



bottomline

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Special issue on Migrant Workers

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Who we are

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Greater Manchester Pay and Employment Rights Advice Service is a company limited by guarantee 2279105 and a registered charity 1113448. It is funded primarily through AGMA, the Association of Greater Manchester Authorities.

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Greater Manchester Pay and Employment Rights Advice Service was formerly known as Greater Manchester Low Pay Unit. The organisation has been providing employment rights advice and undertaking research into aspects of the labour market and low pay for the last 20 years.

Greater Manchester Pay and Employment Rights Advice Service exists to improve working conditions for the most vulnerable members of the workforce by providing employment rights advice, representing the interests of low-paid workers in debate on social and economic policies, and promoting greater public awareness of poverty and injustice.

We provide free, confidential **Employment Advice, Information and Support** to anyone in Greater Manchester who is experiencing problems at work or who wants to know what their rights are. **To contact an Employment Rights Adviser ring 0161 839 3888.**

We also produce a number of leaflets and factsheets dealing with a wide range of employment issues. If you would like further information ring the office number 0161 839 3882 or visit our website **www.gmemploymentrights.org.uk.**

For further information about the research we are currently involved with or to receive reports of previous pieces of research please contact the research worker on the office number.

If you want to organise training in your workplace or to others we can provide training on a wide range of employment issues. Contact the office for further details.

This issue of **Bottomline** has been written by **Claire Faichnie** with input from **Ewa Didu Milukin**, Head of Research at EUROPIA, the Forum for Central & Eastern European Migrants and **Claudia Paraschivescu**, a researcher at Veristat Limited and the Vice-Chair of Migrants Supporting Migrants. If you would like to order more copies please contact the office.

The **DAWES** Project is the Domestic Abuse Women's Employment Support Service. DAWES provides specialist legal employment rights support to women experiencing, or who have experienced domestic abuse. It also provides assistance to employers around good practice in dealing with domestic abuse as a workplace issue.

The **Migrant Workers' Project** compliments our general advice service and aims to address the barriers that migrant workers experience in employment and when accessing services. The project is able to offer support with translation/interpretation and follow up face to face work where a case requires it. The project is also responsible for translating our factsheets into different languages.



Welcome

to the Summer 2011 Edition of **Bottomline**



Since the last Bottomline was published there has been uncertainty about the impact on GMPERAS of the coalition government's cuts to local authority funding. As much needed projects and services in the voluntary sector start to close their doors we can report that funding for GMPERAS is secured until the end of March 2012.

Our primary funding source, AGMA, are currently reviewing how they award their grants and we expect there will be a new application process and new criteria with a final decision on funding to be announced at the end of this year. As yet we have no information about the criteria or the process but we will continue to make the case that now more than ever an employment rights advice service is needed.

Ordinary workers continue to bear the brunt of the cuts. With 2.4 million people out of work and almost daily announcements of high street shop and factory closures we expect there to be a growing demand for our advice service.

Moreover government proposals to extend the qualifying period for protection against unfair dismissal from one year to two and to end legal aid for employment issues indicate that the government is seeking to limit access to justice and to prevent the least well off and most vulnerable from securing their rights. In this context in addition to providing employment rights advice there is a need also for a campaigning

employment rights service which will highlight the impact that government proposals will have on ordinary workers in Greater Manchester.

We have secured three years of funding from the Esme Fairbairn Trust to continue the work of the **DAWES** project. Stage 2 of the DAWES Project will work with other agencies including those in health, advice, housing, trade unions, women's organisations to build awareness of the impact of domestic abuse on women's employment.

It will also skill up organisations to provide support to women so that there are more services available to women who are at threat of losing their employment because of domestic abuse.

Although GMPERAS has been awarded three years funding to deliver this project we are not in the position to commence the project unless we continue to receive a grant for our core work from AGMA. We will keep you informed about our developments.

Our **Migrant Workers** project is now in its final six months. We are looking to apply for funding to build on and develop the work of the project.

We have recently undertaken an evaluation of the project and we have also carried out research on the experiences of migrant workers. This issue will focus on migrant workers and in addition to reporting on the evaluation and research, we also look

at the welfare changes for nationals of A8 states which came into effect from May 2011 and the subsequent media misconceptions this caused. The latest figures on the employment levels of migrant workers and the way in which these statistics are often misrepresented by politicians are reported on and there is a discussion about the government's plans to change settlement rules for migrants is also provided.

Settled In?

Experiences and Views of Migrants Living and Working in Greater Manchester

A research report¹ carried out for GMPERAS explores the experiences and views of migrant workers and highlights the problems they have had at work and their experiences of living in the UK.

The research report is based on the completion of questionnaires by 48 migrant workers and six face to face interviews and one focus group.

Working in the UK Problems at work

The research shows that migrant workers are very likely to face problems at work.

- Of the 28 participants who answered the question whether migrant workers were treated

differently at work, 61% answered yes.

- 64% reported that they had actually experienced problems at work.

The main problems at work related to underpayments and owed wages as the the following example shows.

I was dismissed with no notice pay after six years service. I had been paid £3.75 an hour six years, I had no written contract.

In addition to underpayments, a recurring employment rights issue is the role of recruitment agencies. There are many examples that those who work via agencies are routinely paid less, have unexplained deductions from their wages and work long hours. The case files from MWERAS also shows that there are an increasing number of cases related to maternity and the extract (see box) from an interview with one migrant worker highlight this.

Problems at work – one story

An unnamed Polish worker shares her story about her experiences of working in the UK.

Can you tell us about your experience of working in the UK?

I had a really terrible time. I didn't plan to work, the reason I came here was to be with my partner. I didn't look for work, I didn't feel confident with the language, I didn't know many people. I eventually decided to try and get a job so I registered with a lot of agencies and they found me a job in a hotel. Now I wish I hadn't bothered looking for work. It made me ill.

Can you explain?

I had been working with the agency for about a year. I had an accident and was off sick. The agency didn't pay me anything, I didn't think that was fair but was unsure what to do about it.

I took a sick note to the agency and

said I would be off two more weeks. I was pregnant now and for complicated reasons I was told by my GP to take more time off for the safety of my health and the baby. Once they knew I needed more time off suddenly they said they didn't need me anymore. I got no notice pay, no sick pay, nothing.

I was shocked, I didn't know they could just tell me one minute they needed me and the next minute they didn't. I thought can they really do this? I didn't know who to turn to, I was still not very confident about my English. I made what felt like hundreds of calls and eventually found MWERAS.

What happened next?

No one had told me about the Workers Registration Scheme* so after working and paying tax and national insurance I found out I was not entitled to anything. I was really scared. MWERAS advised me I could get Maternity Allowance but now my

baby is three months old and I still don't have it. I have called lots of people, visited lots of places but I still don't have it. I really need the money now for the baby.

Places like Rainbow Heaven have helped me a lot, they have given me the pushchair and the cot and things for the baby. But I still have no money and I don't know how I will manage.

What are you planning to do now?

I would like to go to school and train and learn more English but for now I have lots of health problems. I wasn't ill before. I don't know but I think it is because of what happened to me at work.

WRS required all workers from A8 states to register that they were employed, failure to do so could affect their rights. The scheme was scrapped on 30 April 2011. After the interview and with further support from MWERAS she managed to receive her owed MA.

Difficulties asserting rights

There was also a strong perception amongst those who took part in the research that they are treated and viewed differently by employers. A key issue is how migrant workers are able to enforce their employment rights once they are aware of them. Other advice agencies have emphasised that the exploitation migrant workers face is unreported as many migrants are afraid to speak up.

Work and qualifications

The research indicates that those with better qualifications do not experience the same degree of vulnerability.

- Of the 17 participants who had a degree or college qualification less than half reported they had problems at work.
- Of the 10 participants who had completed high school or had no qualifications, nine reported they had experienced problems at work.

The research participants were well qualified with a third reporting they had a degree and a further 40% completing college. Before they came to the UK over 40% were working in a professional, managerial occupation or in a skilled trade.

Although many had found work, half had found it difficult or very difficult and most notably this had changed in recent years as the following comments show.

Easier to find work when first came, easier to get a warehouse or factory work through agencies, more difficult in other field and now even difficult to get a job in a warehouse.

I came at a wrong time, in 2008 when recession started so finding job difficult and migrants first to be blamed.

Migrant workers' experience of accessing advice and information services

There was a significant demand for advice and information on a wide

range of uses such as employment rights, housing and welfare.

80% of research participants reported that they had needed to access advice and information services. There was little uncertainty about where to go for advice with 90% reporting that if they needed advice they would be able to find it. The most likely source of information and advice is friends and family and the internet.

This reliance on the internet and family and friends emphasises the importance for the advice sector in providing clear, accurate information and ensuring they have effective web presences.

The research participants reported a positive experience in terms of finding advice and information and contrary to expectation they did not report that there were barriers to finding advice.

- 63% of participants reported they found it easy or very easy to find advice and only 8% reported it was difficult or very difficult.
- 62% of participants reported that they felt confident about contacting advice services.
- Only three reported there were barriers and all three reported lack of language skills that was the main barrier.

In spite of this largely positive story about the advice sector, ten participants did report that there were areas of advice that they needed but had difficulty finding. Three explicitly mentioned employment rights with one reporting that the delay in finding employment rights advice had meant she was out of time to challenge an underpayment of wages.

The research report noted that that as the participants were already users of advice services and had learnt to navigate their way around the advice sector then perhaps a positive story is over represented here. The challenge for the advice

sector is to ensure they are contacting and reach out to all migrant communities.

Living in the UK – a positive experience?

This research survey found that day to day living was a positive experience for many migrant workers with much interaction both with others of the same nationality and also with the local community. For example of the 28 who answered the question do you feel settled in the UK 71% said yes. The main reason that was cited for feeling settled related to work and having support networks. When participants were asked if they feel part of the local community, 66% responded positively. The main reasons again were related to knowing neighbours and being involved in local activities.

For the small number who did not feel settled it was not because of exclusion, racism but rather because they had moved several times usually for work and were too busy working to make connections.

A third of research participants reported that they had fears about living and working in the UK. These fears were related to economic factors and the current economic crisis as these comments shows.

It is difficult to find work now.

I have fear of taking someone else's job and facing discrimination.

Language

When participants describe living and settling in the UK, language is cited as one of the key factors as the following comments show.

The more I could express myself in English the more settled I felt.

I have a job, more friends, more confident with language so easier to access services.

Commitment to learning English is high; more than three quarters had already attended English language

classes. The stereotype of migrants being insular and lacking language skills is challenged by this research. The research participants were not cutting themselves off or away from UK life but were in fact working hard at learning English and were frustrated that there were not more opportunities for them to learn English.

Conclusions

This research shows that although the experience of migrant workers varies there is some evidence that

there are settled migrants who have positive stories about living in the UK but who continue to be subject to differential treatment at work.

The positive stories of living in the UK are predominantly related to improvements in English language whilst at the same time a lack of English language skills increases the likelihood that someone will experience problems at work. However, even when workers have overcome language barriers and are

aware of their employment rights they have difficulties in asserting and enforcing their rights.

The report highlights the need and importance of funded English language lessons and flexible learning opportunities. The need to raise awareness and understanding amongst employers is also highlighted.

ⁱA full copy of the report is available from GMPERAS tel. 0161 839 3882.

Reaching out to migrants

During the research process we met Claudia Paraschivescu, a researcher at Veristat Limited and the Vice-Chair of Migrants Supporting Migrants. Claudia's research gives the advice and information sector an insight into how new technologies could be adapted and used to reach out to migrants.

Claudia has undertaken research on how Romanians settle and integrate and compares the experiences of Romanians in the UK and Canada. We were interested in how Claudia had made contact with people and she describes the research process below.

Claudia – most of the interviews were carried out via mutual friends, but also through those interviewees who decided to inform their friends about the study I was carrying out. The 'snowball' method was therefore a way into the community. I also used Facebook and I joined various groups of Romanians, or sent emails to various NGOs, churches, Romanian restaurants or supermarkets. However, 137 out of 154 emails sent received no response.

When I first contacted the participants for the study, I sent them a detailed email about me and the study I was planning to do, and in some cases even my CV. Where possible, I tried to justify the decision to contact some of the participants (Eg.: long period of time spent abroad or involvement with the Romanian community).

In the case of the interviewees, many of which were undertaken via skype, it was very important to build trust and get to know the participants before any sort of a more professional contact was made. This was done in order to eliminate any balance of power between me as a researcher and the participants. Informality through a 'hanging out' approach was therefore favoured over formality. Where

possible, I met the interviewees either at their office or in a place chosen by themselves for them to feel comfortable.

As a Romanian, I adopted a position of an insider. That means that I understood the cultural dynamics of the participants. I adopted a non-judgemental approach. This was the key to acceptance into the community and meant the possibility to get to know the inner thoughts of the participants and also get a way of access to the community. Claudia undertook the research for her Masters dissertation. If you would like more information please contact her at claudiaparaschivescu@yahoo.fr.

MWERAS (Migrant Workers' Employment Rights Advice Service)

Project Evaluation

An independent evaluation of the work of the MWERAS project has recently been completed. The report concludes that the project is having a positive impact on individual migrant workers delivering services which have ensured fairness at work, prevented unfair dismissals and discrimination and supported them to receive wages owed. The report demonstrates other agencies have found the project to be invaluable for clients particularly those with language requirements.

MWERAS has four key objectives:

- The provision of high quality information and one to one advice and support to individual migrant workers across Greater Manchester (GM).
- To act as an expert, second-tier source of information, advice and support to relevant agencies across GM.
- To raise awareness amongst employers of the issues affecting migrant workers.
- To carry out research into the issues concerning migrant workers and disseminate findings effectively.

The evaluation uses a range of data including anonymised client data, interviews with a sample of organisations who have worked with MWERAS, client feedback forms and a client survey.

Advising migrant workers

The project has:

- Provided direct advice information and support to 248 migrant workers.
- Provided face to face appointments for 130 migrant workers supported by an interpreter in 111 cases. Providing advice, advocacy and preparation of employment tribunal statements.
- Distributed 544 employment rights factsheets to migrant workers.
- Developed and translated a number of employment rights factsheets on the key issues migrant workers face at work.
- Developed a multi-lingual website which has employment rights advice in English, Polish and Czech and information in 11 different languages.

- Provided a range of support such as preparing employment tribunal claim forms; signposting to other agencies; writing letters on a client's behalf and arranging for the letter to be translated; setting up a face to face interview with an interpreter and employment rights advice specialist present.

Client survey shows positive impact of the project on raising awareness

- 19 out of 23 clients answered yes to the question 'has your knowledge about employment rights increased after contacting the project?'
- 15 out of 23 clients reported they had limited knowledge of employment rights before contacting the project but after they received advice from the project only four clients rated their knowledge as limited.

Information and advice to agencies – a unique and valuable service

The project has:

- Raised awareness about the employment issues that migrant workers face with 96 organisations at Migrants Day in December 2008 and December 2009.
- Established an effective referral system with Citizen's Advice Bureau and other support agencies which resulted in 84 workers being referred to the project for advice.
- Increased knowledge and skills of 27 organisations by delivering training on employment rights and migrant

workers and on immigration status and the right to work.

The evaluation shows that this networking activity has been well received by other advice and community organisations, all of whom had identified a need for advice dedicated to migrants with employment rights issues.

Raising awareness and carrying out research

It has long been the experience of GMPERAS that a lack of awareness and confusion about the employment rights of migrant workers has to some extent been used by employers to evade providing migrant workers with their employment rights. To try and redress this, the project has a dedicated employers section on their webpage and in its third year will produce an employers pack and factsheet.

The project has also undertaken some social policy and development work to raise awareness about migrant workers and employment rights with the recent publication of a research report which is summarised in this issue of Bottomline.

Responding to the needs of migrant workers

The evaluation concludes that the project has many strengths, the key one has been to adapt to the changing needs of clients to deliver an accessible service. This is a much needed and highly valued project that has impacted directly on workers lives.

Will welfare changes encourage benefit tourism?

From the 1st of May 2011 nationals from A8 states were given access to the UK welfare system. We invited **Ewa Duda-Mikulin¹, Head of Research at EUROPIA, the Forum for Central & Eastern European Migrants** to comment on the media assertions that this could lead to A8 nationals taking advantage of the UK benefit system. As Ewa explains below the evidence suggests that A8 migrants predominantly come to work and not to claim benefits.

As of first of May this year, A8 migrants (that is nationals of the eight out of ten accession countries that joined the European Union in 2004 i.e. Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) enjoy full access to the welfare system in the UK. That is the same access as nationals of other EU countries. Previously they would have been required to work for a continuous period of twelve months in order to be able to access out-of-work benefits. As scary as it sounds, there is no evidence to suggest there is any threat of “benefit tourism”.²

The UK Border Agency report *Accession Monitoring Report May 2004 – March 2008* states that “nationals from the A8 countries continue to come to the UK to work, contributing to the success of the UK economy, while making few demands on our welfare system.” The UKBA evidence says that “almost 98% of applications for National Insurance Numbers made by A8 nationals between May 2004 and March 2008 were for employment purposes.”

Many tabloids as well as national press predict the worse after 1st May. The BBC notes that “estimates in The Times suggest as many as 100,000 migrants could claim tens of millions of pounds in benefits.

But the Department for Work and Pensions insisted strict rules would remain in place to prevent abuse and stop “benefit tourism”.

The Telegraph declared: “workers from former Eastern Bloc nations will become eligible to claim hundreds of pounds in jobseeker’s allowance, council tax help and housing benefits”. And that: “the three benefits combined could be worth up to £250 a week, per person”³.

However, in order to have access to welfare, a migrant has to legally arrive and live in a country. What is also worth noting is the fact that the aforementioned headlines relate rather to a total number of people who will be able to claim benefits but I think I am right in saying not everyone will.

The Institute for Public Policy Research (IPPR, 2008, *Floodgates of turnstiles? Post-EU enlargement migration flows to (and from) the UK*) points out that “at 84 per cent, the employment rate among post-enlargement migrants is among the highest of all immigrant groups, and is nine percentage points higher than the UK-born average.” Moreover, “A8 and A2 nationals work on average four hours longer per week than UK-born workers (46 hours compared with 42 hours)”. The Office for National Statistics

recent report states: “in the first quarter of 2011 an estimated 82.1 per cent of Poles aged 16 to 64 were in employment, compared with a rate of 70.7 per cent for the UK as a whole. The unemployment rate among Polish-born people aged 16 plus during the same period was 5.5 per cent, compared with a UK unemployment rate of 7.7 per cent (both not seasonally adjusted)”⁴.

Those that argue that migrants from the A8 countries come to claim benefits rather than work should back their arguments up with evidence. It seems to me however, A8 nationals make ideal immigrants – they work a lot and don’t ask for much in return.

¹ ewa.m@europa.org.uk

² <http://www.bbc.co.uk/news/uk-politics-12633382>

³ <http://www.telegraph.co.uk/news/worldnews/europe/eu/8358500/New-Eastern-European-benefit-tourism-fears-after-migrant-safeguards-scrapped.html>

⁴ <http://www.statistics.gov.uk/cci/nugget.asp?id=2369>.

Migrant workers and Employment Statistics

Whether it be a rising welfare bill or soaring levels of unemployment, migrants seem to be the scapegoat. This article looks at what statistics really tells us about migrants and employment.

The coalition government now seem keen to promote the idea that immigration is to blame for high levels of unemployment in the UK. A recent speech¹ by the Work and Pensions Secretary declared that migrant workers are keeping 'British' workers out of employment.

Central to this speech is the idea that migrant workers are taking the low skill level jobs. However there is no route of entry to the UK for migrants for low skilled jobs. So what the Minister is referring to is the growth in the number of EU nationals employed in the UK and specifically nationals from the A8 states. Yet these workers have every right to enter the UK to work and live under EU law. To prevent them from doing so would be illegal. The illegality of the Minister's speech was not widely reported.

It is certainly the case that the numbers of migrant workers in employment has increased over the last decade (see the table below). The Labour Force Survey shows number of workers in the UK who are not UK nationals.

The LFS reported that there are 2.5 million non UK nationals in employment in the UK, of which less than a quarter (614,000) are from A8 states. A significant proportion of the non UK nationals are from EU member states who have had the right to work, study and reside in the UK since 1973.

While numbers of EU nationals have remained largely stable over the last decade, the numbers from the A8 states have significantly increased. However the nationals of A8 states account for less than a quarter of all non UK nationals in employment and less than 2% of all people in employment in the UK.

Moreover recent statistics³ on the allocation of National Insurance Numbers to A8 nationals suggested that the numbers coming to the UK from A8 states is beginning to slow down. In the year to December 2010, 177,000 numbers were allocated which is a fall from the year to December 2008 when 231,000 numbers were allocated.

A similar pattern is found when looking at the registrations for the Workers Registration Scheme (WRS). In the year to December 2010 there were 117,000 registrations which is a 26% fall from the numbers recorded in the year to December 2008 and a 43% fall from the numbers recorded in the year to December 2006. The number registering are now almost half the numbers that registered during the peak period which was the year ending March 2007 when 231,000 registrations were recorded.

Whilst the Work and Pensions Secretary blame migrants for unemployment, the Chancellor is busy announcing that unemployment is falling⁴. When discussing migration, the coalition government, as has been demonstrated in other articles in this issue of Bottomline, does not look at facts or evidence. Rather it is laying down the foundation for blaming and scapegoating migrants if the new Work Programme with ambition of getting 2.4million people into work does not succeed.

Employment levels (000s) in UK (Labour Force Survey) ²			
	2001	2006	2011
UK nationals	26,306	27,064	26,636
Non UK nationals	1,198	1,798	2,501
EU nationals*	484	488	590
EU A8 nationals	26	242	614

* EU nationals meaning in this context nationals of EU member states which had joined the Union prior to the accession of the A8 member states in 2004.

¹ <http://www.bbc.co.uk/news/uk-politics-13984512>

² LFS data is published in the Labour Market Statistics Bulletin (table 8) from <http://www.statistics.gov.uk>.

³ Statistics on National Insurance Number Allocations and Workers Registration Scheme is available from the Migration Statistics Quarterly report at <http://www.statistics.gov.uk>.

⁴ http://www.hm-treasury.gov.uk/press_58_11.htm

An end to settlement for migrant workers?

In June 2011 the Coalition Government published a consultation document¹ setting out its approach to the question of settlement by migrant workers. This article considers the government's proposals.

The current situation

The Points-Based System which the UK phased in from 2008 onwards, distinguished between different 'Tiers' of migrant – for a brief summary of each tier see the box below.

Under the current immigration rules, only some of the migrants in the UK under the Points Based System are eligible to apply for settlement. Most Tier 1 and Tier 2 migrants can apply to settle if they meet certain requirements. For most, such an

application can only be made once they have clocked up five years of lawful residence and, in the case of Tier 2 migrants, can show that they are still required by their current employer. The migrant must also meet a whole set of other requirements: not to have entered the UK illegally; not to have used deception or committed similar misdemeanours; not to have any unspent convictions; and to be able to show sufficient knowledge of the English language and life in the UK.

Government proposals on settlement

In her foreword to the consultation, Home Secretary Theresa May claims:

Progression to settlement has become almost automatic for those who choose to stay. I shall break that link and return to a position where Britain will continue to attract the brightest and best workers, who will make a strong contribution to our economy and society during their stay, then return home. A small number of exceptional migrants will be able to stay permanently but for the majority, coming here to work will not lead automatically to settlement in the UK.

Leaving aside the inaccurate claim that settlement is 'almost automatic', it is nonetheless clear the government is determined to make it harder for these migrants to settle. This follows the closure of the Tier 1 'general migrant' route and planned closure of the 'Post-Study Work' route, as well as the new cap on numbers of Tier 2 general migrant applications from outside the UK. Why such determination to deny the opportunity to settle?

The government describes its goal as 'an improved system that commands the confidence of the public and serves our economic interests (section 1.1)'. It proposes to define Tier 2 visas as temporary. There is an 'expectation' that most

Points Based System (PBS) Entry to UK for non EEA nationals

Tier 1: For 'highly skilled' migrants who can show they had accumulated sufficient points. Points are allocated for various attributes, including educational qualifications, employment history and access to financial resources. There is no need to have a specific job offer from a sponsoring employer.

Tier 2: For 'skilled' migrants who have been recruited by a specific employer for a job vacancy which could not be filled by either a British Citizen or an EEA national. The Tier 2 migrant also needs to accumulate sufficient points for attributes such as educational qualifications, employment history and access to financial resources.

Tier 4: Students. Students also need to meet criteria accumulate sufficient points. Criteria include; a valid certificate of sponsorship from an educational institution at which the student has been offered and accepted, a place on a course of study.

Tier 5: Youth mobility and temporary workers. The Youth Mobility Scheme is available to citizens of Australia, Canada, New Zealand, Japan and Monaco. It replaced the previous Working Holidaymaker Scheme which had been open to citizens of any commonwealth country

Nationals of the European Economic Area are not included under the PBS or the new consultation as they have a right to work, study and reside in the UK under EU law.

Tier 2 migrants will stay for a maximum of 5 years. They and any dependants will then leave the UK.

The consultation suggests this proposal will provide for simplicity and allow migrants to plan for the future. Yet it also envisages the creation of a new category into which, after three years in the UK, the 'most exceptional' Tier 2 migrants can switch and go on to apply for settlement. This of course undermines the expectation that all those granted entry on a temporary visa would be expected to leave the UK, instead offering hope to such migrants that they could become one of the 'most exceptional' who can graduate to the sunny uplands of settlement.

The Consultation is full of statistics but none of these statistics explain in themselves why the settlement of migrant workers is a problem. The Government simply asserts that: *Uncontrolled settlement is detrimental to the UK; it does not deliver the best outcome for the economy or for society. Unlimited settlement can place pressure on public services (section 1.11).*

This is followed by opinion poll figures demonstrating that 78% thought that the number of immigrants coming to Britain should be restricted of whom 44 % thought it a problem because of abuse of or burden on public services. So there is no evidence in the Consultation document that 'unlimited' or 'uncontrolled' settlement does in fact place pressure on public services. Rather, restrictions on settlement are to address the concerns of the public.

Having provided no evidence that settlement is unlimited, uncontrolled or a burden on public services, the government goes on to exhibit a very different attitude to settlement depending on who the migrant is. In general: *'the Government believes that settlement should be a privilege and restricted to those who make the biggest contribution'*.

Who might this be? Entrepreneurs actively involved in running a business and high net worth individual investors should have greater opportunity to settle – and more quickly. By contrast, a system of selection is proposed for skilled migrant workers in which only a minority (those earning over £150,000 per year and sportspeople are two of the categories floated) will have the opportunity to apply for settlement while the majority are expected to leave.

Moreover the government envisages a stronger role for employers in deciding who gets to stay and who does not. What most commentators appear to have missed is that leaving the UK may not necessarily mean leaving for good. Interestingly, the consultation considers whether a Tier 2 migrant who has left the UK after five years should be permitted to re-apply from overseas. This raises the possibility of a revolving door for such skilled migrants, allowed to return if they still meet the criteria yet never allowed to settle.

In the government's eyes the time and sweat of such workers – not to speak of their tax and national

insurance contributions – is not to be considered as an investment or a contribution meriting the opportunity to settle. They lack sufficient cold, hard cash to earn the approval of the UK government. Their private or family life does not figure in this version of the points based system and they have no legitimate expectations.

Conclusions

By removing the opportunity for all but a select few to apply for Indefinite Leave to Remain, the government is intending to retain for the majority of non-EEA migrant workers the immigration controls which restrict their life and work in the UK. Removing the opportunity to settle will not necessarily mean indefinite exclusion from the UK after 5 years. Instead the proposals intend that Indefinite Leave is to be replaced by indefinite restrictions as long the migrant worker lives in the UK.

In the ideal world of the government, migrant workers are forever hired hands. The lucky few are allowed to settle, the rest tolerated until they serve no further use. This resembles nothing more than a throwback to the old guestworker system with all its familiar impracticalities and injustices.

¹ *Employment Related Settlement, Tier 5 and Overseas Domestic Workers.*

Publications

Work was an Escape for Me – The Impact of Domestic Abuse on Employment The Views of Women supported by the Domestic Abuse: Women’s Employment Support (DAWES) Project (September 2010)
Having a Baby – Your Rights at Work (Updated April 2007)
Dispute Resolution (May 2007)
Jobwatch 2006: A Survey of Jobcentres in Greater Manchester (January 2007)

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