambe Bay but with limited success. The current assessment from the IS was that the scale of illegal migrant working had not reduced significantly and there were in the region of 200 Chinese illegal migrant workers active in Morecambe Bay. The IS was

considering increasing its prosecution capacity in the North West but even this would create only limited capacity to bring cases against facilitators or employers of illegal migrant workers. A major issue was the difficulty in documenting and removing immigration offenders to China. The Home Office aimed to sign a memorandum of understanding (MOU) with the Chinese on re-documentation, but negotiations were at an early stage. In advance of an MOU, the IS had recently concluded Operation Elucidate: working with the Chinese authorities, they had identified 174 potentially Chinese immigration offenders, 150 of whom had been confirmed as Chinese. The IS was awaiting the appropriate documentation from China to enable the individuals to be removed. It was a long and deeply frustrating process, especially as immigration offenders could only be detained where there was a prospect of removal within a reasonable period, and historically the Chinese had proved very slow at re-documenting their citizens.

The following points were made in discussion:

- a. the Government needed to consider the credibility of its position in presentational terms. The public perception was that there was a problem at Morecambe Bay and the Government was not doing enough about it. Despite significant expenditure by the IS and the HSE and an on-going pressure on coastguard and rescue services, there appeared to have been little impact on the ground;
- b. while the permit system would improve intelligence flows to DWP and the Immigration Service, it would not limit the numbers of cocklers in Morecambe Bay. The Government's position would be more defensible if the permit system could include some checks on potential cocklers' competence and awareness of health and safety issues. However, DEFRA's legal advice was that this was not possible within the terms of a permit scheme with the primary purpose of fishery management;
- c. if the Committee was concerned about the effectiveness of the permit scheme, it could ask for an interim report after six weeks. In presenting its position, the Government should focus on the facts. Of 56 launches of

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Royal National Lifeboat Institution emergency services, only four involved cocklers at risk. The HSE had invested considerable resources in dealing with the issues, but it should be recognised that this was not a priority area for them; agriculture and the construction industry represented a far higher risk across the North West;

- d. licensing would be costly and time-consuming, so a permit system was the only realistic way forward notwithstanding it would be difficult to enforce effectively;
- e. media attention was likely to focus around the weekend of 5 and 6 February. A handling plan was required and the Number 10 Strategic Communications Unit should be involved. The local Sea Fisheries Committee planned to issue a press notice about the permit scheme. From the Government's perspective, it would be desirable to treat this as a health and safety issue and not an illegal migrant working issue; and
- f. it would be important to keep a close watch on the situation in the Solway Firth which was comparatively easy to access from the North West of England and where the cockling was likely to re-open shortly. There was a possibility the problems at Morecambe Bay may move to the Solway Firth. However, the likelihood was that a licensing scheme would be possible in the Solway Firth, due to the different legislation in Scotland.

Summing up the discussion, the MINISTER OF STATE, HOME OFFICE said the Committee had noted the activity set out in MISC20(05)3 and encouraged the Immigration Service to increase its prosecution capacity in the North West and to work effectively with the North Western and North Wales Sea Fisheries Committee to ensure the permit scheme tackled illegal migrant working as far as possible. The Committee agreed the recommendations in MISC20(05)2; welcomed the increased local enforcement activity; and noted that in the public's mind there had been some conflation of cockling and public order and nuisance problems which should properly be tackled through existing anti-social behaviour and public order legislation. In

future, the Committee should take periodic reports from the local enforcement agencies represented by the Morecambe Bay Action Group to provide it with up to date information about the local situation. The Number 10 Strategic Communications Unit should be invited to co-ordinate the Government's media strategy for the weekend of the 5 and 6 February. Finally, it would be helpful if the Scottish Executive could provide information on its proposed licensing scheme for the Solway Firth to allow the Committee to consider its potential as a model for use elsewhere in the UK, recognising that this would be likely to require primary legislation.

The Committee:

took note with approval.

## **ITEM 2: IMPLEMENTATION OF THE GANGMASTERS (LICENSING) ACT 2004**

The Committee considered a memorandum by the PARLIAMENTARY UNDER SECRETARY OF STATE, DEPARTMENT FOR THE ENVIRONMENT, FOOD AND RURAL AFFAIRS (DEFRA), (MISC20(05)4) which provided an update on progress towards implementation of the Gangmasters (Licensing) Act 2004. Introducing his memorandum, the PARLIAMENTARY UNDER SECRETARY OF STATE, DEFRA, said his department was making good progress and had recently appointed a Chair and Chief Executive for the Gangmasters Licensing Authority (GLA). He suggested it would be helpful for the Committee to meet the Chair and Chief Executive around the time of the establishment of the GLA in early April. He was grateful to those departments that had volunteered resources to assist in the establishment of the GLA and hoped those who had not responded to his letter of 23 December would be able to do so shortly.

Turning to the Gangmasters (Exclusions) Regulations, the PARLIAMENTARY UNDER SECRETARY OF STATE, DEFRA, said the Committee had previously agreed second stage processing should be excluded from the licensing scheme but that the Regulations should, if possible, enable the GLA to move quickly to regulate

second stage processing, should there be evidence of abuse in that sector.

Unfortunately, he had not found a lawful way of achieving this; his legal advice was that if secondary stage processing were to be excluded initially, it would require further Regulations to bring it within the scope of the licensing scheme. Accordingly, he proposed an open-ended consultation on the four options set out in the paper; and simultaneously to commission research into gangmaster activity in second-stage processing. The four options were:

- Option 1 – include all second stage processing from the outset;
- Option 2 – exclude all second stage processing from the outset;
- Option 3 – exclude second stage processing but require the GLA to conduct a review within 12 months with a view to making new exclusion regulations if necessary to deal with areas of abuse identified; and
- Option 4 – include clearly identified problem areas, justified by an unequivocal body of evidence, within the scope of the licensing arrangements from the outset.

Continuing, the PARLIAMENTARY UNDER SECRETARY OF STATE, DEFRA, said that while horticulture, fisheries and primary stage processing were the main problem areas and his priorities for licensing, there was some anecdotal evidence of abuse in second stage processing. This had been reported by a range of stakeholders including trades unions, the Association of Labour Providers (ALP) and supermarkets. He hoped the research he was commissioning would establish the extent of the problem; and he would revert to the Committee for a decision after the consultation and research were complete.

The following points were made in discussion:

- g. the GLA needed flexibility to tackle abuse where it arose, so option 4 was attractive;

h. in the nine months to December 2004, DWP had received over 0.5 million applications for National Insurance numbers (NINOs). This represented a 28.7% increase on the same period in 2003. The increase was not consistent across the UK - there had been a 79.3% increase in applications in the East Midlands and a 59% increase in the East of England compared to a 9% increase in London. This pattern of NINO applications merited investigation; and

i. [redacted] supplying labour to factories was a new but increasing [redacted] which was confirmed by the Health and Safety Executive [redacted] the Immigration Service. This suggested option 4 could be the right way forward;

j. DEFRA's progress on the Ethical Trading Initiative (ETI) was welcome; and

k. the chairman of the ALP had written to the Parliamentary Under Secretary of State, DEFRA, complaining about a lack of enforcement activity against illegal gangmasters. The ALP's view was that legitimate gangmasters trying to operate within the law were targeted by Government agencies while illegal gangmasters were not. The Government needed to provide a co-ordinated response and to refute those of the ALP's assertions which were inaccurate.

Summing up the discussion, the MINISTER OF STATE, HOME OFFICE, said the Committee welcomed the work to establish the GLA and agreed it would be helpful to take a presentation from the Chair and Chief Executive at a future meeting. DEFRA should co-ordinate the Government's response to the ALP's letter. In the absence of a Department of Trade and Industry (DTI) minister, it would be inappropriate for the Committee to reach a decision on second stage processing. The DTI should be consulted and the matter concluded in correspondence.

The Committee:

- took note with approval of the Minister of State's summing up and invited the Parliamentary Under Secretary of State, DEFRA, to proceed accordingly.

#### **ITEM 5: DEPARTMENTAL ENFORCEMENT RESOURCES**

The Committee considered a note by the Secretaries (MISC20(05)5) which described the resources currently deployed by departments to enforce workplace regulations. Introducing the paper, the MINISTER OF STATE, HOME OFFICE, noted that resources had been a recurring theme in the Committee's considerations to date. The sub-group of the Ad-Hoc Ministerial Group on Employment Relations (ER(W)) was now taking forward work on joining-up workplace enforcement activity and he suggested it would be appropriate for that group to consider the issue of enforcement resources. It did not appear there was spare enforcement capacity, so the challenge would be to maximise the effectiveness of existing resources. He hoped this would be assisted by the ER(W) work.

The PARLIAMENTARY UNDER SECRETARY OF STATE, DEPARTMENT OF TRADE AND INDUSTRY, said that ER(W) would be focusing on workplace enforcement and would report back to MISC20. ER(W) was looking at potential legislative changes, information sharing, identification of 'hotspots' of abuse, new ways of joint-working and possibly some form of supply chain code of practice. It hoped to put proposals to MISC 20 in mid-February.

Summing up the discussion, the MINISTER OF STATE, HOME OFFICE said the Committee noted the current position on enforcement resources and looked forward to considering the work of ER(W). On joint working, a step-change in co-operation would be required to deal effectively with the problems faced by the Government in this area.

The Committee:

took note.

**ITEM 4: MISC 20 STRATEGIC ACTION PLAN**

The Committee had before it the current version of the Government's strategic action plan for tackling illegal migrant working (MISC20(05)6). The MINISTER OF STATE, HOME OFFICE, noted the action plan was an iterative document and the cost benefit information included at this stage was tentative. He suggested that at its next meeting, the Committee should consider the plan as its principle item and should review progress, including on the work being taken forward by the sub-group of the Ad-Hoc Ministerial Group on Employment Relations (ER(W)).

The Committee:

took note with approval.

**ITEM 5: RELATIONSHIP BETWEEN MISC20 AND ER(W)**

The Committee had before it a note from the Secretaries (MISC20(05)7) setting out the relationship between this Committee and the sub-group of the Ad-Hoc Ministerial Group on Employment Relations (ER(W)).

The Committee:

took note.

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**ITEM 6: POSSIBLE ILLEGAL EMPLOYMENT OF SLOVAKIAN NATIONALS IN SHEFFIELD**

The Committee had before it a briefing note (MISC20(05)8) which the Minister of State, Home Office, had received from Clive Betts MP describing a problem that had arisen in Sheffield regarding the possible illegal employment of Slovakian nationals. The MINISTER OF STATE, HOME OFFICE, said he believed this to be a good indication of the problems faced by the Government in relation to joined-up working by the various enforcement agencies. His view was that, in this instance, the most pragmatic solution could be to help the individuals return to Slovakia and he had asked Home Office officials to investigate this. He urged all Committee members: to ensure their respective departments gave urgent consideration to what action they might take; and to encourage their officials to work together to resolve the problem.

The Committee:

took note with approval.

Cabinet Office  
28 January 2005

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MISC20(05)2<sup>nd</sup> Meeting

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MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

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CANCELLATION NOTICE

The Meeting on **\*WEDNESDAY 6 APRIL 2005 at 10.30am** in the Large Ministerial  
Conference Room, House of Commons is **CANCELLED**.

|        |              |
|--------|--------------|
| SIGNED | MS G EDWARDS |
|        | MS N SMITH   |
|        | MS S BARROW  |

Cabinet Office

1 April 2005

\* Meeting is **CANCELLED**

[Contact telephone numbers for queries: 020 7276 0091 or 7276 0156]

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MISC20(05)1  
25 January 2005

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**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**DEALING WITH THE PROBLEMS AT MORECAMBE BAY**

**Note by the Secretaries**

**Summary**

This paper provides an overview of the issues for discussion by MISC20, drawing together the recommendations in the papers MISC20(05)2 and MISC20(05)3. The substantive issues for discussion are contained primarily in MISC20(05)2, a memorandum from the Minister for Work, which takes as its starting point the risk to life at Morecambe Bay (and potentially other stretches of coastline) and goes on to consider some of the associated illegal working issues. MISC20(05)3, a memorandum from the Minister of State, Home Office, does not require decisions but informs the committee of the Immigration Service work underway.

**Recommendation**

2. The Committee is invited to consider the papers MISC20(05)2 and MISC20(05)3 and:

***MISC20(05)2 - Memorandum from the Minister for Work***

- a) agree that current and future action by agencies at Morecambe Bay and elsewhere on the British coastline should be proportionate to the risk, evidence-based, intelligence-led, and consistent with the objectives set out at paragraph 37 of MISC20(05)2;
- b) agree that where possible, existing intelligence networks should be used, but that where necessary new specific

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networks should be established by local statutory bodies, and that further administrative support should be provided by Government Office for the North West to the existing Joint Liaison Group for Morecambe Bay;

- c) agree that while there is currently no evidence of similar problems occurring at other cockle beds around the British coastline, vigilance is essential if changes to this position are to be identified at an early stage. The Sea Fisheries Committees should be invited to join existing networks where appropriate;
- d) agree that the North West and North Wales Sea Fisheries Committee permit system, which will be implemented from 1 February will provide a useful initial measure for controlling access to Morecambe Bay and, through effective information sharing, should provide improved intelligence will be used to tackle one illegal working issue by supporting Immigration Service, DWP and Inland Revenue's enforcement operations. Progress should be assessed after 3 months;
- e) agree that licensing would provide few advantages, come at a high cost which would be disproportionate to the level of risk, and should be rejected as a solution;
- f) agree that a hierarchy of measures, similar to those established at Morecambe Bay should be introduced in response to intelligence of new, large scale, and persistent commercial cockling elsewhere.

**MISC20(05)3 - Memorandum from the Minister of State, Home Office**

- g) note the activities undertaken to date by the Immigration Service (through Operation Double) to reduce illegal migrant working in the Morecambe Bay area and the commitment to continue these activities in the short term;
- h) note that consideration is being given to increase prosecution capacity in the North West to effectively pursue those employing and facilitating illegal migrant labour in the Morecambe Bay area;
- i) note that progress is being made in joint operations with the Chinese authorities to effect the removal of Chinese failed asylum seekers; and
- j) note that the Immigration Service is working with the Sea Fisheries Committee to ensure the information provided by

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the extended permit scheme is used to reduce instances of illegal migrant working in Morecambe Bay .

3. Additionally, the Committee is invited to:

- (a) note the view of the statutory agencies working in the locality that the reported public order and nuisance problems are not generally caused by cocklers and agree that existing legislation, for example anti-social behaviour orders, is sufficient to deal with these problems;
- (b) note the local co-ordination work which is taking place and indicate whether it would welcome periodic reports on the situation on the ground from the Morecambe Bay Action Group. (NB. This is a forum for local enforcement agencies, not the public action group of the same name, chaired by Geraldine Smith MP.); and
- (c) consider the likelihood of renewed media attention to coincide with the 10th anniversary of the tragedy and give a steer on media handling, including the need for collectively agreed lines to take.

**Background**

4. When MISC20 met on 15 November, it considered a paper (MISC20(04)9) which described the problems at Morecambe Bay and agreed a number of short-term recommendations in relation to: providing health and safety guidance; extending the existing North West and North Wales Sea Fisheries Committee (NWNWSFC) permit scheme; improving information sharing between the NWNWSFC and the Home Office, DWP and Inland Revenue; and providing departmental support for a joint liaison group set up by the NWNWSFC to consider enforcement issues. MISC20 also agreed that officials should consider longer term options for dealing with the problems at Morecambe Bay and make recommendations to the Committee on the basis of analysis of the extent of the problem and consideration of the costs and benefits.

**Consideration**

5. Information from the agencies working in the Morecambe Bay area suggests there are currently three separate but interlinked issues of concern:

- the health and safety risk to cocklers working in the Bay;

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the incidence of illegal working (including illegal migrant working); and public order issues.

The paper MISC20(05)2 analyses the risks to life of activities at Morecambe Bay and the likelihood of similar schemes elsewhere; proposes a framework for implementation by local statutory bodies; and considers whether a permit scheme might provide additional benefits. It also discusses an enhanced permit scheme which the NWNWSFC will be implementing from 1 February. The paper also identifies how the joint-working initiated by the NWNWSFC is addressing the range of problems generated by increased cockling activity; and how permit licensing can help tackle illegal working as well as health and safety and sea fish conservation issues.

7. MISC20(05)3 describes the Immigration Service's activities to tackle illegal migrant working at Morecambe Bay. It includes: an assessment of the level of illegal migrant working, which continues to be significant; information about Immigration Service enforcement activity; ongoing work to improve removal of immigration offenders, particularly Chinese nationals. It also explains how the Immigration Service is reviewing its prosecution capacity with a view to taking forward more prosecutions against facilitators or employers of illegal migrant workers.

8. Public order issues have also been identified by local people and the media as a concern, along with general nuisance and anti-social behaviour. However, apart from local statutory agencies operating in the Morecambe Bay area, it indicates that such incidents, although highlighted by the tragedy last year, are not in general linked to cocklers. There was an issue about the amount of litter generated by cocklers, but this has been resolved pragmatically by the local police who have arranged for the local burger vans to provide skips funded through a small increase in food and drink prices.

9. There is no evidence to suggest that the existing tools for tackling anti-social behaviour and other nuisance are inadequate for dealing with the issues arising at Morecambe Bay. The police and local authorities have a range of interventions available to them including anti-social behaviour orders, injunctions and other public order legislation. MISC20 is invited to note the view of the statutory agencies working in the locality that the reported public order problems are not caused by cocklers and agree that existing legislation should be sufficient to deal with

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public order problems.

10. As MISC20(05)2 mentions (paragraph 7) there is a considerable amount of misinformation perpetuated by the local media in particular exaggerating the risks and incidents at Morecambe Bay. There is also a degree of local protectionism with local cocklers resenting the incomers and looking to exclude them from the Bay. The objective of some of the response being called for by local groups would be to restrict access to the cockle beds, with the mistaken belief that this would enable local cocklers to exclude the incomers.

11. Ministers may therefore find it helpful to have regular updates on the situation on the ground. There are two key local co-ordination groups: the Joint Liaison Group chaired by the NWNWSFC, which includes a wide range of local agencies meets regularly to discuss incidents and related strategic issues, including joint working and information sharing; and the Morecambe Bay Action Group which is composed solely of enforcement agencies and meets weekly to discuss and co-ordinate forthcoming enforcement activity on the Bay. The latter group is co-ordinated by the police and has a clear view of the problems that exist in Morecambe Bay and the steps that are necessary or being taken to resolve them. MISC20 is invited to indicate whether it would like to take periodic reports from Morecambe Bay Action Group to provide an insight into the situation on the ground.

12. As the anniversary of the 5 February 2004 tragedy approaches, MISC20 is also invited to consider how the Government might wish to respond to any renewed media interest and give a steer on media handling including the need for collectively agreed lines to take.

Cabinet Office  
25 January 2005

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25 January 2005

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**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**DEALING WITH THE PROBLEMS AT MORECAMBE BAY**

**Memorandum by the Minister for Work**

**Summary**

1. This paper builds on the Committee's discussion of paper MISC20(04)9; provides an analysis of the risks to life of current activities at Morecambe Bay; the likelihood of similar problems occurring elsewhere on the British Coastline; and proposes a hierarchy of activity based on risk.

**Recommendations**

2. Ministers are invited to agree:
  - a) that current and future action by agencies at Morecambe Bay and elsewhere on the British coastline should be proportionate to the risk, evidence-based, intelligence-led, and consistent with the objectives at paragraph 37;
  - b) that wherever possible, existing intelligence networks should be used, but that where necessary new specific networks, similar to the Joint Liaison Group chaired by the North West and North Wales Sea Fisheries Committee (NWNWSFC) should be established by local statutory bodies, as appropriate, and that further administrative support should be provided by Government Office for the North West to the existing Joint Liaison Group for Morecambe Bay;
  - c) that while there is no evidence of similar problems occurring at other cockle beds around the British coastline, vigilance is essential if

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changes to this position are to be identified at an early stage, and that the Sea Fisheries Committees (SFCs) should be invited to join existing networks where appropriate;

- d) that the permit system, which is fully supported by Government Departments, will provide a useful initial measure for controlling access to Morecambe Bay and, through effective information sharing, should provide improved intelligence to be used to tackle the illegal working issue by supporting Immigration Service, DWP and Inland Revenue's enforcement operations. Progress should be assessed after 3 months;
- e) that licensing would provide few advantages, come at a high cost which would be disproportionate to the level of risk, and should be rejected as a solution; and
- f) that a hierarchy of measures similar to those established at Morecambe Bay should be introduced in response to intelligence of new, large scale, and persistent commercial cockling elsewhere.

Considerations

**Morecambe Bay**

i) **Evidence-based solutions**

- 3. The Committee acknowledged at its meeting on 15 November that local agencies and authorities had had considerable success in ensuring that regular cocklers were advised of the dangers and health and safety risks and precautions to take. The Health and Safety Executive (HSE) has advised that all regular cocklers are familiar with the guidelines and their own primary statutory responsibility for safeguarding the health and safety of their workers. While they may not all have a detailed local knowledge of the Bay, they do have knowledge and experience of working in tidal areas.
- 4. The risks to regular cocklers on Morecambe Bay have been considerably reduced, and while it remains a hazardous workplace, it is possible to work there regularly without serious risk, as has been done for centuries.
- 5. Since February over forty organisers of cockling have made improvement to meet the HSE safety guidelines. These include: purchasing new tractors, trailers, and other vehicles; the provision of high visibility and protective clothing, waders, flares, mobile phones, tide

timetables and compasses; some are also carrying lifejackets, life-rafts and dinghies. Cocklers have a better understanding of the risks involved as the guidelines have been provided to all permit holders and handed out in the bay in English, Chinese and Polish. HSE considers the risk to regular cocklers on the Bay to be no more than "medium" and if the guidelines are followed by individuals and groups the risk in Morecambe Bay is low.

6. The police-led investigation and agency activity on the Bay over the last eleven months point to the events of the 5 February 2004 being unique. This is evidenced by the unusual charge of gross negligence manslaughter against one defendant. The trial is due to take place in September, and is likely to take more than four months.
7. There is a considerable amount of misinformation being perpetuated by the media exaggerating the risks and incidents on the Bay. For example, of the 56 launches (from 1 Jan 2004 to 1 Nov 2004) of the RNLI emergency services, 26 were recorded by the Maritime and Coastguard Agency as involving cocklers, but only four have involved cocklers at potential risk. These have all been investigated. Of the remaining call outs; on 16 occasions the cocklers made shore safely unaided or prior to launch or arrival of Sea King and Rescue resources, 3 were false alarms with good intent from members of the public seeing something floating one or two miles away, while some are suspicious such as those made at the time of the Buddhist Ceremony on 9 February, and during Ben Bradshaw's visit on 26 February.
8. The events of Saturday 7 August generated a good deal of Ministerial interest when a major emergency response (involving two helicopters, two hovercraft and the Morecambe and Barrow lifeboats) was initiated by the Coastguard on receipt of a telephone call that there had been a collision between two tractors five miles out in the Bay off Flookburgh. As a result 136 people were said to be at risk of being trapped. Thirty-four fishermen were assisted to the foreshore, others walked back or made their way to shore using alternative or back-up transport. The "rescue" was affected two hours before low water and while it was progressing other cocklers carried on working in that area, returning safely to shore around three hours after the "emergency" had ended. A joint police/HSE investigation found no evidence of breaches to health and safety requirements worthy of prosecution in relation to the event. However, the police and CPS have brought prosecutions against the drivers of the tractors for offences under the Road

Traffic Acts and HSE has issued improvement notices on risk assessments and tractor safety. One of the police cases was withdrawn because fishermen who were witness to the events refused to give evidence before a court, the second case is still proceeding. The police consider that information given and the nature of the event was exaggerated, aimed at disrupting the activities of non-local fishermen. The police also referred papers concerning the individual who made the initial phone call to the CPS, but it adjudged that there was insufficient evidence to pursue a case.

9. The Committee is invited to agree that solutions to the problems of Morecambe Bay should be evidence-based, taking account of detailed investigations by the police/HSE and other local agencies.

**ii) Intelligence-led, joint working/enforcement**

10. One of the lessons that all agencies have learnt is the need for effective networks to share information and formulate joint activity. The NWNWSFC has taken a central role in establishing a more effective fishery management system through building an intelligence network of local agencies and authorities<sup>1</sup> to address a range of problems generated by an increase in cockling activity. This has ensured that each enforcing authority is aware of the interests of others and has details of contact points. The NWNWSFC also provides frequent reports of activity on the Bay which are distributed to relevant agencies and authorities. Importantly, all the agencies and authorities meet as the NWNWSFC's Joint Liaison Group to discuss incidents, and exchange information on activity and joint actions. This has resulted in joint operations such as checks of vehicles, for red diesel, and for immigration status, benefit fraud, driving licences, vehicle insurance etc.
11. The establishment of such intelligence networks is key to the early detection of new/growing cockling activity, resulting problems, and their early resolution. It is also clear that the relevant SFC has a central role in any network, although it should be recognised that such networks require administrative support and that agencies/ authorities should help to meet this burden.

<sup>1</sup> Key agencies are: Inland Revenue; Defra; Environment Agency; the Maritime & Coastguard Agency; Immigration Service; National Asylum Support Service; DWP; English Nature; HSE; Lancaster City Council; Lancashire County Council, South Lakeland District Council; Barrow Borough Council; Wyre Borough Council; Lancashire Constabulary and Cumbria Constabulary; Vehicle and Operators Standards Agency (VOSA).

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Given the cross-departmental nature and regional significance of these issues the Government Offices for the Regions should more involved and could resource the administration of the groups. This was, however, suggested by the Government Office for the North West when suggested locally. We calculate that the establishment and maintenance of a Joint Liaison Group would cost around £8500 a year.

12. The Committee is invited to endorse the maintenance of the Joint Liaison Group under the chairmanship of the NWNWSFC at least until the permit system has been introduced, evaluated, and agree that further administrative support should be provided by Government Office for the North West.

### iii) Permit Scheme and Licensing

13. It is important when considering future schemes to understand the geographical scale of Morecambe Bay and the area covered by the NWNWSFC, and the enforcement difficulties that creates. A map showing all the beds open within NWNWSFC's area is attached at Annex B.

### Permit Scheme

14. The extended permit scheme which MISC 20 agreed should be pursued when it discussed this issue on 15 November will come into force on 1 February. This will cover all commercial cockling on all beds under the authority of the NWNWSFC. As all cocklers working anywhere on the bay will require a permit this scheme will have following benefits:
- a) Providing a hurdle to discourage people from cockling, particularly if they are illegal workers
  - b) Confirmation of identification, photograph and full address of all cocklers, providing useful intelligence for subsequent enforcement operations
  - c) Query on the legal status of cocklers
  - d) Provide the means for a greater dissemination of health and safety guidelines to cocklers
15. Whilst there is limited scope within the SFC to check the identification of those applying for a permit, the address needs to be correct as the permit is only sent by post and this, with the photograph, allows the immigration service to have an improved understanding and ability to trace the status of applicants. If the SFC is unhappy with the identification provided it will request further information before issuing a permit. Information

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including the Health and Safety guidelines are sent to all applicants, thus introducing new cocklers to sources of invaluable advice about the beds, tides and safety on the Bay. The costs are likely to be in the order of £20,000 to set up and administer. This does not cover the costs expended by OGDs on receiving or using intelligence from applications etc.

16. The permit system will not completely prevent illegal working on the Bay, in part because of the difficulty in authenticating the information provided by applicants. Some checks will be possible because the Home Office has offered to support information sharing between the Immigration Service (IS) and the NWNWSFC. However, there will be no benefit in DWP officials routinely checking National Insurance numbers and the Inland Revenue is statutorily prohibited from disclosing information to the DWP. However, the information provided by applicants will be passed to the Immigration Service, DWP and the Inland Revenue and should provide useful intelligence to support those agencies' future enforcement operations.
17. In addition, the permit scheme will not restrict the number of cocklers accessing the Bay as many local cocklers are demanding. If cocklers wish to go further than the aims set out above, a licensing scheme would need to be set up.

Licensing

18. Additional benefits of a licensing scheme would be:
- a) in theory, regulating the number of licences issued, and therefore allowing the number of cocklers working legally on Bay to be limited with the aim of protecting shellfish stocks or protecting the public's health and safety;
  - b) more restrictive conditions attached to obtaining a licence
19. As with a permit scheme, a licensing scheme would also not completely prevent illegal working. Whilst only legal workers could obtain a license, considerable enforcement effort would be required to check all cocklers had licenses.
20. A licensing scheme could not be justified on either Health and Safety or fishery conservation grounds as set out below and would therefore require a significant change in policy by legislation. It would also be a high

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cost approach that would not appear to be proportionate to the level of risk.

Licensing, via a regulating order under the Sea Fisheries Act 1967 would provide an extra level of assurance as the number of licences could be limited. This action could only be taken as a fisheries conservation measure not simply to restrict the number of people active in the Bay. Licensing would take around 2 years to introduce, would require a consultation with all private land owners around the bay and would cost between £200,000 and £300,000 to bring into being. For full operating costs to be recovered, each licence would cost around £1000 per year if the SFC limited the number of licences to 100. This would add a considerable administrative burden on businesses and the authorities. Evidence suggests that there are currently 4-5 years worth of cockles available to harvest, and they have survived recent extreme weather, therefore licensing cannot be justified as a fishery conservation grounds. The SFC cannot be directed to apply for a regulating order.

22. The alternative to licensing by HSE requires new legislation, but would have the advantage of allowing Health and Safety conditions to be applied to licenses. However, with a reduction of risk at Morecambe Bay, licensing could not be justified on health and safety grounds, and it would be inconsistent with the Health and Safety Commission (HSC) public policy on permissioning regimes which are justified only where there are significant risks of multiple fatalities or adverse health effects from complex technical or management systems, such as at nuclear installations, offshore installations, onshore major hazards sites, gas distribution, or work with genetically modified organisms. This is not the case at Morecambe Bay where the risks are less complex and relatively easy to manage. The costs of administering existing schemes are charged to dutyholders, with for example the asbestos removal licensing regime costing around £350k a year to deliver less than 350 new, renewed or amended licenses excluding the costs of inspections which are a direct cost to HSE.
23. There is some local demand for licensing but this is based on a perception that it will effectively ban non-local cocklers from working the Bay. This is not the case as licensing would not prevent people from outside the local area from obtaining licenses. It is also clear that local fishers would not be prepared to bear the full economic cost of enforcing a Regulating Order.

24. The Committee is invited to agree that the permit system, which is fully supported by Government Departments, will provide a useful initial measure for  
ing access to Morecambe Bay and, through  
information sharing, should provide improved  
intelligence to be used to tackle the illegal working  
issue by supporting Immigration Service, DWP and Inland  
Revenue's enforcement operations. Progress should be  
assessed after 3 months.

e Comm is asked to note that licensing would  
fewer , come at a high cost which would  
report te to the level of risk, and should be  
rejected as a solution.

26. It should also be noted that the Gangmasters (Licensing) Act now applies to the gathering of shellfish and the processing or packaging of shellfish or products derived from shellfish. In the context of Morecambe Bay, the Gangmaster Licensing Authority set up by the Act will help to regulate the labour provision sector, reducing illegality including the use of illegal migrant labour. It is anticipated that conditions for achieving a licence will include health and safety provisions, against which the gangmaster will be assessed.

#### **Evidence of problems elsewhere on the British Coastline**

##### **i) Evidence-based solutions**

27. Earlier this year, the HSE Safety Guidelines were sent by Defra to SFCs operating around the British Coastline, with a request for them to distribute the guidelines to anyone regularly working cockle beds under their jurisdiction.

28. Conscious that enforcement activity on Morecambe Bay had the potential to displace non-local commercial cocklers elsewhere, HSE inspectors were as to make contact with the local SFCs to:

- establish viable future working relationships;
- seek advice as to current local shellfish licensing regimes in force;
- establish or clarify information on local practices e.g. seasonality, methods of working etc. for commercial shellfish harvesting;
- seek information as to employers or other intermediaries actively engaged in commercial

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extraction of shellfish from estuaries or tidal flats; and

- explore scope for any future joint inspection/enforcement initiatives.

29. Feedback from HSE inspectors and SFCs indicates there is no evidence of substantial displacement to other regions around the British coastline. Many beds are currently closed. To date suggestions that elements from Morecambe Bay might be turning their interests to the East Coast, which could involve migrant workers - have not materialised but the Eastern SFC is stepping up patrols to monitor the position.
30. Not contrary to anecdotal information, is there any evidence of Chinese or other workers in The Wash, which is mainly fished by boat. Some groups are found in the Dee Estuary but opening is restricted by the Environment Agency. Only one main location is likely to become open in the short term - the Solway Firth (see paragraph 32). A risk analysis for all areas is provided at Annex A.
31. All the evidence points to the fact that organised gangs of commercial cocklers are motivated by the price and volume of stocks and are currently not attracted by small cockle beds. We know that some of the organised gangs from Morecambe Bay have been to Cornwall and the Bristol Channel to prospect for stocks but have never found enough to make their operation financially sustainable. There is no evidence that this position will change unless there is significant movement in the cockling market e.g. prompted by the opening/closing of large beds in Great Britain and Europe.
32. A substantial bed in the Solway Firth in Scotland is currently closed but a regulatory order, possible due to the different legislation under which they operate, has been proposed which the Scottish Executive has been granted in order to allow reopening of the bed as early as February 2005. A special management group, the Solway Shellfish Management Association (SSMA) will run the regulating order if granted, enabling them to run a local licensing scheme to restrict numbers. The Scottish Executive will be drawing up a management plan and HSE are already in contact with them to ensure health and safety is properly accounted for in the plan. The risk to health and safety is considered low at present but will be medium in the future as migrant/illegal workers are expected to be attracted to the bed once opened. HSE hope to ensure guidelines are in place and available to new cocklers. Should the Morecambe Bay permit scheme be

considered ineffective when progress is reviewed, the effectiveness of this scheme, in the rather different Scottish set-up, can be analysed.

33. Our assessment is that with other large British and European cockle beds closed for conservation reasons or food quality reasons, and with cockle stocks at Morecambe Bay at a 30 year high, with the potential for bumper harvests in the next two years, Morecambe Bay is likely to continue to dominate market supply. It will therefore be likely to attract an influx of non-local fishermen, and therefore remain the main focus of our attention.

## ii) Intelligence-led

34. That said, we need a 'radar' to pick up changes in the market that might affect the relative attractiveness of specific cockle beds to poorly organised, non-local commercial cockle fishers. Intelligence is key. The relevant SFC is central to managing the fisheries system. We therefore propose that, where appropriate SFCs are invited to link with existing local networks. This will provide them with an opportunity to share intelligence about the position on local beds and better appreciate the size and nature of markets working in their locality.

35. Accepting that any measures we introduce must be proportionate to the risk, we propose a hierarchy of interventions and local agency/authority activity based on the following broad risk analysis. This broad risk analysis has been applied to the beds covered by each of the SFCs (see Annex A).

36. The Committee is invited to agree to this approach, which adopts the principles of proportionality, targeting, and consistency in line with the Government's enforcement policy.

| Risk   | Description/Definition                                                                                                       | Agency/Authority Activity                                                 |
|--------|------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Low    | Cockle bed closed<br>Cockle bed open, but small and only harvested by experienced local fishermen<br>Cockles dredged by boat | Position monitored by SFC (or EA as appropriate) to identify any changes. |
| Medium | Cockle bed open and well                                                                                                     | SFC (or EA) notifies HSE                                                  |

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|      |                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | <p>stocked</p> <p>Evidence of regular harvesting by significant numbers of non-locals, but led by competent<sup>2</sup> fishermen.</p>                                                             | <p>of increased activity.</p> <p>SFC/HSE ensures that all cocklers have, and are familiar with HSE's safety guidelines.</p> <p>SFC notifies IS, IR, [DWP], police and others of influx of new workers</p> <p>SFC attends adhoc and/or Joint Liaison Group established by the GO with the support of other agencies, to facilitate exchange of intelligence and plan joint actions, if risk was previously high</p>                                                                                                                                           |
| High | <p>Cockle bed open and well stocked</p> <p>Evidence of regular harvesting by significant numbers of non-locals, led by people who are inexperienced, incompetent, or reckless and/or migrants.</p> | <p>SFC notifies HSE of increase and nature of activity.</p> <p>SFC/HSE ensures that all cocklers have, and are familiar with HSE's safety guidelines.</p> <p>SFC notifies IS, IR, [DWP], police and others of influx of new workers (directly).</p> <p>SFC attends adhoc meetings of relevant agencies/authorities and/or Joint Liaison Group established by the GO with the support of other agencies, to facilitate exchange of intelligence and plan joint actions.</p> <p>Extend SFC permit system to identify those working on the cockle beds, and</p> |

<sup>2</sup> Competent fishermen in this context are those with some knowledge and experience of working in tidal areas e.g. hazards of tide, weather, shifting sands, mud and currents etc.

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to discourage illegal working.

**Objectives:**

37. We consider that the following objectives should determine future agency/ authorities actions on Morecambe Bay and elsewhere on the British Coastline:
- to take timely and proportionate actions to protect those working on the Morecambe Bay cockle beds, based on the latest intelligence, and using the full range of powers available to HSE inspectors e.g. advice, oral/written warnings, enforcement notices and prosecutions;
  - to deal effectively with the problem of illegal migrant working on Morecambe Bay cockle beds by taking immigration enforcement action against removable offenders, and disrupting the activities of those organising illegal labour in the area through intelligence-led action;
  - to work with legitimate employers and workers (whether local or from further a field) who comply with health and safety, employment and tax laws;
  - to systematically evaluate the effectiveness of actions to ensure they remain proportionate to the risks.

**Health and Safety Executive & Department for Work and Pensions**  
**25 January 2005**

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**ANNEX A**

**Risk Analysis of the Current Position at each of the Sea Fisheries Committees where Shellfish Harvesting takes place**

| Sea Fisheries Committee     | Current Activity                                                                                                                                                                                                                                                                                                              | Risk                                     |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Cornwall                    | Shellfish harvesting very low                                                                                                                                                                                                                                                                                                 | LOW                                      |
| Cumbria                     | SFC advises that no shell fishing activity is taking place in their bailiwick. Routine contact between Cumbria and NWNWSFC.                                                                                                                                                                                                   | LOW                                      |
| Devon                       | Shellfish harvesting very low                                                                                                                                                                                                                                                                                                 | LOW                                      |
| Eastern                     | No evidence that workers from MB are moving to East Coast, but EFC is stepping up patrols to monitor.<br>The Wash: Majority of work in The Wash is from licensed boats, around 25 boats licensed. EFC has no intelligence of any activity by migrants or illegal workers in the Wash or surrounding areas.<br>Contact ongoing | LOW                                      |
| Kent & Essex                | Most shellfish harvesting carried out by boats, if on-shore by one-man bands. No intelligence or reports of gangmasters                                                                                                                                                                                                       | LOW -<br>MEDIUM                          |
| North Western & North Wales | HSE continuing to work with the SFC regarding MB and other cockle beds on the NW Coast. (See activity in MB paragraphs)<br><br>E.g. The Dee Estuary (controlled by the Environment agency not SFC)<br>The EA restrict opening to                                                                                              | MEDIUM<br><br><br><br><br><br><br>MEDIUM |

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|                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
|                                                                                     | a limited number of days per year. When open intensively fished by same groups as at MB                                                                                                                                                                                                                                                                                                                           |                                                   |
| North Eastern                                                                       | Cockle Harvesting in Humber Estuary under permit, but beds closed since 31 August. Cleethorpes foreshore beds open but worked by local residents and fishermen and considered low risk as close to promenade<br><br>Horseshoe Point beds closed but reports of some illegal harvesting - conditions medium risk when takes place. Committee happy to undertake joint enforcement if and when these beds reopened. | LOW<br><br><br><br><br><br><br><br><br><br>MEDIUM |
| Northumberland                                                                      | Shellfish harvesting very low and for non-commercial purposes                                                                                                                                                                                                                                                                                                                                                     | LOW                                               |
| South Wales                                                                         | Shellfish harvesting very low                                                                                                                                                                                                                                                                                                                                                                                     | LOW                                               |
| Southern                                                                            | Thames Estuary is fished by boat - hand picking is rare.<br><br>No intelligence or reports of gangmasters.                                                                                                                                                                                                                                                                                                        | LOW                                               |
| Sussex                                                                              | Most shellfish harvesting carried out by boats, if on-shore by one-man bands. No intelligence or reports of gangmasters                                                                                                                                                                                                                                                                                           | LOW                                               |
| Isles of Scilly                                                                     | No manual shellfish harvesting                                                                                                                                                                                                                                                                                                                                                                                    | LOW                                               |
| Scotland (regulated by the Scottish Executive rather than Sea Fisheries Committees) | Solway Firth - see paragraph 32 above. The risk to health and safety is considered low at present but will be medium in the future as migrant/                                                                                                                                                                                                                                                                    | MEDIUM                                            |

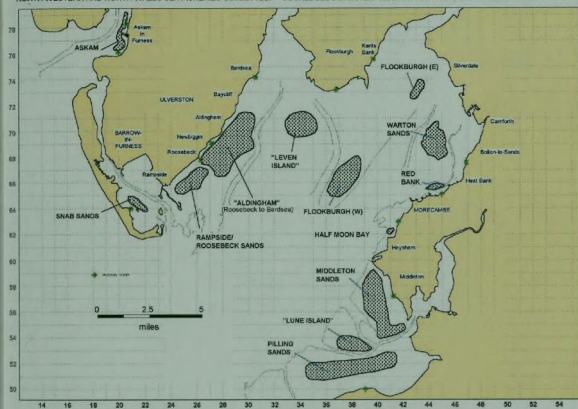
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illegal workers are expected to be attracted to the bed once opened. HSE hope to ensure guidelines are in place and available to new cocklers.

Other areas:

may be limited cockle fishing at Island of Gigha, Kilberry (West Mull of Kintyre Peninsula), Barra in the Western Isles, South and North Uist, Benbecula and potentially, Isle of Lewis

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**CABINET**

**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**TACKLING THE PROBLEM OF ILLEGAL MIGRANT WORKING IN MORECAMBE BAY**

**Memorandum by the Minister of State, Home Office**

## **1. Summary**

- 1.1 This paper looks specifically at the Immigration Service's activities to tackle illegal migrant working in Morecambe Bay, as distinct from other related issues such as health and safety, and sets out what the Immigration Service is currently considering to limit future illegal migrant working in the Bay.

## **2. Recommendations**

### **2.1 Ministers are invited to note:**

- a) the activities undertaken to date by Operation Double to reduce illegal migrant working in the Morecambe Bay area (4) and the commitment to continue these activities in the short term (5);
- b) that consideration is being given to increase prosecution capacity in the North West to effectively pursue those employing and facilitating illegal migrant labour to the Morecambe Bay area (6);

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- c) that progress is being made in joint operations with the Chinese authorities to effect the removal of Chinese failed asylum seekers (7);
- d) that the Immigration Service is working with the Sea Fisheries Committee to ensure the information provided by the extended permit scheme is used to reduce instances of illegal migrant working in Morecambe Bay (8).

**3. Assessment of illegal migrant working in Morecambe Bay**

- 3.1 The Health and Safety Executive (HSE) assess the risks to those working in the Bay to have reduced since the tragedy through the provision of health and safety information and improvements by cocklers to meet health and safety guidelines. The health and safety issue remains distinct from the issue of illegal migrant working, which continues to be significant in the Morecambe Bay area.
- 3.2 The Immigration Service believes there are approximately 200 Chinese workers currently active in the Bay and Chinese remain by far the largest group. In addition, the Immigration Service understand a small number of Polish and Albanian nationals are also working on the Bay, and one Guinean and one Mauritian national have also been encountered. Intelligence indicates that the scale of illegal migrant working remains at a similar level to prior to the tragedy and that the same organisers of illegal migrant labour are involved. It is clear that cockle picking continues to be a lucrative business.

**4. Current Immigration Service activity in relation to Morecambe Bay**

- 4.1 Operation Double is the Immigration Service operation to tackle the illegal migrant working problem in the Morecambe Bay region. It comprises a dedicated Immigration Service taskforce established to disrupt Chinese illegal working throughout the North West, operating across North Wales, Merseyside, Lancashire and Cumbria, and bringing together police and other Government agencies to help tackle illegal migrant working.
- 4.2 Operation Double's objective to disrupt illegal migrant working has expanded to include the identification of

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Chinese nationals currently known to the Immigration Service, the completion of travel document interviews and the granting of temporary release or detention of individuals depending on the circumstances of their case. Approximately three to four operations are conducted each week, targeting multi-occupancy residences and restaurants in the area. Several operations have also been mounted in conjunction with the police and other agencies at specific access points to Morecambe Bay.

- 4.3 The number of Chinese nationals encountered by Operation Double and placed on reporting currently stands at 176. There have been five removals.
- 4.4 The cost of the Immigration Service's activities targeting illegal migrant working in the Morecambe Bay area between February and July 2004 is estimated at £2.5 million.
- 4.5 The Immigration Service is proactively gathering intelligence on illegal migrant workers in the Bay area and on those supplying and using this labour, and sharing this intelligence with enforcement partners. However, limited prosecution resources impede the Immigration Service's ability to pursue and prosecute those involved (see section 6 below).

**5. On-going resource commitments**

- 5.1 Key enforcement priorities for the Immigration Service include targeting failed asylum seekers who are removable nationals. The level of staffing and resources put into Operation Double takes resources away from such priorities. However, tackling the illegal migrant working problem in the North West remains a high profile objective and the current level of commitment can be sustained in the short term, especially whilst Operation Elucidate (see section 7) offers the chance of meaningful numbers of removals.

**6. Prosecuting employers of illegal migrant workers in Morecambe Bay**

- 6.1 Intelligence suggests that many of the illegal migrant workers in Morecambe Bay live in Merseyside and travel to the bay on a daily basis. However, it seems that most of

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those organising the labour live outside Merseyside. The Immigration Service only has a limited prosecution arm available beyond Merseyside, based at Dallas Court, Manchester, and lacks the resources to take forward anything more than a small number of prosecutions. The Immigration Service in Liverpool have three prosecution trained Immigration Officers on attachment to the Major Crimes Unit at Merseyside Police, working primarily on national and international crime. These Immigration Officers are unable to undertake prosecutions outside of the local area.

- 6.2 Any future Section 25 or Section 8 prosecutions of facilitators or employers of illegal migrant workers in Morecambe are currently reliant on more resources being made available from Lancashire, Greater Manchester or Cumbria police. Priorities and resources for police forces/authorities are driven strategically by the National Policing Plan and determined locally. One of five key priorities is to combat serious and organised crime. In this context, the Immigration Officers attached to Merseyside Police have offered to provide specific advice on immigration crime and prosecutions to these other police forces.
- 6.3 Prosecutions currently taking place are against the five individuals accused as a result of the original tragedy in February 2004. This trial is expected to take place this year.
- 6.4 Given the limited capacity to take forward prosecutions, the Immigration Service is reviewing the management of its prosecution resource alongside other competing priorities and is currently considering the possible allocation of funding to create a dedicated prosecution team in Liverpool. This would complement the current levels of operational activity undertaken in the form of Operation Double.

**7. Removing illegal migrant workers to their home country**

- 7.1 Achieving removals was not the main objective of Operation Double. However, the Immigration Service is taking steps to tackle the many difficulties in documenting and removing immigration offenders to China. One initiative to address

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this problem is Operation Elucidate, which commenced on 15 November and involves identifying Chinese nationals with the assistance of Chinese officials. Nationally, an average of 25 suitable cases have been interviewed per week over an eight week period, with approximately one third of the cases being generated by Operation Double. The current phase of the operation concluded on 8 January and the Immigration Service is currently waiting to see how many removals this leads to. Two more eight-week phases are planned with the possibility of similar operations with Chinese officials continuing in the future.

- 7.2 Notably progress with the Chinese authorities on the issue of removal is part of broader efforts to reduce clandestine entry and effect a communication strategy in key Chinese provinces to give dispel unrealistic expectations of life in the UK.

**8. Benefits of the permit scheme to the Immigration Service**

- 8.1 The Immigration Service fully supports the extension of the permit scheme to cover the full Morecambe Bay area. The Immigration Service has agreed to provide information to the Sea Fisheries Committee on the immigration status of applicants to the scheme, where available. Furthermore, the information submitted as part of the permit application process enhances the intelligence held on illegal migrant workers wanting to work in the Bay, including a permanent address and potentially photographic identification. Where a passport or other form of photographic identification is provided, this can aid the travel document process to assist removal of that individual. The scheme will deter illegal migrant workers who do not wish to or cannot provide documentation from applying and working in the Bay. Those collecting cockles without a permit face potential fine of £5000.
- 8.2 The Immigration Service also continues to participate in regional enforcement and strategic groups, to share intelligence and plan operations with other agencies specifically focussed on the issues of Morecambe Bay.

Home Office  
25 January 2005

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25 February 2005

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CABINET

MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

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IMPLEMENTATION OF THE GANGMASTERS (LICENSING) ACT 2004

Memorandum by the Parliamentary Under Secretary of State for  
Environment Food and Rural Affairs

Summary

I seek MISC20 agreement to slightly amend one aspect of the consultation package on the Gangmasters (Exclusions) Regulations from the agreement we reached at our December meeting. I explained at the last meeting that I had not found a way of excluding the bulk of second stage processing whilst allowing the GLA to move swiftly against gangmasters operating in designated areas of secondary processing. I am therefore proposing an immediate baseline exercise to establish the extent of gangmaster involvement in second stage processing activity linked to the early introduction of licensing where this exercise reveals significant evidence of worker exploitation or illegal activity. I propose that this exercise proceed simultaneously with consultation, which will seek views on several options in an open manner (paragraphs 5-10). Subject to our agreement today, I intend to publish the consultation package this week or next. I will come back to the Committee with my final proposals following closure of the consultation period.

I also inform colleagues that I intend to table the Gangmasters (Licensing Authority) Regulations this week (paragraph 11). We are proceeding broadly to plan with establishment of the Gangmasters Licensing Authority. We announced the Chair- and CEO-designates earlier this month, and expect to formally launch the Authority in early April (paragraph 13). I also alert colleagues to progress with roll-out of the Ethical Trading Initiative's Code of Practice for Labour Providers (paragraphs 14-15) and to industry concern at

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inadequate Government enforcement of existing legislation applying to labour providers (paragraphs 16-18).

**Gangmasters (Exclusion) Regulations**

1. The Gangmasters (Exclusion) Regulations will identify the work and circumstances to be taken outside the scope of the Gangmasters (Licensing) Act (and thus out of the licensing scheme). We have worked closely with stakeholders to develop a consultation package, the policy for which was agreed by MISC20 in December. I hope to publish the package (with draft regulations, consultation document and draft partial Regulatory Impact Assessment) this week or next.

2. There remains one issue outstanding on which I seek the Committee's agreement. At our last meeting, we considered, in particular, how far up the food chain licensing should apply. In relation to second stage processing, we agreed that the Government needed to send a strong message that, although it would not regulate second stage processing immediately, it would be monitored for evidence of abuse and if necessary the Government would move to regulate it.

3. We had hoped that it would be possible, through the Exclusion Regulations, to authorise the Licensing Authority to extend licensing to include those aspects of second stage processing where clear evidence of abuse is found without recourse to further regulations.

4. However, I have subsequently been advised by Defra lawyers (who have informally consulted the legal adviser to the Joint Committee on Statutory Instruments) that this involves an element of sub delegation which is not authorised by the Gangmaster (Licensing) Act. Making the introduction of licensing in relation to selected second stage processing activities contingent on a review and a subsequent Government decision on the necessity of licensing, without the need for further exclusion regulations, would also give rise to confusion over the need for a licence. As operating without a licence will be a criminal offence the need for clarity is paramount if we are to avoid creating a climate of uncertainty for the food supply chain and to avoid potential legal challenge. However, I am also aware that the Trade Unions who sponsored the Gangmaster (Licensing) Bill, have significant concerns about worker exploitation in some areas of second stage processing and that they will campaign vigorously against a blanket second stage exclusion.

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5. In view of this, we need to agree a revised approach. So as second stage processing is concerned I propose to adopt an entirely open approach in the consultation paper, by seeking stakeholder views on the following four options:

- Option 1 - Include all second stage processing from the outset
- Option 2 - Exclude all second stage processing from the outset
- Option 3 - Exclude all second stage processing but require the Authority to conduct a review within 12 months with a view to making new exclusion regulations if necessary to deal with areas of abuse identified
- Option 4 -- Include clearly identified problem areas, justified by an equivalent body of evidence, within the scope of the licensing arrangements from the outset

6. We do not need to indicate a preferred option at this stage. But we will need to take a decision in the light of evidence gathered and views shared over the consultation period. However, I thought it might be useful to set out my early thinking and to seek colleagues' early views.

7. I see little merit in either Option 1 or 2 as neither does justice to the complexity of the issue. Option 3 will be seen as Government prevarication and provides little reassurance we are taking this issue seriously.

8. My preference is for Option 4 which would extend licensing to second stage processing activities where there is currently evidence of abuse. This creates certainty from the outset and makes it clear the Government is taking stakeholder concerns seriously. We will of course need reliable evidence to show which areas of second stage processing give rise to the most significant risk of exploitation. I am therefore planning to commission additional research, to be completed before the end of the consultation period, into the use of gang labour in second stage processing and the incidence of exploitation in this sector. I also propose inviting consultees to provide any evidence they can bring to bear on this issue.

9. This approach will provide baseline evidence on which we can take immediate and informed decisions on the scope of the licensing arrangements. It will also help measure the extent

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to which the licensing arrangements cause gangmasters to shift their focus of activity. To ensure these issues are closely monitored, I propose that the Exclusion Regulations require the Gangmasters Licensing Authority to keep the excluded areas under review and to make recommendations to the Secretary of State. This provision will be included regardless of the approach finally adopted in relation to second stage licensing.

10. I will revert to colleagues in May, after the end of the consultation period, and seek agreement to my final proposals.

#### **Other secondary legislation**

11. I intend to table the **Gangmasters (Licensing Authority) Regulations** in Parliament this week. The Regulations will formally establish the Authority and set out its modus operandi and its objectives. Outstanding key policy issues will be discussed in November/December. I will also discuss substantive other legislative proposals in connection with the Authority Board and the Agency representative (for HSE). We hope to complete the Regulations in late March to enable the Authority to start work in April.

12. As colleagues will recall, I have been working with OGDs and key stakeholders to develop the **licence conditions** for the future licensing regime. We have held a series of bilateral meetings with OGDs and other stakeholders, following the steer given by MISC20. In November, further work will be carried out before April to handover to the Gangmasters Licensing Authority. The Authority will then prepare the draft 'Rules Regulations' for public consultation.

#### **Establishment of the Authority**

13. The Authority remains on track for establishment by early April. The Chair-designate and CEO-designate were announced on 13 January. The Chair will be Paul Whitehouse, former Chief Constable of Sussex and currently vice-chair at NACRO, the crime reduction charity. The CEO will be Mike Wilson, a former Major General in the Defence Intelligence Staff and currently CEO of the Defence Vetting Agency. Both appointments will be formalised following passage of the Gangmasters (Licensing Authority) Regulations through Parliament. The Authority's senior management team is also complete.

**Ethical Trading Initiative Code of practice for labour providers**

14. Colleagues will recall that the ETI Code of practice was launched on 17 November. It has the support of Defra, the food supply chain (notably the supermarkets), the Association of Labour Providers, the National Farmers Union and the unions. To date, 59 labour providers have publicly registered their intention to be audited against the Code. Most, but not all, are members of the Association of Labour Providers.

15. Defra have funded the training of auditors to create a body of professionals able to audit labour provider businesses against the code. We are intending to fund a helpline for those who have undergone an audit, to assist them with making changes to their business in the light of audits. We are also funding a membership drive by the Association of Labour Providers. I will be writing to supermarket CEOs to ascertain how the Code has influenced their relationship with their supply chain. We are considering the need for further awareness-raising/business development activity to prepare labour providers for the introduction of licensing. The food supply chain has held workshops to raise the profile of the Code; there have been mixed reports of their effectiveness.

**Industry concerns on enforcement of existing legislation**

16. Colleagues may wish to be aware that I have received a representation from the Association of Labour Providers (ALP) regarding Government enforcement of existing legislation, independently of the introduction of the licensing regime.

17. The ALP argues that legitimate labour providers continue to suffer from an apparent concentration of enforcement authorities' attention on those trying to operate legally rather than acting against those operating illegally. The ALP is concerned, in particular, about enforcement of legislation relating to VAT, illegal working, national insurance numbers and public service vehicles.

18. My officials have circulated the ALP's letter across Whitehall. We may need to come back to the issue in this Committee as part of our work on departmental enforcement resources. Alternatively, there may be a role for the new ad hoc Ministerial subgroup on Employment Relations (Warwick).

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25 January 2005

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MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

DEPARTMENTAL ENFORCEMENT RESOURCES

Note by the Secretaries

#### Summary

The purpose of this paper is to continue the process of mapping the resources currently employed by departments in enforcing workplace regulations, taking into account the impact of the Efficiency Challenge and the forthcoming merger of the revenue departments. The paper provides the Committee with the opportunity to take stock as the Government considers the idea of establishing a single workplace enforcement agency to reduce burdens on business and better co-ordinate action against illegal employment practices. It has been agreed that the Ad-Hoc Ministerial Group on Employment Relations sub-group on Warwick (ER(W)) will take forward thinking on this issue and the scope for closer co-ordination of workplace enforcement activities, as part of its remit to consider the implications for departmental policies of the National Policy Forum at Warwick. ER(W) will report to MISC 20 on any proposals relating to illegal migrant working, examining common "hot spots" for departmental enforcement activity in terms of commercial sectors and geographical regions.

2. It is proposed that the Committee keep track of the developing position on enforcement resources as part of its focus on improving enforcement against illegal migrant working and the activities of rogue gangmasters. The paper contains a brief section on each workplace enforcement department, recognising that the enforcement objective for each department will be different and in many cases will not feature tackling illegal migrant working or rogue labour providers as a

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consideration. The Committee will wish to bear in mind the criticism made by the EFRA Select Committee that the effectiveness of Government enforcement activity in these areas has been hampered by lack of resources and absence of co-ordination, and consider in due course how best to counter such criticism in future.

#### Recommendation

3. The Committee is invited to:

- (a) note the current level of enforcement resources and activity described in this paper and the impact of the Efficiency Review;
- (b) take stock of the current arrangements against the background of consideration of the idea of establishing a single workplace enforcement agency;
- (c) note that ER(W) will be examining further the scope for closer co-ordination of departmental workplace enforcement activities, including in relation to particular commercial sectors;
- (d) consider what further work might be necessary to enable the Government to present a more coherent public account of current workplace enforcement activity, particularly in relation to tackling the use of illegal migrant workers.

#### Consideration

##### **Home Office - IND illegal migrant working enforcement resources and activity**

4. IND is not funded on an activity basis and therefore it is not possible to give a definitive figure for the amount of resource used to tackle illegal migrant working. In terms of budget, the total IND budget for 2004/05 is £1.684 Billion (with the vast majority of this spent on asylum support). Out of this, £459 million is used to fund the UK Immigration Service (both border control and enforcement) with £276 million of this earmarked for Removals and Detention. Illegal working enforcement operations and employer prosecutions funded from the Removals and Detention budget which also funds all other UKIS enforcement work (e.g. removals of failed asylum seekers (FAS), family removals; crime reduction operations with the police; bogus students and colleges investigations; marriage abuse; all other prosecution activity etc.)

5. In terms of staff resources, UKIS has approximately 1200 operational enforcement staff, of whom, approximately 440 are best-trained (all other enforcement staff have to rely on the police to arrest offenders for them). In addition, approximately 120 police officers are currently seconded to UKIS to provide support on enforcement work. Most officers now undertake illegal working operations as part of their duties at some stage. This can be demonstrated by the fact that during 2002/03, 697 illegal working operations were reported by UKIS compared to 301 reported in 2002/03. Provisional figures for the first 6 months of this financial year indicate that UKIS is continuing to increase its activity in this area as 775 operations have so far been recorded. These latest operations have detected a total of 1445 offenders and are often used tactically to detect FAS as the removal of FAS is UKIS's main target (2 out of 7 of those illegal workers detected are FAS).

6. In addition to removal activity, disrupting the business of employers who use illegal workers, there is some limited action to prosecute the employers concerned. Where more serious offences are committed (such as facilitation of forgery), these are pursued in preference to action under section 8 of the Asylum and Immigration Act 1996. Prosecution activity by UKIS is limited for a number of reasons. These include the lack of prosecution resources (only 50 staff have been prosecution trained nationally), the fact that many employers activity co-operate with UKIS investigations, and the relative difficulty of proving an offence under section 8. That said, to date this year UKIS has successfully prosecuted 7 employers under section 8 for employing illegal workers and 2 others for facilitation.

7. While the problem of illegal migrant working is often connected to other abuses including tax evasion, benefit fraud, few joint operations are currently undertaken and intelligence sharing with OGDs needs to be improved. Reports show that about 18% of the 775 operations recorded this year have been undertaken as a result of intelligence received from the police but only 3% have been developed from intelligence from OGDs. UKIS is currently involved in joint working with OGDs via Operation Gangmaster and also works with the police via Operation Reflex to tackle serious immigration-related crime. Real benefits have arisen from this joint approach (see Annex A) and UKIS is committed to the Joint Workplace Enforcement Team Pilot to see what more can be achieved from a co-located team dedicated to tackling illegal working.

8. Other agencies do not focus on illegal migrant workers and their efforts are concentrated on tackling related abuses

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in the informal economy. The latest information concerning the resources allocated by other Government Departments is as follows:

**HM Customs and Excise and The Inland Revenue**

9. HMCE and IR are planning for their merger next year. The combined department will be focused on challenging quantified targets to increase tax yield while achieving a net reduction of over 13,000 staff.

10. HMCE currently have seven regional Labour Provider teams, with a total of 64 staff, these teams have been fully effective since 2001.

- In 2003/2004 Customs issued £8.6 million tax demands to labour providers
- In 2003/ 2004 Customs were successful in identifying 60 bogus labour providers and stopping their activities.
- In 2002/ 200 4 fourteen individuals involved in illegal labour activity were prosecuted

11. There is not an exact figure to hand of the number of Inland Revenue officers involved in workplace enforcement but it is approximately 1500 (as opposed to the several thousand involved in personal and corporate tax work). During 2002/3 they conducted in excess of 34,000 workplace enforcement visits yielding in excess of £258 million in unpaid duties.

**Department for Work and Pensions**

12. DWP does not have full information regarding the overall number of officers involved in workplace related enforcement activity because DWP does not record activity in a way that would allow this data to be produced. DWP enforcement officers address a wider range of fraud (including deceptions about capital, health and domestic circumstances) and most investigations are focused on the benefit claimant themselves rather than any employer. While DWP occasionally investigates those employers who collude with employees to commit benefit fraud, DWP's more usual contact with employers is by post, to obtain employees' details. DWP currently employs around 100 investigators in collusive employer teams and joint working initiatives, such as Joint Shadow Economy Teams and Joint Fashion Industry Teams whose activity impacts directly on workplace related fraud. It will be noted that these activities by DWP are targeted at people who are working

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legally but, at the same time, illegally claiming benefit. There is a distinction to be drawn between those people who are the legitimate concern of DWP and those who are not entitled to work in the UK who are not directly within the remit of benefit fraud investigators.

13. The Efficiency Challenge for DWP means a gross headcount reduction of around 40,000 staff. The Department's investigative resources will have to make an efficiency contribution and therefore be reduced substantially. This would place a real strain on remaining staff to do more with less in order to continue successfully to tackle benefit fraud and meet DWP's current PSA commitments. There is no guarantee that DWP will continue to support the full extent of those current activities mentioned above that impact on employers.

**Inland Revenue/Department for Trade and Industry National Minimum Wage**

14. The Inland Revenue team has around 5 head office staff in London and 100 enforcement officers operating in sixteen teams across the United Kingdom. They close around 5,500 cases each year; around 2,000 of these originate with complaints to the minimum wage helpline and the remainder are cases where the Revenue select employers for investigation on the basis of risk assessment programmes. They identify any underpayments made and can, if necessary, take enforcement action against employers to secure the arrears on behalf of the workers concerned.

15. The Inland Revenue's tasks have been defined. It works with IR that IR will sample the Home Office to see whether employers of registered accession state nationals are complying with the minimum wage. DTI has also agreed that it will pass on to DTI any information on illegal workers that enforcement officers come across in the course of their normal enforcement activities. DTI will forward this to the Home Office. Additionally, IR is also involved in the Joint Workplace Enforcement Pilot and in the work on the Gangmasters Licensing Authority.

**Agricultural Wages Inspectorate**

16. The Defra Agricultural Wages Team has 5 full time staff. Wages inspections are undertaken on the team's behalf by field officers of the Defra Rural Payments Agency (RPA). Some 50 or so RPA staff hold warrants and are authorised to undertake Agricultural Wages Inspections. However the actual staff time devoted to Wages Inspections by RPA staff amounts to around 1

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staff year annually. Agricultural Wages Inspectors undertake 40-50 workplace inspections each year. Inspections are undertaken in response to complaints from workers. No proactive inspections are undertaken.

17. In Scotland, enforcement of agricultural wages legislation is carried out by the SEERAD on behalf of Scottish Ministers. Five SEERAD staff hold warrants to carry out investigations. Around 120 investigations are carried out each year of which 100 are proactive, random checks while the remainder are in response to complaints from workers.

#### **DTI Employment Agency Standards Inspectorate**

18. The EAS Inspectorate comprises 12 inspectors stationed throughout Great Britain. There is also a small team (running the Action Line and management) in the London head office. There is separate legislation covering Northern Ireland. Data for the year 2003-4 has yet to be finalised, but it is believed during this period the Action Line received some 10,000 enquiries and around 1,000 complaints.

19. Following the introduction of new legislation in April 2004, the EAS Inspectorate has experienced a dramatic increase in its workload. There has been a significant increase in the number of complaints, correspondence enquiries about the activities of employment agencies (for some months the level of complaints has been running at double the 2003 figures). There has also been a marked rise in the number of requests for EAS to give presentations on their work and the new legislation. Furthermore, because of the new regulations, the time needed to resolve each inspection has also increased. In addition, vacancies within the Inspectorate and additional demands to participate in joint investigation groups have placed considerable additional burdens on the resources. Nevertheless, DTI believe the Inspectorate can participate in the Joint Workplace Enforcement Pilot initiative.

#### **Health and Safety Executive**

20. HSE employs 1483 inspectors to ensure compliance with health and safety law using a wide range of interventions in workplaces ranging from nuclear installations, mines and quarries, factories, farms, hospitals and schools, offshore gas and oil installations railways in GB. In 2004/05, 203 inspectors will cover agriculture and construction activities where significant numbers of migrant workers are likely to work. HSE does not operate in Northern Ireland. Additionally, 410 local authorities are responsible for enforcement of the law in a wide range of other workplaces

such as the retail, financial and leisure sectors including catering and hospitality (see below). The large number of workplaces in GB means that inspection frequencies are low - typically several years apart. In April 2003 HSE inspectors made 88 000 planned preventive inspection visits. It is not possible to say how many of these related to migrant workers as this information is not currently collected.

#### Local authorities

21. Local authorities have a number of statutory responsibilities that impact on workplaces and, in some cases, the treatment of workers. The principal areas of activity would appear to be the delivery of local environmental health services and trading standards enforcement. Environmental health encompasses a range of functions, including the maintenance of a statutory register of food businesses (e.g. restaurants) in each local authority area (England) and associated food hygiene inspection activity, and responsibility for action on statutory overcrowding in houses of multiple occupation. Local authority officials might, therefore, encounter illegal migrant workers employed in restaurants and other food businesses, or housed in crowded conditions within their area. The scale of environmental health enforcement/inspection activity is unknown, but local authorities in England spent £419 million on environmental health and food safety in 2002/03.

22. Local authority trading standards officials also have a consumer protection enforcement role in relation to workplaces and businesses (e.g. labeling in food factories, action against bogus colleges defrauding students), and share intelligence with the police and other enforcement bodies. There are around 101,940 local authority staff engaged in consumer protection activity in England, but the division between administrative and enforcement staff is unknown. English local authorities spent £145million on consumer protection activity in 2002/03.

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ANNEX A

**JOINT WORKING**

From the limited results of multi-agency operations recorded it can be seen that these are proving very effective in terms of results for all Departments concerned. To illustrate, from just two large multi-agency operations:

**Operation Bromsgrove:**

An investigation into the facilitation of illegal workers in the Southport/Lancashire area established that UKIS targets were also being investigated by DWP, HMC&E, Inland Revenue and NCIS Scotland. These other agencies joined UKIS in the operation and regular meetings and exchanges of intelligence took place with a view to UKIS leading a joint agency operation. Search warrants were executed and a total of 25 suspected immigration offenders were arrested. Following interview, all 25 were found to be illegal entrants. Early forensic examination of the evidence indicated that there was evidence to support a S.25 facilitation prosecution. This evidence is now being used to further support and assist DWP and the Inland Revenue.

**Operation "Underdo"**

A Scotland Drug Enforcement Agency (SDEA) led operation, which was concentrating its efforts on a Gangmaster who had been known to the police for several years but had so far evaded serious prosecution. SDEA were keen to prosecute on Gangmaster related issues and formally asked for multi-agency help from the Scottish Gangmaster forum members to achieve this. As a result of the operation, police arrested 58 people with connection with immigration offences during raids in the Edinburgh area and three people were charged with facilitating illegal working.

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MINISTERIAL COMMITTEE ON THE ECONOMIC AND SOCIAL IMPACTS OF  
MIGRATION

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**MISC 20 STRATEGIC ACTION PLAN**

**Note by the Secretaries**

When MISC20 met on 8 December, it agreed on a high level strategic objective for the Committee:

'to develop a balanced Government policy towards the prevention of illegal migrant working, having regard to wider work to tackle the informal economy in which compliant behaviour is encouraged and targeted enforcement action taken against deliberate non-compliance'.

This strategic objective would be supported by a themed action plan, which would provide a framework for monitoring progress; and would be taken as a standing item at each MISC20 (Gangmasters and Illegal Migrant Working) meetings. At the Committee's request, the action plan has been revised to include an initial assessment of the cost/benefit of each action. The current version follows.

Cabinet Office  
25 January 2005

MISC 20 Illegal Working and Gangmaster action plan - November 2004

| Proposal                                                                                                                                                       | Action                     | Timeframe                                                                              | Comments                                                                                                | Cost/benefit                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Assessing risk</b>                                                                                                                                       |                            |                                                                                        |                                                                                                         |                                                                                                                                                                   |
| a) Conduct initial assessment of high risk areas (principally work-related health and safety) with a view to providing early warning of where action is needed | Commission MISC 20 paper   | - For discussion at second meeting in 2005<br>- System may require on-going monitoring | HSE lead                                                                                                | Assessing risk involves modest cost to HSE as it involves analysis of existing data.<br><br>Will enable an effectively targeted response by enforcement agencies. |
| b) Carry out assessment of existing departmental enforcement activity                                                                                          | MISC 20 paper commissioned | For 8 December                                                                         | Start of longer term examination of resources and activity                                              | Will give overview of enforcement activity and assist in more effectively targeting activity.                                                                     |
| c) Identify in which sectors enforcement resources are focussed and whether there are sectors off the enforcement radar                                        |                            |                                                                                        | How widespread is enforcement action? Are there regions/sectors rarely visited by enforcement agencies? | Will contribute to better targeted enforcement activity and contribute to preventing major incidents.                                                             |

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**2a. Improving enforcement capacity: general**

|                                                                                                                |                                                                                                                                                                                                     |                                                                                    |                                                                                                                                   |                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| a) Reduce scope for fraud (limit acceptable documents for compliance with section 147)                         | <ul style="list-style-type: none"> <li>- Section 147 Nationality, Immigration and Asylum Act 2002 (NIA Act)</li> <li>- Public consultation</li> <li>- Info campaign and written guidance</li> </ul> | Immigration (Restriction on Employment) Order 2004 - came into force on 1 May 2004 | <ul style="list-style-type: none"> <li>- Complete</li> <li>- Further possible improvement linked to the ID card agenda</li> </ul> | Cost of producing guidance was £450k ID cards estimated to cost £135m pa over a 10 year period (in addition to UKPS costs) |
| b) Powers for the Immigration Service (put beyond doubt powers to enter business premises and examine records) | Sections 153 and 154 of the NIA Act                                                                                                                                                                 | Commenced 8 January 2003                                                           | Complete                                                                                                                          |                                                                                                                            |
| c) Increase time limit for prosecutions (from 6 months)                                                        | Section 154 of the NIA Act created exceptional period to 3 years                                                                                                                                    | Commencement Order March 2003                                                      | Time limit now removed altogether by Asylum and Immigration (Treatment of Claimants) Act 2004                                     |                                                                                                                            |
| d) Increase scope to seize assets (of people who exploit illegal labour for gain)                              | <ul style="list-style-type: none"> <li>- Section 2 of the Proceeds of Crime Act 2002</li> <li>- Establish Assets Recovery Agency</li> </ul>                                                         | Royal Assent May 2002. ARA became operational on 24 Feb 2003                       | UKIS seeking POCA accreditation in 2005 to enable the piloting of these powers by a limited number of                             | Information not currently available                                                                                        |

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|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 | officers                                                                                                                                        |                                                                                                                                                                                                                                                                             |
| from April 2004 |                                                                                                                                                 | <ul style="list-style-type: none"><li>- In 02/03 UKIS recorded 301 ops, of which 251 were successful, detecting a total of 1099 illegal workers</li><li>- In 03/04 UKIS recorded 697 ops, of which 562 were successful, detecting a total of 2304 illegal workers</li></ul> |
|                 | <ul style="list-style-type: none"><li>- Currently monitoring effectiveness of changes</li><li>- Also see g) as a possible alternative</li></ul> |                                                                                                                                                                                                                                                                             |

e) Increase enforcement activity

- C&E: 64 new staff in 7 regional teams to investigate VAT abuse re. Gangmasters
- IR: 4 new teams, plus one planned for N. Ireland to tackle non-compliant gangmasters
- UKIS enforcement operations up 132 % in 2003/04 from 2002/03

f) Increase IS prosecution potential using section 8 of Asylum and Immigration Act 1996

- Reduced document list to assist prosecutions
- Section 8 offence now triable both ways = no time limit to bringing prosecutions

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|----------------------------------------------------------------|-----------------------------------------|--|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>g) Consider civil penalties for non-compliant employers</p> | <p>Officials to explore feasibility</p> |  | <p>HO lead</p> | <p>Bureaucracy needed to support scheme will cost up to £600k - but use of civil penalties might be cheaper than increasing prosecutions in terms of staff and court time.</p> <p>A higher rate of civil penalties issued compared with prosecutions pursued would result in a greater disincentive to employ illegal workers.</p> <p>Estimated staff time cost of a s8 prosecution = £1000 - £2000. Extra costs would include some or all of the following: -<br/>Interpreters: £120 per day; Basic analysis of computer hardware:</p> |
|----------------------------------------------------------------|-----------------------------------------|--|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                 |                                      |                                            |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------|--------------------------------------|--------------------------------------------|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                 |                                      |                                            |                                                   | <p>approx. £1000;<br/>Fingerprinting:<br/>£100 per document;<br/>Handwriting<br/>analysis: approx.<br/>£1000</p> <p>Average cost of<br/>administering a<br/>penalty on road<br/>hauliers from<br/>point of<br/>imposition, and<br/>including the<br/>objection process<br/>and enforcing<br/>payment estimated<br/>at £250. If an<br/>appeal is made to<br/>the court the<br/>costs increase but<br/>can be recovered<br/>if the case is<br/>won.</p> |
|                                                                 |                                      |                                            |                                                   | See section 2b<br>below                                                                                                                                                                                                                                                                                                                                                                                                                               |
| h) Introduce and<br>enforce licensing<br>of labour<br>providers | Gangmaster<br>Licensing<br>Authority | April 2005                                 |                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| i) Easy means for<br>illegal working to<br>be reported          | Trial immigration<br>hotline         | Trial ran May -<br>July 2002.<br>Evaluated | Of actionable<br>calls (66%), 15%<br>acted upon - | Employers'<br>Helpline estimated<br>to cost approx.                                                                                                                                                                                                                                                                                                                                                                                                   |

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|                                                                                              |                                                                                                                    | Considering how to improve % of actionable calls. | competing priorities. IND Employers' Helpline currently takes such calls | £500k p/a                                                                                                                                                                                                                                                                                                                                                         |
| j) Reduce abuse of managed migration systems                                                 | Review of migration routes in progress                                                                             |                                                   |                                                                          |                                                                                                                                                                                                                                                                                                                                                                   |
| <b>2b. Improving enforcement capacity: Implementing the Gangmasters (Licensing) Act 2004</b> |                                                                                                                    |                                                   |                                                                          |                                                                                                                                                                                                                                                                                                                                                                   |
| a) Chief Executive and Chair take up posts                                                   | Paul Whitehouse appointed as Chairman and Mike Wilson as Chief Executive designate. Announcement made January 2005 | February 2005 (chair) and March 2005 (CEO)        | Rest of senior team should be in place in March                          | The Gangmaster (Licensing) Authority set up costs are estimated at £1m over two years. Thereafter the Authority will be self financing through receipt of licence fee income. The benefits of the Authority and the scheme it has been established to implement will be reduced exploitation of workers, increased compliance with the law and increased revenues |

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|                                                                                             |                                                                                                                                                                                     |                                         |                                                                                                                                                                                                                                                                     | to the Exchequer |
| b) Gangmasters Licensing Authority Regulations in force to formally establish the Authority | Regulations (subject to affirmative resolution) currently with Joint Committee on Statutory Instruments. Anticipated will be laid in Parliament during January or February 2005     | Regulations come into effect on 1 April |                                                                                                                                                                                                                                                                     |                  |
| c) Start work on licence conditions                                                         | Defra officials are preparing in conjunction with principal stakeholder bodies advice on licence conditions. This will be handed to the Authority when it formally comes into being | March-April 2005                        | The Gangmaster Licensing Authority will be responsible for preparing regulations setting out the rules which will govern the operation of the licensing scheme. The Authority is not legally bound to follow the advice provided by Defra and industry stakeholders |                  |
| d) Exclusions regulations SI comes into force                                               | Defra expects to commence consultation on                                                                                                                                           | May 2005                                | Legislation regarding those excluded from                                                                                                                                                                                                                           |                  |

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|                                                                   | the draft regulations at the end of January                                 |                               | needing a licence                                                                                                                                                                                        |  |
| e) Authority's Licence Conditions Rules SI comes into force       | No action yet. The Authority will be responsible for taking forward this SI | September 2005                | See c) above                                                                                                                                                                                             |  |
| f) Start to receive licence applications                          | No action yet                                                               | October 2005 (until mid 2006) | This process cannot start until the Licence Conditions SI has come into force.                                                                                                                           |  |
| g) Arrange audits and background checks                           | No action yet                                                               | October 2005 - mid 2006       | Defra has funded work on auditing under the launch of the Ethical Trading Initiative Code of Practice. This will provide valuable lessons for the auditing process established to vet licence applicants |  |
| h) First licences issued                                          | No action yet                                                               | Early 2006                    |                                                                                                                                                                                                          |  |
| i) First licensing round completed                                | No action yet                                                               | Mid 2006                      |                                                                                                                                                                                                          |  |
| j) Offences listed in Gangmasters (Licensing) Act come into force | No action yet                                                               | Mid 2006                      |                                                                                                                                                                                                          |  |

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|----------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>RM Gangmasters enforcement regime comes into force</p>      | <p>No action yet</p>                                                        | <p>Mid 2006</p>                                           |                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                 |
| <p>1) Compliance checks on licenses begin to be undertaken</p> | <p>No action yet</p>                                                        | <p>Mid 2006</p>                                           |                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>3. Developing joint working</b></p>                      |                                                                             |                                                           |                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                 |
| <p>a) Establish a joint workplace enforcement pilot</p>        | <p>- Commitment received from OGDs<br/>- Home Sec. announced initiative</p> | <p>Due to be set up by April 2005, sooner if possible</p> | <p>HO lead - MISC 20 to be updated of progress<br/>The pilot will test information sharing capacity between departments and explore the resource benefits of joint working</p> | <p>2004-5 = 67k<br/>Estimated costs for 2005-6 = £ 618.6k<br/>Estimated costs for 2006-7 = £ 650.1k<br/>Estimated costs for 2007-8 = £ 681.6k<br/><br/>Less quantifiable costs include developing joint working practices and jointly optimal targets, and the possibility that the pilot does not achieve its aims.<br/><br/>Joint working</p> |

|                                                                                                                              |                                                                                                     |                                                                                                    |                                                                                                                                                                                  |                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>b) Explore scope for an overarching joint workplace enforcement agency</p>                                                | <p>Letter distributed by No. 10</p>                                                                 |                                                                                                    |                                                                                                                                                                                  | <p>could lead to lower costs and better intelligence leading to operations that may not otherwise have been carried out by an individual enforcement body.</p> |
| <p>c) Consider development of a cross-government joint target on reducing workplace and employment abuse</p>                 | <p>Develop in line with joint workplace enforcement pilot</p>                                       |                                                                                                    | <p>DTI asked to lead in co-ordination with other departments</p> <p>Possible use of a basket of performance indicators including disruption, prosecutions and asset recovery</p> |                                                                                                                                                                |
| <p>d) Information sharing</p> <p>(1) between Departments (OGDs able to provide information to IND if immigration offence</p> | <p>(1) Sections 129-130 of the NIA Act and Part 3 of the Anti-Terrorism, Crime and Security Act</p> | <p>Commencement order for Section 129 (IR gateway) March 2003. Section 129 commenced June 2003</p> | <p>Issues surrounding practical exchange of information remain and will be explored by the joint workplace enforcement pilot</p> <p>DTI also leading</p>                         |                                                                                                                                                                |

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| <p>(2) New powers commenced June 2003 following public consultation</p>                                                                                                                                                                                                              | <p>wider piece of work on information sharing for purpose of tackling illegal working and employment rights, as part of new Ministerial ad hoc committee on Warwick</p> |                                                                                 |
| <p>(3) Formal MOU on section 130 of NIA Act and section 19 of the Anti-terrorism, Crime and Security Act 2001 signed on 26 February 2004. Work on this had been delayed pending discussions on first draft MOU, and resolution of practical issues surrounding points of contact</p> | <p>DWP running 2 6 month pilots of a new way of using Operation Gangmaster forums - the pilots meet</p>                                                                 | <p>A cost/benefit assessment of the pilots will be completed in 2-3 months.</p> |

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suspected/where  
it is HO policy to  
actively consider  
prosecution

(2) between  
employer/financial  
institution and  
HO( information  
can be passed when  
grounds for  
suspecting NASS  
offences

(3) IND and IR to  
consider need for  
further  
legislation

2001

(2) Sections 134  
and 135 of the  
NIA Act.

(3) Need for  
further  
legislation  
under review.

e) Explore  
opportunity of  
using Operation  
Gangmaster forums  
for more effective  
joint working

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|----------------------------------|------------------------------------------------------------|------|--|--|
|                                  |                                                            |      |  |  |
| ace<br>of the<br>Bay             |                                                            |      |  |  |
| 4. Promoting employer compliance |                                                            |      |  |  |
|                                  | Common<br>paper<br>what do<br>done what<br>barriers exist? |      |  |  |
|                                  |                                                            | Tied |  |  |
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|                                                                                                                  | trade<br>(2) For the hospitality sector through the British Hospitality Association | (2) Early 2005                                                                                    | - DEFRA lead on labour providers<br>- Possibility of other codes to be discussed with CBI |                                               |
| d) Introduce checklists as an alternative to codes of practice for e.g. construction industry                    | Discussions with construction industry                                              |                                                                                                   | HO and DTI lead                                                                           |                                               |
| e) Monitor the HO Selective Admissions campaign's effectiveness in increasing awareness and assisting compliance |                                                                                     | On-line toolkit launch December 2004. Media launch January 2005 - suspended by the Home Secretary |                                                                                           |                                               |
| f) Improve existing NINO verification system                                                                     | Plan for revised processes for job changers and increased e-filing                  | Delivery scheduled for 2006                                                                       | Inland Revenue lead                                                                       |                                               |
| g) Introduce tougher penalties for employers                                                                     | Asylum and Immigration (Treatment of                                                | Commenced September 2004                                                                          | - Currently monitoring effectiveness of                                                   | The number of prosecutions and level of fines |

|                                                                                                                                                                 |                                                                                                                                         |                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Claimants) Act<br/>2004 made section<br/>8 triable either<br/>way - in effect<br/>removing the upper<br/>limit for the<br/>penalty</p>                       | <p>recent changes<br/>on prosecution<br/>activity<br/>- Linked to 2(g)</p>                                                              | <p>under section 8<br/>have been low.<br/>Tougher penalties<br/>enhance the<br/>disincentives to<br/>using illegal<br/>labour. However,<br/>increasing the<br/>number of<br/>prosecutions,<br/>increases the<br/>financial cost.</p> |
| <p>5. Building the knowledge base</p>                                                                                                                           | <p>HO (IRSS) -<br/>further advice on<br/>programme to be<br/>provided to HO<br/>Ministers in<br/>advance of any<br/>work commencing</p> | <p>Estimated cost<br/>£120K NOTE:<br/>procurement<br/>exercise halted -<br/>will review<br/>requirement once<br/>Asylum &amp; Migration<br/>5 year plan is<br/>published</p>                                                         |
| <p>a) Survey of<br/>employers to<br/>explore use of<br/>legal and illegal<br/>migrant labour by<br/>employers in<br/>context of wider<br/>migration routes.</p> | <p>Initial findings<br/>due late Spring<br/>2005</p>                                                                                    | <p>HO (IRSS) -<br/>further advice on<br/>programme to be<br/>provided to HO<br/>Ministers in<br/>advance of any<br/>work commencing</p>                                                                                              |
| <p>b) Research into<br/>methods to scale<br/>illegal population<br/>(part one)</p>                                                                              | <p>Published November<br/>2004</p>                                                                                                      | <p>£22,020 - note<br/>commercially<br/>sensitive<br/>information</p>                                                                                                                                                                 |
| <p>c) Part two - a<br/>detailed<br/>evaluation and<br/>validation of<br/>methods outlined<br/>in the above Salt<br/>report</p>                                  | <p>Should be<br/>substantially<br/>completed by end<br/>Dec 2004</p>                                                                    | <p>Internal research<br/>- no cost other<br/>than staff and<br/>overheads</p>                                                                                                                                                        |

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|-----------------------------------------------------------------------------------------------------------------|------------------------------------------|--------------------------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------|
| d) Local area studies of migrants                                                                               | Currently drafting project specification | Completion mid-late 2006 | HO (IRSS) | Estimated cost = £180k (note cost is commercially sensitive info.) will review requirement once Asylum & Migration 5 year plan is published |
| d) Research into use of seasonal/casual labour in agriculture and related food processing and packaging sectors |                                          | Findings due early 2005  | DEFRA     |                                                                                                                                             |

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**CABINET**

**MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**RELATIONSHIP BETWEEN MISC20 AND ER(W)**

**Note by the Secretaries**

**Summary and recommendation**

This note sets out the relationship between MISC 20 and ER(W).  
Ministers are invited to note the working arrangements.

**Consideration**

2. MISC 20 is the Ministerial Committee on the Social and  
Economic Aspects of Migration. Its terms of reference are: to  
consider the social and economic aspects of asylum and  
immigration issues, including co-ordinating of the  
Government's response to the problems of gangmasters and  
illegal migrant working.

3. ER(W) is a sub-group of the Ad-Hoc Ministerial Group on  
Employment Relations. Its terms of reference are: to co-  
ordinate the implementation of the outcomes of the National  
Policy Forum at Warwick and to advise departments on the  
implications for their policies.

4. ER(W) is focusing on the employment aspects of the Warwick

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agreement. Within this, it is considering how government agencies could work more closely together to tackle employers who exploit their workers by improving the enforcement of rights and workplace standards. This is likely to cover joint working; identification of abuse hotspots, to help the agencies target their effort; and information gateways. As part of this, ER(W) will oversee progress on the Joint Workplace Enforcement Pilot and will consider the potential for structural change to reduce burdens on business and better co-ordinate action against illegal employment practices (as commissioned by the Principal Private Secretary to the Prime Minister, Ivan Rogers' letter of 19 November 2004).

5. In looking at the benefits of joint working between enforcement agencies, ER(W) will consider the potential for using this route to tackle illegal migrant working, which is believed to be a good indicator of the likelihood of other illegality in the workplace.

6. MISC 20 will continue to take the lead on all other aspects of illegal migrant working. This reflects the Prime Minister's decision to establish a single point of leadership and strategic direction in response to criticisms from the EFRA Select Committee on the lack of co-ordination in the Government response to this problem. It will take reports as necessary on the work of ER(W) but not replicate that group's discussion. As an ad-hoc ministerial group, ER(W) cannot make binding decisions. Consequently, any proposals from ER(W) will need to be signed off by an appropriate Cabinet Committee. In the case of illegal migrant working proposals, this will be MISC20.

Cabinet Office  
25 January 2005

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MISC20(05) 8  
27 January 2005

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**CABINET**

**MINISTERIAL COMMITTEE ON THE SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION**

**POSSIBLE ILLEGAL EMPLOYMENT OF SLOVAKIAN NATIONALS IN  
SHEFFIELD**

**Note by the Secretaries**

The attached briefing from Clive Betts MP is circulated at the request of the Chair  
for the Committee's consideration.

Cabinet Office  
26 January 2005

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### Possible Illegal Employment of Slovakian Nationals in Sheffield Briefing Notes 25 January 2005 (Clive Betts MP)

elling falls into two parts. The first deals with the problem that has arisen in Tinsley, Sheffield. The second seeks to summarise the apparent roles and responsibilities of the various departments and agencies involved.

#### 1: Background

- a) It had come to our notice in recent months that there was reason to believe that a chicken farm on the Sheffield-Doncaster border is illegally employing foreign nationals, including asylum seekers. Doncaster Constabulary and South Yorkshire Police are investigating and we are awaiting an up-to-date indication of the progress of these investigations.
- b) Last week we were contacted by a health visitor who had grave concerns about the predicament and circumstances of a large number of Slovak nationals, including children, who are living in the constituency and who, we believe, may have been – at intervals at least – employed by the owner or owners of the suspect chicken farm. The first of the Slovaks appear to have come here three months ago and others have followed – and continue to follow – in their wake. The health visitor and an employee of Surestart subsequently met with us to discuss their concerns.
- c) One difficulty is that the Slovaks concerned have very little English and are nervous of authority. From sources such as GP lists and local schools and the shared knowledge of agencies that have had contact with the Slovaks it would seem that there are in excess of a hundred people in ten or so families, occupying a number of properties. These are Slovak Romanies and they are very closely integrated. Many of the adults appear to have worked at the chicken farm, some still may do, while others have had their employment terminated very shortly after arriving in Sheffield. As a group these people are now therefore in effect without an income.
- d) The properties in which they are living are privately rented and in very poor condition. They certainly appear to be chronically overcrowded and indeed there appears to be a real fire-risk in some. The housing conditions combined with the families' lack of money has resulted in the children having become a major concern on the part of health visitors and other agencies. Some of the children have taken to begging, in an area of widespread deprivation and which has already been the site of conflict between ethnic groups.

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- e) Worriesingly, there is reason to think it likely that the landlords concerned are landlords who had previously been accommodating asylum seekers but who lost their Home Office contracts following complaints. More worriesingly still, there is a suggestion that the landlords concerned are connected in some way with the owners of the chicken farm.
- f) In short, a situation may have arisen in which crooked agents have brought large numbers of people from an accession state over to Britain – possibly illegally – have provided accommodation and employment but without registering on the Employers Registration Scheme and are preventing these people from gaining alternative employment or an improvement in their circumstances through imposing a climate of fear. We are trying to establish exactly what the true situation is but this may not be easy to do.
- g) Those Slovaks who have lost their employment have no recourse to state benefits and there is real doubt about what other means of support can be provided, if only for the children. It has been suggested to us that Sheffield Social Services initially maintained that they had no means of intervening, even having received evidence from health visitors and others that the children are suffering acute neglect although senior officers have since insisted that this is not the case. Likewise it has been suggested that local authority housing officers had initially maintained that they had no means of intervening, even having received evidence from health visitors and others of chronic overcrowding. Yet for all this the children are however attending local schools and the families have been accepted on GPs' patients lists. A pattern has emerged of ad hoc assistance being provided by many different agencies, often in the absence of a clear understanding of what can be provided under the regulations.
- h) There seems under the circumstances no reason to believe that any of these people are on the Workers Registration Scheme (we are trying to find out if any Sheffield-based Slovaks at all are registered). If they are not registered then they would not even have entitlement to benefits after having been in the UK as long as a full year and would have to wait at least twelve months in order to become eligible at whatever stage they opted to register after their arrival in Britain.
- i) Furthermore Accession State citizens only obtain the right to reside, which in turn entitles them to work-based benefits and tax credits, through having registered on the Workers Registration Scheme. Equally, the Habitual Residence Test can only be applied to people with the right to reside and therefore it seems clear beyond doubt, looked at from whatever angle, that the Slovaks in question are a long way from being eligible for

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any meaningful support if it is indeed the case that they are not yet registered on the Scheme.

- j) While the consequences of non-registration are therefore seemingly ones that would disadvantage the Slovaks themselves rather than cause action to be taken against them, the fact of their not being registered would add weight to the suspicion that they are under the influence of people who are not operating openly. This also raises the spectre of the Slovaks perhaps not even having entered Britain legally.
- k) Even if they did come to Britain legally, the Slovaks may feel obliged to return to Slovakia if their only apparent source of collective income, the chicken farm, is prosecuted, if this indeed is the outcome of the police investigation. Alternately they may conclude that they wish to return in any event. This of course presumes, however, that they have the cost of return flights at their disposal. I note that Sheffield City Council has already provided the return fare for at least one Accession State national who had got into difficulties.

### 2: Role and Responsibilities of Agencies and Departments

- a) Home Office would seem to have a greater degree of overall responsibility than DWP and DTI. Home Office issues regulations and guidance and would investigate abuses of the Employers Registration Scheme and the Workers Registration Scheme, possibly in conjunction with the police and DWP investigators.
- b) DWP may well therefore have a hand in investigations into abuses of the Workers Registration Scheme certainly given that the Scheme is a DWP responsibility. Accession State citizens who have been on the Scheme for twelve months qualify for state benefit support but it seems possible that Accession State citizens with children might be entitled to Child Benefit rather sooner than this.
- c) Social Services accepts its obligation under the Childrens Act to intervene where children are believed to be at risk. During the first twelve months that a family from an Accession State was in the UK, however, Social Services assistance would be limited to providing destitute families with travel tickets for return to country of origin and one weeks' bed and breakfast accommodation while travel arrangements are being made. Whether a single Social Services Department could cope with the financial burden of a mass-return is perhaps open to question.
- d) Local Authority Housing Departments do not appear to be able to provide any assistance at all during the first twelve months that a family from an Accession State was in the UK. It is clear, however, that issues such as

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overcrowding in private-rented accommodation, particularly where the welfare of children was concerned, would in practice at least be investigated, although it appears very doubtful that the local authority could actually rehouse such families even in extremis.

- e) State education does seem available to the children of Accession State citizens during the first twelve months, or at least the Children of the Slovak families in Tinsley, Sheffield all appear to be in full-time education. One of the schools concerned has obtained funding for additional language support.
- f) Local GPs have taken some of the Slovak families on to their lists as temporary patients but the increasing numbers have led to the practices calling a halt to this.

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13 April 2005

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CABINET

MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

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**COMPOSITION AND TERMS OF REFERENCE**

**Note by the Secretary of the Cabinet**

By direction of the Prime Minister the Composition and Terms of Reference of the Committee have been revised and are now as follows:

**COMPOSITION**

Secretary of State for the Home Department (Chair)  
Minister of State, Home Office (Alternate Chair) (Desmond Browne)  
Deputy Prime Minister and First Secretary of State  
Secretary of State for Foreign and Commonwealth Affairs  
Secretary of State for Environment, Food and Rural Affairs  
Secretary of State for Transport and Secretary of State for Scotland  
Secretary of State for Health  
Chancellor of the Duchy of Lancaster  
Secretary of State for Trade and Industry  
Secretary of State for Culture, Media and Sport  
Chief Secretary to the Treasury  
Leader of the House of Commons, Lord Privy Seal and Secretary of State for Wales  
Secretary of State for Work and Pensions  
Secretary of State for Education and Skills  
Minister for the Cabinet Office

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**TERMS OF REFERENCE**

To consider the social and economic aspects of asylum and immigration issues, including co-ordination of the Government's response to the problems of gangmasters and illegal migrant working.

**SECRETARIAT**

The Secretaries are Ms G Edwards, Ms N Smith and Ms S Barrow, Cabinet Office.

**SIGNED      SIR ANDREW TURNBULL**

**Cabinet Office  
13 April 2005**

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MISC20(05)10  
30 November 2005

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MINISTERIAL COMMITTEE ON SOCIAL AND ECONOMIC ASPECTS OF  
MIGRATION

DISSOLUTION OF THE COMMITTEE

Note by the Secretary of the Cabinet

The Committee is now dissolved.

SIGNED SIR GUS O'DONNELL

Cabinet Office  
30 November 2005

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