



**MIGRANT WORKERS AND VULNERABLE EMPLOYMENT:  
A REVIEW OF EXISTING DATA**

Report for TUC Commission on Vulnerable Employment

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## **Migrant workers and vulnerable employment: an analysis of existing data**

### **Aim and focus**

The aim of the research was to investigate the extent of and conditions relating to vulnerable employment for migrant workers by comparing data from smaller-scale regional/local datasets with data from the Labour Force Survey (LFS) and the Workers' Registration Scheme (WRS). The indicators of vulnerable employment chosen for this study were: pay, hours, insecurity and accommodation. The geographical focus in the smaller-scale datasets was two local areas: Birmingham and the West Midlands, and parts of the East of England and East Midlands including counties such as Cambridgeshire, Norfolk, Lincolnshire and Derbyshire. These are areas to which there has been significant in-migration in recent years for work in industrial sectors such as agriculture, hospitality and catering, transport and health and social care (Green et al 2007; Geddes et al 2007; Scott et al 2007; Home Office 2007b). Areas around 'the Wash' (Cambridgeshire, Lincolnshire, Norfolk), where there is considerable evidence of gangmasters controlling the labour of migrant workers, demonstrate some of the highest indications of vulnerable employment for migrants (Geddes et al 2007). In addition to the regional datasets, we aimed to analyse a database relating to an employment sector that is strongly associated with vulnerable employment – domestic labour. This database includes many useful indicators both in terms of risk factors associated with individual characteristics (gender, immigration status, age) and vulnerable work. It also contains indicators of forced labour such as dependence on employer for accommodation, reports of threats and physical violence (Global Alliance Against Forced Labour 2005). We use this analysis to deepen our understanding of the structures that underpin vulnerable work.

The report is structured as follows:

- the context in which vulnerable employment among migrant workers can be understood
- overview of our methodology

- evidence relating to temporary employment, agency working, insecurity and hours
- evidence relating to pay
- an in depth examination of one database of vulnerable migrant workers – migrant domestic workers
- A summing up of some inferences about the scale of anticipated under reporting of vulnerable work for migrant workers with respect to the LFS and WRS; and discussion of the relation between risk factors (country of origin, language, age, gender) and working in vulnerable employment

### **The context: migration and the labour market**

Over the last decade there has been a rapidly increasing presence of migrants in the UK, though the numbers are contested. The movement of migrants from former British colonies in the Caribbean, Asia and Africa to the UK from the late 1940s onwards, has shifted to a more diverse pattern of in-migration at the turn of the 21<sup>st</sup> century. There is a greater diversity in sending countries. Apart from the continued migration to the UK of New Commonwealth migrants, particularly from South Asia, for work and family reunification reasons, a large part of the increase in inflow very recently is the result of the migration to the UK of nationals from the countries that joined the European Union in 2004, in particular the so-called ‘Accession’ (A8) states - Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. A8 nationals who want to take up employment in the UK for a month or more are generally required to register with the Workers’ Registration Scheme (WRS). People of Polish nationality made up the largest proportion of A8 nationals registered with the WRS from May 2004 to September 2007 in the UK (61%) and also in every geographical region.<sup>1</sup> In the LFS, migrants from A8 countries, especially Poland, made up the largest share of the category of recent migrants (19%), followed by those from South Asia, particularly India and Pakistan. Asylum seekers and those granted asylum in the UK, from countries such as Somalia, Eritrea, Turkey

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<sup>1</sup> Data obtained from the WRS under the Freedom of Information Act (FOI request). Note that in the WRS regions are defined according to the Post Office’s postal Address Book regions, not government office regions as in the LFS.

and Afghanistan, continue to contribute to the diversity of migrants in the UK, although overall numbers of people seeking asylum continue a downward trend (Home Office 2007a). The accession of Bulgaria and Romania to the EU took place in January 2007, although nationals of these two (A2) states have very limited rights to live and work in the UK at present (Hunter, 2006, p.12).

Reports of abuse and exploitation of migrant workers have received increasing attention from the media, particularly following the death of the Chinese cockle pickers in Morecombe Bay in 2004. The government also professes concern at the exploitation of migrants, and is particularly concerned with victims of trafficking who are exploited in a range of industries:

Failure to take on the people traffickers ... leaves vulnerable and often desperate people at the mercy of organised criminals.

John Reid (then Home Secretary), March 2007 <sup>2</sup>

However, while government concern has focussed on the exploitation of so-called “illegal” migrants, it is clear even from press reports, that exploitation is not restricted to this group, and that legal residents, including A8 nationals, may also face problems in the labour market. Of course immigration status plays a role, but its relation to vulnerability is not simply related to whether or not migrants are working legally. Those who are working legally may also be subject to threats by employers not to renew their visa for example, while migrants on certain types of visa are restricted in the kind of work that they can do. For example, a little over half of working migrants from A2 countries in the LFS were self-employed. This is likely to do in part with self-employment status enabling legal working in the UK (particularly in construction) rather than entrepreneurial ambitions (Anderson et al 2006). Moreover, research has found that some of the difficulties faced by migrants relate to UK labour market factors, obfuscated employment relations, particularly the use of agency labour and limited enforcement of labour rights, as well

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<sup>2</sup> Foreward to Enforcing the Rules: a strategy to ensure and enforce compliance with our immigration laws. Home Office, March 2007

as to their status as migrants (Anderson and Rogaly 2005; McKay and Winkelmann-Gleed 2005).

## **Methodology**

While there are many media accounts of migrant vulnerability in the labour market, and some analyses accounting for it, there have been limited attempts to quantify this vulnerability. Between census counts, the LFS is probably the most comprehensive national and regional data source on migrant workers' labour market experiences as it records countries of birth, nationalities and dates of arrival in the UK of those born outside the UK who come to live and work here (Salt and Millar 2006). However, the LFS tends to under-estimate proportions of migrants who in some ways differ from the established population, as those with an undocumented immigration status, short term migrants who are mobile and those in non-private communal accommodation – that is, categories which are most likely to be vulnerable in the labour market - are less likely to be included (IPPR 2007; Green et al 2007; Salt and Millar 2006). Also, the LFS is a sample survey, and as such is subject to sampling errors.<sup>3</sup>

The quality of the pay data in the LFS also suffers from the high number of proxy responses in the survey. The UK Statistics Agency (formerly ONS) Annual Survey of Hours and Earnings (ASHE) yields more reliable results, but this survey of employers could not be used for our analysis as it does not allow us to identify migrant workers. We also note that the pay questions are only asked of a subset of the LFS sample (waves 1 and 5). The new result is that the LFS results are significantly more pessimistic than the robust ASHE results. For example, in Spring 2007 ASHE reported mean hourly employee earnings of £13.37 whilst the July to September quarter of LFS 2007 suggested that the figure was £11.47. Furthermore, according to the Statistics Agency's analysis of the ASHE data, 1.1 per cent of employees are paid less than the relevant aged-based minimum wage rate. In contrast, the LFS data suggests that 8.3% per cent

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<sup>3</sup> <http://www.statistics.gov.uk/StatBase/Source.asp?vlnk=358&More=Y#samplesize>

of employees are paid less than the relevant age based minimum wage rate.<sup>4</sup> The absolute figures from the LFS must therefore be viewed in this light. It follows that the most important finding is the extremely low pay of new migrants relative to other groups of employees.

Estimates of numbers from other data sources on migrant workers are even less likely to be reliable as such data are from specific categories such as those seeking advice on and solutions to problems relating to vulnerability and may not be representative of all migrant workers in vulnerable employment.

While large scale quantitative datasets are likely to under sample those workers who are particularly vulnerable, smaller scale datasets and anecdotal evidence are likely too to present a biased picture. However, smaller scale datasets, while not representative, do offer the possibility of looking at total numbers<sup>5</sup>. This report explores discrepancies between the smaller datasets and the LFS, and, where appropriate the WRS. We make some inferences about the scale of anticipated under reporting of vulnerable work for migrant workers with respect to these two datasets. Using the small scale but more detailed datasets we explore the relation between risk factors (country of origin, language, age, gender) and working in vulnerable employment to understand what conditions allow vulnerable employment to exist. This is supplemented by the case studies provided by agencies dealing with migrants with problems in the labour market.

## **Datasets**

What follows is a brief description of the datasets used for the analysis of evidence on vulnerable employment among migrant workers.

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<sup>4</sup> Calculation from July to September 2007 LFS for workers aged over 21. This does not represent all underpayment since there are some exemptions from the minimum wage.

<sup>5</sup> We must be cautious that when examining NGO datasets in particular, we are taking numbers of cases rather than for example numbers of visits which can lead to double counting

## **LFS**

The LFS is a quarterly sample survey of households living at private addresses in Great Britain, designed to collect information on the labour market. Its target population is all people aged 16 and over resident in Great Britain. A geographically stratified random sample is drawn from the ‘small users’ sub-file of the Postcode Address File (PAF) which is a computer list, prepared by the Post Office, of all the addresses which receive fewer than 25 articles of mail a day.

Interpreters are used for speakers of languages other than English.<sup>6</sup> Our evidence relating to recent migrants’ demographic and employment characteristics is mainly from original analysis of the July to September quarter of the 2007 LFS. But where important variables (e.g. trade union membership) were only available in another quarter of 2007, we undertook our analysis for these particular variables in that quarter, and this is indicated in the report.

Where necessary, we make comparison between the labour market patterns of recent migrants – defined as those who have arrived in the UK between 1997 and 2007 (see below), those who arrived before 1997, and the entire LFS sample for that quarter.

## **WRS**

WRS registrations apply to nationals of the A8 countries who take up employment in the UK for at least one month. Certain groups, most notably the self-employed are not required to register and so are not included in WRS data. Registration forms are also available in languages other than English. The numbers in the WRS are not an indication of net A8 immigration as people are not required to de-register if they leave the UK. Some of those who have registered since 2004 will already have left the UK but it is not possible to get any information about actual length of stay (Home Office 2007b). For migrants from the A8 countries in our analysis, LFS data is supplemented by evidence from the WRS, both from the Accession Monitoring

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<sup>6</sup> <http://www.data-archive.ac.uk/doc/5396%5Cmrdoc%5Cpdf%5Cbackground.pdf>



Report June 2007 and from additional and updated information supplied to us as a result of a series of Freedom of Information (FOI) requests.

It was stated earlier that the importance of a regional focus is indicated by other studies on areas where migrant workers are concentrated and there is evidence of their experience of vulnerable employment (Geddes et al 2007; McKay and Winkleman-Gleed 2005). Among the recent migrants in the LFS there were patterns of residential and work concentration in the South East and West Midlands. But they were relatively more dispersed than earlier migrants - e.g. in East Anglia, East Midlands, the South West and South Yorkshire. This was particularly so for those originating in A8 countries. While in the WRS data regions are defined somewhat differently, it can be seen that in the second quarter of 2007 the largest proportions of workers were registered with employers in the Anglia region, followed by those in the Midlands region (Home Office 2007b, p.17).

### **Small-scale datasets**

Apart from original analyses of the 2007 LFS and WRS FOI request data, we analysed 6 smaller-scale datasets of recent migrant workers relating to the afore-mentioned two broader regional areas of England – the West Midlands region and East of England/East Midlands. These were:

- The West Midlands migrant worker survey (WMS)
- The TUC Midlands survey (TUC)
- Sub-sample of Gangmasters in the West Midlands and East of England in the Gangmasters Licensing Authority (GLA) register
- Mobile Europeans Taking Action database (META)
- Advice for Life database (AFL)
- Eastern European Migrants Advice Committee database (EMAC)

In addition we conducted a detailed analysis of one database (the Kalayaan database) relating to an employment sector that is strongly associated with vulnerable employment – domestic

labour. This database includes many useful indicators both in terms of risk factors associated with individual characteristics (gender, immigration status, age) and vulnerable work. It also contains indicators of forced labour. We use this analysis to deepen our understanding of the structures that underpin vulnerable work.

## **WMS**

Sampling for the WMS was done by setting quotas by nationality of migrant workers according to other sources such as National Insurance Numbers (NINO) registration data for foreign nationals and WRS records for the region. Quotas were also set for numbers in sub-regions sampled, including Birmingham. Therefore it was ensured that, while not regionally representative, the survey covered migrant worker categories considered to be most significant in the region. Recruitment of migrant workers within these quotas were done by interviewers visiting locations where migrant workers in particular communities were likely to be found – e.g. places of employment, places of worship, shops and cafes, clubs and other social venues. 712 Migrant workers were interviewed. They had arrived in Britain since 2001, the majority from 2005 onwards. The largest national group was Polish followed by Indian, Pakistani and Slovakian (Owen 2007; Green et al 2007).<sup>7</sup>

## **TUC**

The TUC Midlands Survey was made up of people of Polish nationality attending advice sessions held at a Birmingham Polish Centre in 2007 funded by a TUC development fund grant. They were a discrete category, attending for advice on employment or welfare rights. Most lived in the Birmingham area. The data analysed for this report derives from 167 people, all of whom are of Polish origin. The vast majority (96%) came to the UK on or after 1<sup>st</sup> May 2004, the date on which Poland joined the EU. The TUC survey focused on a specific set of people, selected because they have had problems relating to employment and have sought advice on these.

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<sup>7</sup> <http://www.wmro.org/standardTemplate.aspx/Home/OurResearch/BusinessEconomy/EconomicMigrants>

However, responses to questions on pay, hours, insecurity and accommodation were collected as part of a general survey of those attending the advice sessions and were not necessarily directly related to the specific problems they were seeking advice on.<sup>8</sup>

## **GLA**

The Gangmasters Licensing Authority database consists of labour providers who have applied for a licence to provide labour in agriculture, horticulture, shellfish and associated processing and packaging industries in the UK since 2005 (Geddes et al 2007).<sup>9</sup> Important details relevant to vulnerable employment of workers (including migrant workers) include information on countries supplying workers, wages per hour paid to adult workers, and provision of and charges for accommodation and transport. We obtained access to the records of gangmasters operating in the West Midlands, Lincolnshire, Norfolk and Cambridgeshire. There were 346 records of such labour providers in the database who applied for a licence from 2006 onwards. The majority of workers they supplied were from A8 countries. Among the 346 labour providers, 225 had workers from Poland, 221 had workers from the UK (but note that these are not mutually exclusive categories).

## **META**

Mobile Europeans Taking Action (META) was launched by the East of England Development Agency as part of a Migrant Gateway project funded by the European Social Fund to provide advice and information directly to migrant workers in the East of England. There is a hotline telephone service as well as a face-to-face service based in Thetford, Norfolk.<sup>10</sup> The data analysed for this report are from 631 calls recorded as part of the META hotline service

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<sup>8</sup> Information from project documentation sent by Midlands TUC

<sup>9</sup> <http://www.gla.gov.uk/index.asp?id=42>

<sup>10</sup> <http://www.migrantworker.co.uk/META.asp>

between May and November 2007. Migrants phoning the hotline can receive advice and information on employment, housing and welfare issues from advisers speaking Portuguese as well as several Eastern European languages. The majority of the calls however were about seeking information on employment rights, tax and national insurance and benefits. There were around 57 calls about specific problems relating to pay, hours, insecurity and accommodation. Just over half of migrants seeking advice in the database (52.8%) were women. The largest national groups were Polish (270), Portuguese (141), and Lithuanian (91). Areas of residence were mainly East of England region - e.g. Norfolk, Cambridgeshire, Suffolk – but phone calls were recorded from other places such as London, sometimes these were follow up calls from people originally living in the East of England.

## **AFL**

The Advice For Life database is from a pilot project based in Cambridgeshire, East of England, providing specialist information, advice and guidance on employment, housing, immigration, debt and welfare benefits.<sup>11</sup> It was a response to evidence from the WRS and studies at a local level of the growing population of migrant workers in the region and awareness of their need for information, support and assistance. The data analysed for the report are from 77 people who sought advice, either face to face, by email or by phone between May 2005 and December 2007. Half the sample were women, 38 were A8 country nationals, 32 of whom were of Polish nationality. In many of the cases outcomes of seeking advice included the implementation of employee rights for instance through employment tribunals or trade unions (Advice for Life, 2007).

## **E-MAC**

The Eastern European Migrants Advice Committee (E-MAC) was formed in July 2007 and provides information, advice and practical help relating to employment, welfare rights,

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<sup>11</sup> [http://www.afl.org.uk/index.php?option=com\\_content&task=section&id=3&Itemid=7](http://www.afl.org.uk/index.php?option=com_content&task=section&id=3&Itemid=7)

housing, and benefits for migrants from Eastern European countries living in the Derby area through ‘surgeries’ held thrice weekly. There have been more than 250 people seeking information, advice and help with their problems since then.<sup>12</sup> Up to March 2008, there were 96 people recorded on the database seeking information, advice and help relating to employment issues, 50 of these were women (52%), 69 were of Polish origin. Around 37 clients were seeking advice about specific problems relevant to our research.

## **Kalayaan**

The Kalayaan database is a database of migrant domestic workers compiled by Kalayaan, an organisation that advises and supports people on domestic workers visas.<sup>13</sup> This database is gathered from the registration details of clients and records the living and working conditions of migrant domestic workers who have entered the UK with an employer, most of whom are on a “domestic worker” visa. The workers recorded in the database are predominantly in the London area. In some cases they will have left that employer, in others they may remain with them. The database includes 687 workers registered between 2006 and 2008. Nearly four fifths were women. In terms of nationality, Indians formed the largest proportion (39%), followed by Filipinos (24%) and Sri Lankans (11%). The majority (71%) were on a domestic worker visa. Around 97% came to the UK on or after 2000.

## **The Concept of “Vulnerability”**

The TUC Commission on Vulnerable Employment’s (CoVE’s) definition of vulnerable employment is:

Precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship (TUC Commission on Vulnerable Employment 2008: p.11)

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<sup>12</sup> <http://www.emac-derby.com/>

<sup>13</sup> <http://www.kalayaan.org.uk/>

Groups of workers who are at greater risk of vulnerability at work according to this definition include agency workers, home workers, younger workers and **migrant workers**.

The example indicators of vulnerable employment set out by CoVE are: low pay, illegal/unfair deductions from pay, unsafe workplaces, limited rights to leave, insecurity at work. For this research we needed to focus on variables that were common to different datasets. We therefore consider:

- Pay – below minimum wage, unfair deductions, illegal retention of wages and holiday/sick pay entitlements
- Hours – e.g. evidence of under-employment or excessive hours worked without payment
- Insecurity – e.g. lack of a written employment contract, temporary employment unfair dismissal or with no notice, payment of wages in cash, lack of a national insurance number or not being registered on the WRS
- Accommodation – e.g. unfair deductions for employer provided accommodation, restrictive/poor quality conditions

Our focus is on ‘recent migrants’ - that is, those who have arrived in the UK not more than 10 years ago. It is important to be aware that the definition of “migrant” is often unclear, and while government definitions of migrants tend to fall back on the so-called “foreign born” in practice many of these people are actually UK nationals. There is not a clear dividing line between UK nationals and “migrants”. While some migrants who have been in the UK for 4-5 years or more can claim settlement, and thereafter citizenship, we have chosen to extend the timeline beyond that period. This is because some of the challenges facing migrants in the labour market are not simply to do with immigration status per se but wider issues including discrimination, language and social networks. We have been careful to draw attention to cases where differences might seem to be explained by “nationality” but may in practice be in part a consequence of length of stay. The majority of Polish workers, for example, will have been in the UK for substantially less time than many Indian workers. In the LFS this means that we have

focused analysis on a sub-set of the sample, that is those who came to live in the UK between 1997 and 2007. Data from all the other datasets, particularly with their predominant focus on A8 migrants, fit in within this time frame. Coverage in the smaller-scale datasets is described above.

### **Data analysis**

We used SPSS data analysis package to analyse the LFS data. Unfortunately it was not possible to access the raw data of the Workers' Registration Scheme. We used the data available in the quarterly Accession Monitoring Report (2007) but this was supplemented by information obtained from several Freedom of Information (FOI) requests. As far as the smaller datasets were concerned, the WMS was already available in SPSS. We obtained access to the completed questionnaires of the TUC Midlands survey, and the data from these were input into a SPSS database. Where possible in the WMS and TUC surveys, we recoded variables such as countries of birth/nationalities, economic sector and occupations to values used in relation to such variables in the LFS. This was important for enabling comparison of these surveys with the LFS. The WMS in particular, is important in its coverage of representative country of birth/nationality categories of recent migrant workers in the West Midlands, enabling comparison with the LFS. GLA records of labour providers in the West Midlands and East of England regions, provided to us by the GLA in Excel format was converted into SPSS for analysis.

The META and E-MAC databases were sent to us as Excel files setting out the demographic characteristics and the problems experienced by the migrants who came for advice to the organisations in question. The AFL data was sent to us in the form of letters relating to problems for which advice was sought by the migrants. In all these databases we re-classified problems under the indicators of vulnerable employment explored in this research: hours and insecurity, pay and employer provided accommodation. Analysis was undertaken in Excel and also by conversion of these databases to SPSS for producing frequencies and crosstabulations.

Analysis of the Kalayaan database was undertaken within the SPSS format it was provided to us. All data accessed by or sent to us were in the English language, with the exception of the TUC Midlands survey questionnaires, which had been completed in the Polish language. These were translated during data input into SPSS.

Table 1 summarises the sample sizes and key variables relevant to vulnerable employment of the datasets described above.



**Table 1**

**Descriptions of datasets with sample sizes and key indicators of vulnerable employment**

<b>Dataset</b>	<b>Sample size</b>	<b>Key indicators of vulnerable employment<sup>14</sup></b>
LFS (national, 2007)	<p>Total sample size in the July to September quarter 2007 = 123,109. Of these, migrants arriving in the UK from 1997 to 2007 (recent migrants)= 5305.</p> <p>(Total sample size for hourly pay data = 14,218. Sample size for pay data for migrants arriving from 1997 to 2007= 668)</p> <p>Largest country of birth groups among recent migrants: Polish (13.3%), Indian (7.8%) and Pakistani (4.9%).</p> <p>Largest national groups among recent migrants: UK (14.3%), Polish (13.3%), Indian (6.5%) and Pakistani (3.5%).</p>	<p><b>Pay</b> - hourly pay recoded into minimum wage bands;</p> <p><b>Hours</b> - usual hours per week in main job excluding and including overtime, total hours per week in main and second jobs grouped; shiftwork, week-end working; paid holiday;</p> <p><b>Insecurity</b> – not in permanent employment, paid by an agency.</p> <p><b>Accommodation</b> – Accommodation details, accommodation tied to a job, housing provided by employing organisation.</p> <p>Indicators analysed by origins, age, sex, sector, occupational level, length of stay.</p>
WRS (national, 2007)	<p>Accession country nationals registered between May 2004 and September 2007 = approx. 718, 375<sup>15</sup>.</p> <p>66.2% Polish nationals.</p>	<p><b>Pay</b> – pay per hour<sup>16</sup></p> <p><b>Hours</b> – hours worked per week grouped.</p> <p><b>Insecurity</b> – self-defined temporary/permanent employment, plans about length of stay; sector (for estimation of agency employment)<sup>17</sup></p>

<sup>14</sup> The key indicators of vulnerable employment we focus on are pay, hours, insecurity and accommodation (see pp. 13-14 for a fuller definition).

<sup>15</sup> Sample size before missing values for particular variables taken out.

<sup>16</sup> We were not able to access information about pay by age for minimum wage age bands in the WRS.

<sup>17</sup> There was no accommodation information in the Accession Monitoring Report for the time period covered by this research.

Dataset	Sample size	Key indicators of vulnerable employment <sup>14</sup>
WMS (West Midlands, 2007)	712 Largest national groups Polish (42.6%) Indian (14.2%), Pakistani (8.0%) and Slovakian (5.3%)	<p><b>Pay</b> - Pay per hour calculated using hours per week; minimum wage age bands.</p> <p><b>Hours</b> - hours worked per week grouped;</p> <p><b>Insecurity</b> - employment through recruitment/employment agency</p> <p><b>Accommodation</b> – employer-provided accommodation, level of multiple occupancy.</p> <p>Indicators analysed by origins, age, sex, English proficiency, sector, occupation</p>
TUC (mainly Birmingham, 2007)	167 all of Polish origin	<p><b>Pay</b> - Pay per hour calculated using hours per week; minimum wage age bands;</p> <p><b>Hours</b> - hours worked per week grouped;</p> <p><b>Insecurity</b> - agency working, possession of a written employment contract, whether had a national insurance number, how paid, trade union membership;</p> <p><b>Accommodation</b> – employer provided accommodation.</p> <p><b>Problems</b> relating to pay, hours, insecurity and accommodation.</p> <p>Indicators analysed by origins, age, sex, English proficiency, sector, occupation</p>
GLA (West Midlands, Lincolnshire, Norfolk and Cambridgeshire, 2008)	346 labour providers in agriculture, horticulture, shellfish and associated processing and packaging registered from 2006 onwards. 225 had workers of Polish origin.	<p><b>Pay</b> – pay per hour, minimum wage age bands, deductions for accommodation and transport;</p> <p><b>Accommodation</b> – employer-provided accommodation.</p>

<b>Dataset</b>	<b>Sample size</b>	<b>Key indicators of vulnerable employment<sup>14</sup></b>
META (East of England region, 2007)	631 phone calls from migrants. Largest national groups Polish (270) and Portuguese (141), May – November 2007. 57 calls specifically about pay/hours/insecurity/accommodation	<b>Problems</b> relating to pay, hours, insecurity and accommodation
AFL (mainly Cambridgeshire, 2007)	77 May 2005 – December 2007 Around 50% A8 nationals, mostly Polish	<b>Problems</b> relating to pay, hours, insecurity and accommodation
E-MAC (mainly Derby area, 2008)	96 people on database seeking advice on employment issues July 2007 – March 2008, 69 of Polish origin. 37 migrants with problems about pay/hours/insecurity/accommodation	<b>Problems</b> relating to pay, hours, insecurity and accommodation
KALAYAAN (mainly London area, 2008)	687 registered between 2006 and 2008. Largest categories 39% Indians, 24% Filipinos, 11% Sri Lankans.	<b>Pay</b> – monthly; <b>Hours</b> – hours worked per day, time off; <b>Accommodation</b> – conditions; <b>Indications of forced labour</b> – physical/psychological abuse, access to outside and food.

## **Profile of migrants in the labour market in the LFS and WRS**

Both the LFS and WRS contain indications that suggest vulnerability is linked to factors that are not simply to do with being a migrant per se. The position of migrants and their vulnerability needs to be contextualised within their situation more generally in the labour market. Just because one is a migrant doesn't mean that one stops being, for instance, young, or female, or black. And certain segments of labour markets where migrants, for a multitude of reasons are over-represented, may result in vulnerable employment. That is, the vulnerability of migrant workers is complex and constructed.

Recently arrived migrants have a much younger age profile compared to the established population, and youth has been identified as a factor in vulnerability by the TUC's Commission. In the LFS<sup>18</sup> among those arriving in the UK between 1997 and 2007, around four fifths were between the ages of 16 and 40, compared to two fifths in the entire sample and a quarter among those who came to the UK before 1997. One fifth of recent migrants were between 18 and 24 years. But those registered with the WRS from A8 countries had an even younger age profile than did recent migrants as a whole in the LFS: 18 – 24 year olds made up 43% of those registered in the WRS between January and September 2007. That is, a disproportionate number of migrants are likely to be young people.

Economic distribution of recent migrants was overall similar to that of the entire LFS sample – mainly in health and social work, manufacturing, real estate, renting and business activity, and wholesale, retail and motor trade sectors. There was however difference by migrants' regions of origin, with the largest proportion (30%) of migrants from A8 countries in manufacturing, those from African countries far more likely to be found in health and social work and those from South Asian countries more dispersed in economic sectors. There were also regional variations within the UK. In the West Midlands region for example nearly half of recent migrants in the LFS were in the manufacturing or health and social work sectors, and nearly two fifths of A8 migrants were in manufacturing.

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<sup>18</sup> Analysis of data is from the July –September quarter of the 2007 LFS, unless otherwise stated.

Importantly the largest proportion of recent migrants in the LFS (22%) were in elementary occupations (compared to 12% in the entire sample), and 10% were process, plant and machine operatives. Again there were important differences by region of origin, and the largest percentage of recent migrants from A8 countries were in elementary occupations – 37% - a larger proportion than from South Asian countries or African countries . Larger proportions of recent migrants from Other European, A8 and A2, countries were also in skilled trade occupations compared to those from African countries or South Asian countries. These patterns are broadly borne out in the WRS. Among workers registered between July 2004 and June 2007, the largest numbers were process operatives (other factory workers), followed by warehouse operatives, packers and kitchen and catering assistants (Home Office 2007b, p.15). However, see below for some caveats about this data.

### **Temporary work**

Given the TUC's recognition that precariousness and uncertainty increase workers' chances of being in vulnerable employment, we examined indicators of temporary work, including agency working. It is clear from the LFS data that a significant proportion of recent migrants are in temporary work. Eleven percent of recent migrants (12% of A8 nationals) who were employees said they were in work that was not permanent in some way. This compares with 6% of the entire LFS sample. Among respondents in the LFS who had left a paid job in the last 3 months or were not working and had left a job in the last 8 years, a larger proportion of recent migrants (10.4%) compared to the entire sample (6%) said they had left because a temporary job ended. Interestingly, there was little difference in proportions dismissed – 1.7% among recent migrants and a little higher (2%) among the entire sample. However, a fairly large proportion of recent migrants (22%) said they had left for (unspecified) reasons other than dismissal, redundancy, retirement, resignation, family or health. The percentage was much lower in the entire sample (8.4%). If we focus on respondents who were made redundant from their last job, a larger

proportion of recent migrants (46%) than those in the entire sample (33%) said they did not receive redundancy pay, pay in lieu of notice or any other kind of payment.

There is evidence from the LFS then, that recent migrants are more likely than others to be in temporary work. Furthermore, there are grounds for believing that the LFS significantly underestimates the numbers of migrants in temporary work. For example, of those applying for registration with the WRS between May 2004 and September 2007, 47% said they were in permanent work and 50% (364,820 out of 718,375) claimed to be in temporary employment.<sup>19</sup> This already suggests significantly greater numbers of A8 nationals in temporary employment than the LFS indicates (a population estimate of 168,640 out of 1,474,736 nationally). However, crucially the WRS data relies on workers defining themselves as temporary or permanent, and these definitions are likely to be influenced by the respondents' plans regarding length of stay in the UK at the time of answering the question. Of those describing themselves as having "permanent" jobs, 43% said that they were intending to stay for three months or less. That is, even though the WRS figures suggest that the LFS underestimates the numbers of A8 nationals in temporary work, the scale of that underestimation may be even greater than is suggested by the WRS figures. It is likely to be compounded by the LFS possibly under-sampling very recently arrived migrants who are mobile as discussed earlier – some of whom may of course intend to stay in the UK for a considerable length of time.

The extent of the LFS underestimation of proportions of migrants in temporary employment is further indicated when one examines particular sectors where temporary work proliferates. Agriculture is one such sector where a proportion of the work is seasonal and temporary. According to the LFS, for the period July to September 2007 1% of A8 nationals were working in agriculture compared to 11% of those applying to register in the WRS in the same period (and this figure is likely to miss large numbers of agency workers – see below). Even if one considers the manufacturing sector where substantial proportions of recent A8 migrants in the LFS were employed (30%), the proportion of those in temporary employment (10%) was not much

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<sup>19</sup> Data from FOI request

higher than in general, but according to WRS data 41% of those working in manufacturing described themselves as in temporary employment.

### **Agency working**

Unfortunately none of the smaller scale datasets collected data on whether migrants were in temporary or permanent employment. However there is information on numbers of workers employed by agencies. In the WMS 38% of A8 nationals (138/364) obtained their current job through a recruitment or employment agency in the UK and 68% of A2 nationals (27/43) obtained their current job through a recruitment or employment agency in their home countries. It is important to note that the question wording indicated gaining employment through agencies, not necessarily agencies as employers. While it is not representative, the TUC database records 34% of its sample as agency workers – i.e. is not dissimilar from the WMS which has attempted a ‘representative’ sampling in terms of nationalities of migrant workers.- As an indication of agency employment among recent migrants in the LFS, of recent migrants who were self-employed or not receiving wages directly from an employer 13% were paid by an agency. This compares with around 5% in the entire LFS sample. However, if we consider temporary workers, proportions of agency workers are much greater. Among recent migrants in the LFS who said they had a job that was not permanent in some way, 6.5% were in seasonal work and 30% were in agency work. Among recent migrants born in A8 countries in temporary work, a little over half were in agency temping (56.4%). In comparison in the entire LFS sample 17% of temporary workers were doing agency temping. In the West Midlands Government Office Region (GOR) the proportion of those from A8 countries in temporary employment doing agency work rises to 70%. Agency working among temporary workers seems to be an area for recent migrants that figures more prominently in the LFS than it does in the data collected by other, smaller surveys.

The WRS and other surveys give grounds for examining agency working among recent migrants in more detail. It is important to note that it is not possible to disaggregate agency workers

from those directly employed using WRS data. There is no question about agency working in the WRS form, and agency workers are recorded either as working in the particular sector where they are deployed (e.g. hospitality, agriculture) or subsumed under the heading “Administration, business and management”. However, this latter is the largest sector in the WRS (292,780 workers up to December 2007) and a footnote in the Accession Monitoring Report notes that it is predominantly comprised of agency workers (p.12). This is certainly the sector where those who currently state their intention to stay less than 3 months predominate and 60% of those working in the sector state this.<sup>20</sup> This compares with the second largest sector, hospitality and catering (136,875) – 39% intending to stay less than 3 months - and the third, agriculture (76,910 – and we have already observed this is a sector where temporary seasonal work is particularly prevalent) where 41% say they are intending to stay for less than 3 months. It is important to remember that not all A8 nationals are registered. The TUC data asks whether or not respondents have registered, and those who were not registered with the WRS were more likely to be working for an agency (46%) than those who were registered (32%).

As with temporary employment with agency working there are likely to be important differences by nationality/country of birth (which may in turn partly reflect length of stay). It does seem from the WMS data that A8 nationals are more likely than others to be in agency work (see above). For example 24% of South Asians (41/172) said they had obtained their current job through an agency – a lower proportion than A8 nationals (38%). In the LFS in the West Midlands GOR there were no recorded incidences of agency working among recent migrants from South Asian countries who were in temporary employment. The majority of workers listed by labour providers in the GLA database for the West Midlands and East of England were from A8 countries, mainly Poland.

The vulnerability of agency workers is indicated by the GLA report finding (Geddes et al 2007) that over 40% of GLA’s licenses are “conditional” because of poor employment practices.

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<sup>20</sup> Data from FOI request.



42% of all licensed labour providers at the point of analysis still had to meet additional conditions prior to being granted a full licence. The most common forms of noncompliance are: breaches in health and safety (including induction training and transport); improper deductions of wages: annual leave entitlements not being in place; lack of evidence that workers engaged in more than 48 hours of work per week had signed an opt out; not having a written contract.

### **Other indications of insecurity**

Another indicator of insecurity and uncertainty provided by smaller datasets is possession of a written contract. In the TUC survey a quarter of the sample of Polish workers said they did not have a written employment contract. More men (33%) than women (19%) tended not to have a written contract. Those with lower levels of education were also less likely to have a written contract (two out of three workers with a primary level education compared with just over a quarter of those with at least a secondary level of education). Only about a half of those who did not have a contract were registered on the WRS. A quarter of those giving information did not have a national insurance number and 10% said they were paid wages in cash. Those who did not have a written employment contract were also more likely to not have a national insurance number and to be paid by cash rather than directly into a bank account.

Among those seeking advice in the TUC, META and AFL databases, not having a written contract, dismissal with no notice and dismissal or fear of dismissal because of pregnancy were prominently mentioned. There were around 20 respondents in the TUC database (n=167) who had problems related to no contract, dismissal with no notice given, and dismissal or fear of dismissal because of pregnancy. For example, a male welder in a farm was fired while in hospital relating to a work injury. The agency did not want to cover his hospital treatment. Again, a male storekeeper, employed by an agency, was fired by text message after an average day's work. And a female care assistant, not in agency employment, who was 4 months pregnant received threats of firing and offensive comments by her employer.

There were around 13 cases about insecurity identified in the META database (number with relevant problems=57: see description of the dataset). Of these six were clear cases of unfair dismissal or threatened dismissal. For example, a Polish male dismissed from his job and did not get paid, a Polish female dismissed because of pregnancy, a Polish female dismissed without notice and a Portuguese male stating that there was segregation in his workplace and a threat of dismissal. There were two cases where workers did not have a contract, in one case, a Portuguese male, there were no payslips as well. In general there was considerable anxiety about leaving jobs and not having access to benefits and also about impact of pregnancy on work and entitlements.

In the AFL database around 21 queries were identified about insecurity (n=77). These included never having a contract (8 cases), dismissal without notice (8 cases) and dismissal or fear of dismissal because of pregnancy (5 cases). Some examples of other problems relating to insecurity were a Russian female whose employer refused to change work conditions affecting her health and threatened her, and a Polish female whose job description did not relate to actual tasks which involved caring for clients with difficult/violent behaviour. Her contract required her to perform this work for a minimum of 12 months.

There were about 17 records relating to insecurity in the E-MAC database (number with relevant problems=37; see description of the dataset), some also included issues around pay. Most were cases of unfair dismissal and harassment – for example a Polish male dismissed from his employment in a local hotel, and another Polish male who brought in a complaint of dismissal, withholding of sick pay and bullying at work. An issue raised by several women here as in the other databases was on maternity rights, but more to do with having to remind employers of their rights in this respect rather than direct infringement.

**Example relating to insecurity from AFL database:  
Latvian female**

**B** started work for a cleaning services company in January 2006.

In April 2006 she was dismissed by the company. She believes she was dismissed because she was pregnant.

The company said they had lost contracts so they had to lay her off, but she believes the company had obtained a new cleaning contract. No one else was laid off.

She went to an Advice Centre and they helped her write a letter to the company. She took her case to an employment tribunal but, withdrew at the last minute, possibly because she returned to Latvia.

**Key points**

- National patterns in the large scale datasets point to high incidences of temporary work and agency working (particularly for temporary workers) among recent migrants.
- WRS data suggest that LFS data significantly underestimates the numbers of migrants in temporary employment. The WRS figures themselves however are in turn likely to be an underestimation because they rely on a self-definition of permanent and temporary for a group of workers many of whom are only planning a temporary stay in the UK, or may be engaged in circular patterns of migration, moving between the UK and their home country.
- There are indications of high levels of temporary agency working in the West Midlands for workers from A8 countries from both large and smaller scale datasets. In general, country of birth/nationality and/or length of stay seems to be an important indicator of vulnerability in this respect at a regional level.
- The smaller scale datasets point to other indicators of insecurity, notably not having a written contract, among recent migrants. Less likelihood of having a written contract was found to relate to characteristics such as lower educational level. The problems identified in the small datasets showed a greater risk of vulnerability for particular

groups such as pregnant women, agency workers and those at lower occupational levels.

- There was evidence of a compounding of indications of insecurity for recent migrants, with for example the likelihood of not having a contract being linked with not being registered in the WRS for A8 nationals, not having a national insurance number and being paid in cash.

## **Hours**

Complaints about hours figure prominently in the smaller scale dataset drawn from advice agencies. However, data on hours from large datasets need to be interpreted with caution. Working excessive hours may be evidence of exploitation, low wages or insecurity, but equally it might be a result of a person's choice and desire to maximize income (and importantly of course for many a combination of the two). Working part time may be evidence of underemployment but might also be chosen to fit in with other commitments.

We examined problems relating to hours that workers sought advice about in the TUC Midlands database as well as the META, AFL and E-MAC databases from the East of England and East Midlands regions. As stated earlier, there was a preponderance of A8 workers, and particularly Polish workers, in all these databases. Very similar concerns were raised by workers seeking advice, across regions. Twelve cases about vulnerability in relation to hours identified in the TUC and META databases respectively included excessive hours, problems in getting time off or holiday leave, number of hours possible to work per week, breaks at work, number of days holiday entitlement, and being given time off or required to work additional hours without notice. There were also concerns related to pay and hours. One female chambermaid employed by an agency said that her manager does not count work hours according to timesheets provided by employees. A male worker in a food production company, also employed by an agency, said that apart from problems with calculating work hours, he also had problems with getting holiday leave and that his manager ignores complaints.

While complaints about hours, including excessive hours, figure prominently in some smaller datasets and in qualitative case study data, the complaints hedged under “hours” are extremely variable and it is not possible using our dataset to link this with the national picture drawn by the LFS/WRS.

According to the LFS recent migrants worked longer hours per week than the entire LFS sample both including and excluding overtime and taking into account both main and second jobs. For example 55% of recent migrants worked 31 to 48 hours and 15.4% worked more than 48 hours. The equivalent percentages in the entire sample were 48.3% and 13% respectively. Migrants from A8 countries were more likely than those from other country groups except Australia & New Zealand, to work between 31 and 48 hours in their main job excluding overtime. While migrants from USA & Canada were the most likely to work excessive hours (more than 48) excluding overtime, followed by those from A2 and Other European countries, it needs to be borne in mind that even though they worked longer hours, migrants from the USA & Canada were far more likely to be in higher managerial and professional occupations and far less likely to be in elementary occupations than migrants from A8, A2 and Other European countries. Recent migrants were slightly less likely than the main LFS sample to say that they tend to work variable weekly hours. But again this varied by country of origin, and over half of A2 and Other European migrants respectively said that their weekly hours tended to vary.

Among the recent migrants in the LFS, those who were in work that was temporary were less likely to work “standard” hours (31-48 hours a week) than those in permanent jobs – 61.3% compared to 73.4%. Those in temporary work were not much more likely than those in permanent work to do excessive hours, but they were more likely to work fewer than 31 hours per week – 31% compared to 19%. There was a similar pattern in the entire LFS sample. If we look at A8 recent migrants we can see that the relationship between temporary work and fewer hours than standard remains: 19% in temporary work did fewer than 31 hours compared to 9% of those in permanent work. In the WRS where hour bands are categorized slightly differently,

we can still see that between May 2004 and September 2007, a fairly substantial proportion of A8 migrants (16.5%) worked fewer than 30 hours a week.<sup>21</sup>

Working shorter hours may be an indication of under-employment for some recent migrant categories, particularly for those who are young, single, and less likely to have family responsibilities. We have seen that the recent migrants in the LFS have a younger age structure than the entire sample. Around half of the recent migrants were single, never married. Women were more than twice as likely as men to work part time (27% compared to 12%) and far more likely than men to say that this was because they did not want a full time job (60% compared to 21%). Therefore if we consider men only, it can be seen that recent migrants from some country groups such as Other Europe (excluding EEA) (27%) and A2 (11.5%) were more likely than those from Australia & New Zealand (4%) and USA & Canada (8%), to work less than 31 hours per week in their main job excluding overtime. Given the evidence that the former migrants are more likely than the latter to be in lower occupational levels as well (see above), this possible (relative) under-employment could be an indication of migrant workers' vulnerability in employment.

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<sup>21</sup> Data from FOI request

**Table 2**

**Usual hours worked per week excluding overtime – West Midlands**

	<b>Less than 31 hours</b>	<b>31 – 48 hours</b>	<b>More than 48 hours</b>
<b>1) LFS JS 07 West Midlands GOR</b>			
<b>All recent migrants (entry to UK 1997 – 2007)</b>	20,651/105,953 (19.5%)	76,353/105,953 (72%)	8,949/105,953 (8.4%)
<b>Recent migrants - Polish</b>	558/19,300 (3%)	15,944/19,300 (82.6%)	2998/19,300 (14.5%)
<b>Recent migrants - A8 (including Polish)</b>	1651/29,912 (5.5%)	23,602/29,912 (79%)	4659/29,912 (15.6%)
<b>Migrants arriving before 1997</b>	25,382/106,961 (24%)	77,194/106,961 (72%)	4385/106,961 (4%)
<b>Entire sample</b>	677,943/2,416,913 (28%)	1,572,753/2,416,913 (65%)	166,217/2,416,913 (7%)
<b>2) TUC Midlands – all Polish nationals</b>	11/27 (41%)	16/27 (59%)	0
<b>3) West Midlands</b>			
<b>Polish nationals</b>	21/300 (7%)	231/300 (77%)	48/300 (16%)
<b>A8 nationals</b>	27/361 (8%)	275/361 (76%)	59/361 (16%)

LFS numbers are population estimates for the region. Cell totals are of those responding to the question of weekly usual hours worked excluding overtime.

WRS data not depicted in the table because hour bands relating to data made available to us were different.

From this table it seems that while recent migrants are significantly more likely to work non-standard hours (less than 31 hours or more than 48 hours), the difference between migrants and the general population decreases with length of stay, with the hours of those arriving before 1997 being closer to the sample as a whole. However it is also clear that there are important differences between A8 nationals and others, with recent entrants from A8 states nearly twice as likely to work more than 48 hours, and nearly four times less likely to work less than 31 hours.

There were also differences according to nationality for migrant workers surveyed in the WMS, which broadly supports LFS data. 15% of migrant workers (excluding students) from A8 countries compared to 5% from South Asian countries worked more than 48 hours per week,<sup>22</sup> but there were proportionately more South Asian nationals than A8 nationals working fewer than 31 hours per week (27% compared to 7%). Similarly, among recent migrants in the LFS, 28% of South Asians worked fewer than 31 hours compared to 12% of workers from A8 countries. In the WMS these patterns need to be seen in the context of South Asian migrants being more established migrants (just under a quarter compared to 4% of A8 nationals arrived in the UK before 2004) and more likely to be in higher level occupations (e.g. just over 50% of the Polish migrants were in elementary occupations compared to 27% of Indians). Migrants who were more fluent in speaking, understanding and writing English were also more likely to work fewer hours and less likely to work excessive hours. Both in the WMS and TUC surveys men were more likely than women to work more than 48 hours per week, whereas women were more likely than men to work shorter non-standard hours (less than 31 hours per week).

Moreover, in the LFS recent migrants were more likely than the total sample to do shift work (23.6% compared to 14%), to always do nightshifts (11.7% compared with 8.7%) and to usually work on Saturdays (33% compared to 27%) and Sundays (24.4% compared to 17.8%).<sup>23</sup>

Proportionately more recent migrants in the LFS than the entire sample did not receive any

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<sup>22</sup> There was no information about overtime in the WMS.

<sup>23</sup> These analyses are from the April – June quarter of the 2007 LFS as the variables do not appear in the July – September quarter.



days of paid holiday – 4.7% compared to 3.3%. The proportion of trade union members among recent migrants was less than half that among the entire sample – 12.2% compared with 25.4%. A far higher percentage of recent migrants (81%) in the LFS compared to the entire sample (65%) said that their pay and conditions were not affected by agreements between trade unions and employers.<sup>24</sup> This varied significantly by country of origin, which is in turn related to sector. Only 3.1% of Poles were trades union members in stark contrast to Filipinos and Indians for example (many of whom work in the public sector).

### **Key points**

- There is significant evidence of non-standard hours of work among recent migrants, in both larger scale national datasets and smaller scale regional datasets. This appears to indicate patterns of both excessive hours of work and under-employment not from choice at lower occupational levels, as well as shift and unsocial patterns of work.
- Recent migrants' patterns of hours of work were found to vary according to both nationality and length of stay, and this was particularly the case in the data from West Midlands region, with A8 and A2 migrants who were more recently arrived showing the greatest evidence of vulnerability in this respect.
- The data on problems experienced by recent migrants revealed considerable anxiety relating to excessive hours as well as employer demand for less work than expected and holiday entitlements not being honoured by employers.

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<sup>24</sup> These analyses are from the October - December quarter of the 2007 LFS as the variables do not appear in the July – September quarter.

## Pay

We took low pay, and specifically pay below the minimum wage as an indication of vulnerable employment. For the period 1<sup>st</sup> October 2006 to 30<sup>th</sup> September 2007 minimum wage bands comprise development rates of £3.30 - £4.44 for 16 to 17 year olds and £4.45 – £5.34 for 18 to 21 year olds, and the national minimum wage of £5.35 for those over age 21.<sup>25</sup> It should be emphasized that we have not allowed for the accommodation offset<sup>26</sup> or excluded au pairs or nannies who are not entitled to the minimum wage if they genuinely live as part of the family in these figures. However, we are looking at evidence of vulnerability, and that those who are in employer provided accommodation are likely to be particularly vulnerable (see below).

In the TUC database, around 15 cases revolved around problems relating to pay. These were mainly about non-payment of salary for certain periods or full amount not paid, not paid for holidays and payment below the minimum wage. Examples include a male helper in a restaurant kitchen who was not paid because his manager claims that he is not on the computer system, a male storekeeper working in a car parts manufacturing firm, employed by an agency, whose salary is often lower than hours worked, a female care assistant who found that on various occasions a percentage of her salary was deducted for no reason and a male floor/checkout operator in a supermarket who was not paid for overtime. Similarly the META, E-MAC and AFL databases include cases (around 56 altogether) of employers withholding and delaying pay and of workers being paid below the minimum wage, not being given wage slips, not receiving statutory entitlements such as holiday and sick pay. In addition in the E-MAC database, in many cases (mostly Polish clients), issues were to do with agencies and employers not automatically recognising migrant workers' employment rights and needing to be reminded – for instance a male Polish worker with damage to a finger as a result of an industrial injury

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<sup>25</sup> See HM Revenue and Customs: [http://www.hmrc.gov.uk/nmw/archived\\_rates.htm](http://www.hmrc.gov.uk/nmw/archived_rates.htm)

<sup>26</sup> Under the national minimum wage legislation, the provision of accommodation by the employer can count towards a worker's national minimum wage pay. There is however a limit to the amount that an employer providing accommodation can count towards national minimum wage pay. That limit is called "the accommodation offset".

was seeking sick pay from his employer; a Polish woman was seeking sickness entitlement; and at least five cases where workers did not receive a P45 form on leaving employment.

**Example case study from AFL database: Lithuanian female**

A started work for an agency in April 2006.  
Her normal hours of work were between 8.30-9am and 2-3pm, Monday to Saturday.  
She was paid £4.00 per hour, which was £1.05p per hour less than the minimum wage at the time.  
During her notice week she was paid £2.60p per hour, which was £2.45p less than the minimum wage at the time.  
She received no pay for her final week's work.  
The employer also deducted two payments of £25 from 2 days pay.  
She was not given or paid for, any holidays.  
No pay slips.  
She gave a weeks notice and left the job a week later.  
She sent a detailed letter to the employer raising these issues. He responded denying her claims by letter 4 months later.  
She sought advice on her legal rights but for an unknown reason did not go ahead with a tribunal claim.

18.4% workers in the TUC sample over age 21 giving both income and age information said they received less than the minimum wage (£5.35). These workers were predominantly in the lower end of the occupational structure, in personal service, customer service, elementary and process, plant and machine operative jobs, as we have found at a national level in the LFS and the WRS. Specific jobs included cleaner, care assistant, chef, checkout operator, lift operator, housekeeper, scanning operative. Women were more likely than men to get less than the minimum wage. The jobs that the women were in generally were far more likely than those of men to be personal service, customer service and elementary service occupations – 70% among women compared to 40% among men. Interestingly, although women were more likely than men to be paid below the minimum wage, men were far more likely to come in with a problem to do with pay in META and AFL.

According to these smaller scale datasets payment below the minimum wage is a problem that has been identified, but of course these datasets are not representative. The analysis of the GLA database which consists entirely of agencies, shows that apparently none of the labour providers in West Midlands and East of England applying to register with the GLA said they paid adult workers less than the minimum wage applicable at the time they applied. However, it is particularly striking that in the WMS dataset which is closer to the LFS in terms of country of birth/nationality groups sampled, substantial numbers of migrants over age 21 appeared to get paid less than the full minimum wage. Forty four per cent of migrants between 22 and 25 years of age and 29% between 31 and 35 years of age were paid below the minimum wage (not accounting for the accommodation offset). This is a much higher proportion than the LFS which found that 19.5% of recent migrants over age 21 in the West Midlands Government Office Region received less than the adult minimum wage of £5.35 (see Table 3). This is not dissimilar from the non-representative TUC sample (20%). However it should be noted that the LFS percentage for recent migrants getting lower than the minimum wage is much higher than the 9% in the entire sample, but that the difference seems to decline with length of stay. At the same time, Table 3 shows that as far as specifically A8 migrants are concerned, similar proportions in the LFS West Midlands GOR and in the WMS (around 37%) got less than the minimum wage.

The WRS data has 417 A8 nationals who registered in the West Midlands being paid below £5.35. The WMS found 97 individuals who were paid below the minimum in its sampling frame. This is surprisingly high given the respective totals of the LFS and WRS (see Table 3) – which, as set out at the start of this report – are significantly more pessimistic with respect to pay data than the robust ASHE results.

**Table 3**

**Hourly pay for those aged over 21 – West Midlands**

	<b>Less than £5.35</b>
<b>1) LFS JS 07 West Midlands GOR</b>	
<b>All recent migrants (entry to UK 1997 – 2007)</b>	16,645/85,141 (19.5%)
<b>Recent migrants - Polish</b>	1,564/7,230 (21.6%)
<b>Recent migrants - A8 including Polish</b>	8,104/22,199 (36.5%)
<b>All migrants arriving before 1997</b>	15,322/91,204 (16.8%)
<b>Entire sample</b>	179,203/1,974,776 (9%)
<b>2) TUC Midlands – all Polish nationals</b>	15/76 (20%)
<b>3) West Midlands</b>	
<b>Polish nationals</b>	97/255 (38%)
<b>A8 nationals</b>	90/244 (37%)

LFS numbers are population estimates. Cell totals are of those responding to the question on hourly pay. The UK Statistics Agency (formerly ONS) Annual Survey of Hours and Earnings (ASHE) yields more reliable results, but this survey of employers could not be used for our analysis as it does not allow us to identify migrant workers. The most important finding from the LFS analysis is therefore the extremely low pay of new migrants relative to other groups of employees.

WRS not included because we have no information about pay by age for minimum wage age bands.

In fact the WMS data for over 21 year olds generally are more similar to LFS data for recent migrants who are aged 16-17. Among recent migrants in the LFS, 47.4% (i.e. nearly 50%) of 16 – 17 year olds received less than the minimum wage (£3.30) for their age band compared with nearly half this proportion (24.8%) of 16 - 17 years olds getting the minimum wage in the entire LFS sample. Further, 36% of recent migrants aged 18 – 21 in the LFS got less than the minimum wage (£4.45) for their age band compared to half this proportion (18%) among 18 – 21 year olds in the entire LFS sample. This appears to be a clear indication of young migrant workers being in a more vulnerable employment situation than those of similar ages in the whole population.

Importantly region of origin may be a factor here, as recent migrants between the ages of 16 and 21 in the East of England were more likely to be from A8 countries (38%) followed by African countries (35%). They were also more likely to be female (57%) – a trend which is replicated, although less pronounced, nationally (51.3%). According to the LFS those from A8, A2 and Other European countries (excluding EEA) were more likely than migrants from countries like Australia and New Zealand, and USA and Canada to receive less than the minimum wage. The LFS analysis also shows that recently arrived migrant women are less likely than recently arrived migrant men to receive the minimum wage, with women around 1.5 times more likely than men to face underpayment.

WMS data suggests a difference by country of origin, and of the two largest national groups Polish and Indian, Polish workers were more likely to get less than the minimum wage – of those aged 22 and over, 80% of Indians compared to 63% of Polish workers got at least the minimum wage. In part this may be explained by levels of English language proficiency, which were higher among Indians compared to Polish workers, as those over age 21 with higher levels of proficiency in speaking, understanding and writing English were more likely to get above the minimum wage. However migrants from African countries were the most likely to get below the minimum adult wage, and this did not appear to be related to English proficiency as levels of English fluency were highest among migrants from African countries. It could be that race discrimination plays a part but we do not have evidence from the survey to explore

this further. Sector is also of relevance. Among those giving occupational and income information it seems that those working in hospitality and service occupations in both TUC and WMS, and those in agriculture in WMS were more likely to get less than the minimum wage. These findings mirror results at a national level. In the LFS, those in 'migrant dense' sectors such as hotels and restaurants and construction were more likely than those in for example financial and real estate to receive less than the minimum wage.

While overall the LFS (which is recognised to be pessimistic in its pay estimates, and may therefore over-estimate the numbers of workers underpaid within its sample) suggests that payment below the minimum wage is less of a problem than indicated by the smaller datasets, WRS data is even more surprising. WRS data for January-Sept 2007 gives a total of 157,410 new registrations between January and September 2007, of which 5,655 reported being paid under £5.35 an hour (i.e. 3.6%)<sup>27</sup>. This percentage appears to considerably under-estimate the incidence of under-payment as suggested by the LFS and the WMS. The WRS data is not directly comparable with the LFS, not least because it gives pay on registration i.e. shortly after entry into the formal UK labour market. One might expect then that migrants included in the WRS data are more likely to be paid lower wages since the majority will only recently have started working in the UK. Indeed in WMS there was evidence that more recently arrived migrants were more likely to receive less than the minimum wage. Moreover every month the Low Pay Commission selects 15 employers from the WRS on the basis of a risk assessment, and between November 2004 and December 2006, 20% of those selected were found to be noncompliant with minimum wage legislation and arrears of £144,000 were identified for 1,171 workers (National Minimum Wage Low Pay Commission Report 2007).

### **Key points**

- There is widespread evidence of recent migrants getting less than the minimum wage equivalent to their age bands, both in the national and smaller scale regional

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<sup>27</sup> We were not given the data to disaggregate pay in the WRS by age.

datasets. Smaller datasets suggest some under-estimation of the extent of under-payment in the larger scale data, which could point to sampling difficulties with larger datasets, or be a consequence of the unrepresentative nature of the smaller surveys.

- The likelihood of getting paid less than the minimum wage was greater for younger migrants, those from A8 and A2 countries, those with lower levels of English proficiency, women and those in more 'migrant dense' sectors such as hospitality, agriculture and construction. Given that large proportions of migrant workers fall into these categories, these patterns reinforce their vulnerability in employment.
- Fears of migrant workers or threats from employers about inadequate payment for work done, were strongly represented among problems migrants were seeking advice about in the regional case study data.

## **Kalayaan**

In this section we will explore indicators and experience of vulnerable employment for domestic workers by examining a database of migrant domestic workers as described earlier. This is a category of workers who are particularly vulnerable not only for reasons to do with gender and immigration status but because of their work site, the private household. Employers can exercise – and abuse – a great deal of power over workers, particularly when, as with the majority of our sample, they live in the employer's home. The nature of the relationship between employer and worker, where the separation between work and personal life may be blurred for both parties gives rise to particular difficulties. These both derive from and are compounded by the site of work an intimate domestic setting appeared to have led in some cases to extreme 'imbalance of power in the employer-worker relationship', which is part



of the definition of vulnerable employment. It is important to remember that Kalayaan only deals with a very specific group of domestic workers, those entering the UK on domestic worker visas (i.e. accompanying wealthy employers). Migrants on many other visas (au pairs, student, working holidaymaker, spouse etc) and those who are overstayers or working in breach of conditions are also working in this sector. It is moreover a sector that is likely to grow, particularly in the light of other government policies such as direct payments for care for the elderly.

Employers who bring domestic workers come from many different countries, over half from Middle Eastern countries, but British, Indian and Pakistani employers are also significant proportions.

**Table 4**

**Selected indicators of vulnerable employment among migrant domestic workers registered with Kalayaan**

<b>Indicators of vulnerable employment</b>	<b>Extent of vulnerable employment (total sample size= 687)*</b>
Work 9 or more hours a day	94.3%
Mean number of hours per day worked	16
Earn less than £500 per month <sup>28</sup>	84%
Mean monthly salary	£297
% stating physical assault	22.5%
% stating psychological abuse	66%
% not allowed out	60%
% not getting time off	66%
% not getting regular food	34.7%
% not getting meal breaks	59%
% not having own bed	36%

\*Total sample size before missing values for particular variables taken out.

Working excessive hours appeared to be the norm among the domestic workers. 94.3% said that they typically worked 9 or more hours a day – that is, more than the hours relating to a full time job. The largest single proportion (14.5%) said they worked 18 hours a day. The mean

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<sup>28</sup> Only monthly data provided in the database. £500 is approximately half of anticipated monthly pay if a maximum 48 hour week at the minimum wage of £5.35 is considered. For conditions of the European working time regulations, see <http://www.berr.gov.uk/employment/employment-legislation/working-time-regs/index.html>

number of hours of work a day was 16. This pattern of work would clearly allow the workers only around 8 hours of rest per day, including time for sleep. Most had no time off during the week, and no daily breaks.

The majority (84%) said they earned less than £500 per month, and 9 workers said they did not receive any wages. The mean monthly salary was £297. If translated to an hourly rate and taking into account the large number of hours worked by most, this would clearly amount to substantially less than the minimum wage. While some employers have tried in the past to argue that the minimum wage is not applicable to migrant domestic workers because they are treated as “part of the family” the living and working conditions contradict such suppositions of affection.

If we look at indications of forced labour linked with live-in domestic work, we can clearly see patterns of vulnerability. Nearly one quarter of workers in the database said they had experienced physical assault. Kalayaan reports that workers are beaten as punishment or as a response to asking for salary due. Punishments for cooking “mistakes” include employers burning hands on the (Kalayaan, 2008). Women and children are frequently the perpetrators of physical abuse, beating and slapping their workers. 66% said they had been psychologically abused including racist abuse and threats to harm themselves or their families.

Most of these patterns did not differ significantly according to workers’ nationality, except in relation to regular food, where around half of Filipino domestic workers said they were denied this compared to around a third of Indians and 29% of Sri Lankans. On the other hand 70% of Filipinos said they had their own bed compared to 50% of Indians. There were no substantial differences by nationality relating to hours worked. More than 90% in each of the largest national groups – Indian, Filipino and Sri Lankan – said they worked 9 hours or more a day. There were also no substantial differences in hours worked by employers’ nationality. In terms of pay as well there were no substantial differences by workers’ nationality: the majority in the main national groups earned less than £500 per month. Numbers of respondents giving details of employer nationality in relation to pay were too small to discern clear cut patterns.

There were some gender differences, with overall women appearing to be more vulnerable than men with reference to some indicators – for instance, men were more likely to be allowed out ( 47% compared to 39% of women), allowed regular food (79% compared to 62% of women) and have their own bed (68% compared to 59% of women). Interestingly, there were no significant gender differences in the reporting of sexual harassment. Overall, however, taken together with the evidence on hours and pay above, these indicators suggest that female migrant domestic workers are likely to suffer extreme conditions of vulnerable employment. There were gender differences in both hours and pay. Female domestic workers tended to work longer hours while getting paid less, although differences were greater in relation to pay than hours: 95% of women worked 9 or more hours per day compared to 89% of men; and nearly a quarter of men earned between £500 and £1000 per month compared to just under 10% of women.

### **Accommodation**

The most visible factor influencing vulnerability for migrant domestic workers in the Kalayaan dataset was the dependence on an employer for accommodation. Indeed for many workers the home seems to virtually function as a prison, and 60% of the respondents were not allowed out of the employers' household (though sometimes exceptions are made if the worker is accompanied). Dependence for accommodation means that the migrant is not only dependent on the employer for shelter but for other basic necessities: food, bathing facilities, and the chance to communicate with others. All of these were often rigidly controlled. Nearly thirty five percent of the respondents said they did not get regular food. Private space was also denied to many of the workers: just over half (51%) were not given their own room but expected to sleep in a corridor, kitchen, with children or in other communal space, and over a third (36%) said they did not even have a bed to themselves.

Accommodation is more generally an important factor in both understanding the demand for labour and the vulnerability of certain groups of workers. Employers sometimes require or prefer workers to live on site for reasons of availability – or because housing is simply not available for them otherwise (the housing of agricultural workers is an example of this). Research has found that employer provided accommodation can give rise to serious problems and abuses (Anderson and Rogaly 2005).

Seventy per cent of recent migrants in the LFS lived in rented accommodation compared with just over a quarter both in the entire LFS sample and among longer established migrants. Recent migrants were more than three times as likely as more established migrants or the entire LFS sample to be living in households with unrelated people. This clearly relates to patterns of living associated with migration in its early stages or its temporary nature. According to the LFS recent migrants are also more likely than others to live in tied accommodation (2.5% as compared with 0.4% in the entire sample). This proportion was a little higher among recent migrants living in rented accommodation or rent-free in the Eastern region for example, 12% with accommodation tied to a job and 7% in housing provided by their employing organisation, likely to be because of the importance of the agricultural sector in the region. However, the LFS, as predominantly a survey of private households, is likely to be under sampling those who are living under more unusual accommodation arrangements.<sup>29</sup> Moreover there is evidence that some migrants are living in accommodation provided by labour agencies, which potentially carries with it similar problems to those living in tied accommodation (compounded by possible reliance on agencies for transport to jobs) but is less likely to be picked up without specialised research. In the GLA database 7.5% of labour providers in the West Midlands and East of England regions said they provided their workers with accommodation. Of the 29 out of 346 labour providers who answered the question on accommodation charges, 20 said that charges were deducted from workers' pay.

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<sup>29</sup> 99% of the LFS sample is made up of private households. Information about students living in halls of residence is collected from their parents' households and people living in NHS accommodation are sampled from a list of such accommodation. <http://www.statistics.gov.uk/StatBase/Source.asp?vlnk=358&More=Y>

In the WMS only 3% were in an employer provided flat or house and 5% were in a dormitory or other communal accommodation provided by their employer. A2 nationals were the most likely to be in communal housing provided by employers – around a quarter. 26% of the WMS sample shared their accommodation with 4 or more people who were not family. This level of multiple occupancy was more likely among A2 and Other European nationals. Two fifths of A2 nationals and nearly 60% of Other European nationals were living in caravans, although these proportions need to be interpreted with caution because of small numbers.

## **Conclusion**

We have examined the LFS and WRS and compared them both with each other and with smaller datasets. From this comparison it seems that the scale of under-reporting of temporary work in the LFS for A8 nationals is significant, though an estimation of the scale would require a more sophisticated analysis that unfortunately the timeframe of this project did not permit. The WRS indicates that a substantial proportion of A8 nationals are in fact in temporary work, and there are indeed some indications that the WRS in turn is under-estimating the numbers of A8 nationals in temporary employment. For both this is partly to do with the nature of the sampling, but it is also to do with a broader problem of self-definition, and the likelihood that some migrants, particularly younger people, may be framing their responses from the position of people who, at the time of answering the question, are not imagining themselves as permanent residents. There further seems to be under reporting of agency working. It seems that a combination of questionnaire design and data entry make it extremely difficult to extract firm figures about agency working from WRS data.

There are high proportions of migrants working non-standard hours, and this seems to be in part related to length of stay. While it is difficult to draw conclusions from large scale datasets, about the relation between working non-standard hours and vulnerable employment, the

smaller datasets suggest that migrants are anxious about hours and insecurity – that is, there are some grounds for believing that it is by no means always a matter of “choice”, but of excessive hours and underemployment. Notably one of the main reasons for GLA providing only provisional licenses was agency workers working over 48 hours a week without signing an opt out.

Pay below the minimum wage is a significant problem and is underestimated in the LFS. Given sampling of WMS the *number* of Polish workers that they accessed not being paid the national minimum wage is very high in relation to the LFS anticipated overall total for the region. WMS data also suggests problems with WRS. However, it is clear from the LFS that young migrants are particularly poorly paid – even according to WRS.

Apart from age, particular factors influencing vulnerability include gender (and possibly life cycle stage), country of origin/nationality, sector, occupational level and the nature of the workplace. Often these factors interact with each other to produce even greater vulnerability, and this is shown in a heightened way in the smaller scale datasets. For instance, we saw in the TUC survey that women were more likely than men to get less than the minimum wage and were more likely than men to be in low level personal service and elementary service occupations. There were also significant instances of the vulnerability of women workers coming to META, AFL etc with threats and fears of being sacked because they were pregnant. In the Kalayaan data, the importance of gender is more forcibly evident, as female domestic workers were not only more likely than men to be worse off in terms of indicators such as pay and hours, but were also more likely to be physically incarcerated and suffer deprivation – that is, to experience extreme vulnerability. On the other hand, results from the LFS suggest that for some women migrants at particular life cycle stages working shorter hours may arise from choice rather than under-employment.

Countries that migrant workers come from were seen to have a strong relationship with the extent of vulnerability in employment in both larger and small datasets. Workers from A8, A2 and Other European countries were generally worse off in terms of pay, hours and insecurity

than the other larger category of recent migrants, those from South Asian countries. However, we have also seen that part of the difference between these categories also relate to length of stay, as generally migrants from South Asian countries have arrived in the UK earlier. Other mediating factors in relation to countries of origin include economic sectors, occupational levels, agency working, temporary work and English proficiency.

Finally, the Kalayaan data brings out the importance of the nature of the workplace in influencing vulnerability in employment for migrant workers. Given that domestic work in the UK is a sector where migrant workers more than workers generally are likely to be found, the lack of a clear distinction between work and non-work, the close proximity and intimate nature of interaction between employers and workers, and the lesser likelihood than in other workplaces that employee and immigration rights are recognised, enables a context where employers could exert the maximum 'imbalance of power in the employer-worker relationship.'

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