



House of Commons  
Environment, Food and Rural  
Affairs Committee

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**Gangmasters**

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**Fourteenth Report of Session 2002–  
2003**





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2003**

*Report, together with formal minutes, oral and  
written evidence*

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### **Committee staff**

The current staff of the Committee are Gavin Devine (Clerk), Tim Jarvis (Second Clerk), Richard Kelly and Dr Kate Trumper (Committee Specialists), Mark Oxborough and Louise Combs (Committee Assistants), and Anne Woolhouse (Secretary).

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## Summary

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The term gangmaster describes somebody who provides 'gangs' of casual labour to the agriculture and horticulture industry. Many gangmasters operate within the law; clearly there are many who do not. We were very disappointed to find that six years after setting up an inter-departmental working party on the issue, the Government appears to be no nearer to establishing the numbers in either category.

We conclude that the Government has failed to confront the problems in the industry. Enforcement of existing legislation is perfunctory and uncoordinated. We were singularly unimpressed by the evidence from Operation Gangmaster, the Government's cross-departmental enforcement body. The enforcement agencies are insufficiently resourced and lack the political backing to make a significant impact on illegal activity within the agriculture and horticulture labour market.

We also conclude that the decline in the supply of casual labour in rural areas and the relationships between the supermarkets and their suppliers are significant contributory factors to the problem. There are issues which require a cross-departmental response. The Government should establish a mechanism by which different Departments can work together to develop appropriate policy solutions. We make a number of suggestions for such solutions based on the evidence received during the course of our inquiry.

Underpinning the way labour is organised is the desire to ensure that fresh produce reaches our tables at the cheapest price. Our evidence suggests that meeting that desire is not without cost. The Government and the industry must now confront these issues if we are to be convinced that abuses of casual labour in rural areas are not an integral and unavoidable consequence of the way the food chain is currently structured and regulated.



# 1 Introduction

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## What is a gangmaster?

1. The agriculture and horticulture industries have used gangs of casual workers to meet irregular demand for labour since the early nineteenth century. The term gangmaster was traditionally used to describe the self-appointed manager who took charge of a gang of workers. The Agricultural Gangs Act of 1867 defined a gangmaster as a person “who hires Children, Young Persons, or Women with a view to their being employed in Agricultural Labour on Lands not in his own Occupation”. The gangmaster negotiated directly with the farmer over payment for the work required. His profits were usually made by taking piecework from the farmer and paying wages to the workers in the gang.

2. The term gangmaster continues to be used to describe an individual who supplies casual labour to the agriculture and horticulture industry.<sup>1</sup> There is no surviving legal definition of a gangmaster and the distinction between a gangmaster and what would generally now be described as an employment agency is not entirely clear. The term is used to describe a wide range of businesses. Some self-described gangmasters have high-street offices and supply casual labour to other industries, such as factories and warehouses. These include a few large organisations supplying hundreds of workers on a daily basis and with turnovers of millions of pounds.<sup>2</sup> Similarly, others operate on a less formal basis, relying on personal connections and word of mouth.

## Changes in the supply of and demand for casual labour

3. Although it is clear that the use of gangmasters in the agricultural sector is not new, there is evidence to suggest that the demand for labour has changed over the last twenty years, and the supply of workers to meet it has changed accordingly. We recognise the importance to the viability of the agriculture and horticulture industry of a flexible supply of labour throughout the year, especially in the light of greater calls for supply flexibility from the supermarkets.

4. The relationship between supermarkets, their customers and their suppliers is a key factor in the change in demand for labour. Over time supermarkets have stopped using wholesale markets and have begun to buy directly from suppliers, reducing the number of suppliers with which they contract over time. Consumers now demand cleaned and packed salads, fruit and vegetables. The supermarkets which sell this ready-packed produce are now open seven days a week most days of the year. The growing season has also been extended as a result of changes in plant breeding methods.

5. The net effect of these changes has been that the work required to provide fresh produce to supermarkets has changed over the last twenty years. It is less dependent on the seasons and is not confined to day-time work picking vegetables. As a result, what was once work that suited second earners in families, usually women in rural areas who could combine the

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<sup>1</sup> In some parts of the country, we were told that the term ‘ganger’ is used. The terms appear to be interchangeable.

<sup>2</sup> Ev 66, para. 2

hours with family responsibilities, became less attractive to those who had traditionally carried it out. Other factors, such as increasing car use, meant that more attractive jobs, often in the supermarkets themselves, became available to those who had traditionally provided the main source of gang labour. Students, another source of gang labour, also began to find more attractive temporary jobs in the expanding service sector.

6. Packhouses require a supply of labour, sometimes twenty-four hours per day, and for most of the year. Local communities can no longer supply the volume of labour and flexibility of labour required. This has led to workers being brought in from large towns and cities, and increasingly from abroad, to meet the shortfall. The work of the gangmasters has had to change as a result.

#### **The role of the gangmaster**

Gangmasters play an essential role in the supply of fresh produce. In a typical scenario a supermarket ordering system will identify an increase in demand for a particular product. For example, the demand for salad items increases during spells of hot weather and the supermarket may be running low on its supply of prepared and packed lettuce. The supermarket then places an order with one of its suppliers to provide the required number of bags of lettuce.

In this scenario, the packhouse which will fulfil the order identifies that it needs 30 staff for one day's work to pack the number of bags requested by the supermarket. The packhouse owner will contact a local gangmaster and negotiate a fixed fee to provide the necessary labour. The gangmaster will contact potential workers from a pool of contacts. He will contact each worker and make arrangements to transport them to the packhouse. These people will be directly employed by the gangmaster who is responsible for operating a PAYE system and ensuring that the terms and conditions which he provides comply with the relevant employment legislation.

It is not uncommon for the provision of labour to be sub-contracted further. For example, if the gangmaster in this scenario only has 18 people available to work at short notice, he may sub-contract with another gangmaster or gangmasters to provide the other 12 workers required. The relationship between the original gangmaster and the gangmasters to whom he sub-contracts the supply of the additional labour will be similar to that between the lettuce producer and the first gangmaster. That is, the first gangmaster will pay a fixed price to the subsequent gangmaster to provide the necessary labour. The first gangmaster will probably take a cut. The responsibility for the terms and conditions of the extra workers falls to the second gangmaster.

In some cases such a scenario will involve a number of sub-contracting exercises. Thus the link between the product supplier and the labour employed may be three or four contractual relationships removed.

## **Our inquiry**

7. There have been longstanding concerns that some gangmasters are engaged in illegal activity ranging from non-payment of taxes and National Insurance, to recruiting people from abroad who are working in the United Kingdom illegally. Sir Richard Body, former MP for Boston and Skegness, repeatedly highlighted criminal activities by certain gangmasters in his constituency. In an adjournment debate in 1997, he described abuses by gangmasters and intimidation of those who spoke out against them.<sup>3</sup> Similarly, an investigation for the BBC's Panorama programme in June 2000 also raised awareness of the problems and particularly the conditions in which workers were being housed.

<sup>3</sup> HC Deb 21 May 1997 cc 677-684

8. Recent anecdotal evidence passed to members of the Committee suggested that these problems are getting worse. We therefore decided to examine the extent of the problems and the Government response to them. The terms of reference of our inquiry were:

“The Committee will examine the activities of ‘gangmasters’ in the agricultural and horticultural industries. It will in particular consider the activities of some gangmasters in employing illegal immigrants and benefit claimants, and who flout the Working Time Directive and the National Minimum Wage. The impact of illegal activities on:

- legitimate gangmasters;
- farmers and other hirers;
- the competitiveness and viability of certain agricultural practices; and
- supermarkets and other retailers will also be considered.

The Committee will also look at what might be done to combat illegal activity by gangmasters, and to improve the lot of casual workers”<sup>4</sup>

9. We received written evidence from 17 individuals and organisations. We took oral evidence between May and June 2003 from a range of organisations including the principal trades union; the Fresh Produce Consortium; the main enforcement agencies, under the aegis of Operation Gangmaster; and Lord Whitty, Parliamentary Under-Secretary of State at Defra. We also took oral evidence from Dr Jennifer Frances from the Institute of Manufacturing at the University of Cambridge.

10. In addition to the public oral evidence sessions, representatives of the Committee also met privately with five gangmasters at two meetings held at Cambridge and Westminster. We are grateful to all those who gave evidence to the Committee, particularly Dr Jennifer Frances who arranged our meeting in Cambridge and those gangmasters who took time from their work to discuss their experiences with us.

## 2 What are the problems?

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### Scale and nature of illegal activity by gangmasters

11. Not all gangmasters are engaged in illegal activity. We met individual gangmasters who were clearly trying to operate within the law and were keen to help develop ways to prevent abuses by their less scrupulous counterparts. The Government emphasised that “there is nothing inherently illegal in the activity undertaken by gangmasters”<sup>5</sup> There is clearly a role within the food chain for a system whereby the fluctuating demand for the labour required to pick, and pack, fresh produce can be met at short notice. Legitimate

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<sup>4</sup> Environment, Food and Rural Affairs Committee Press Notice of 17 March 2003

<sup>5</sup> Ev 68, para. 11

gangmasters can, and do, fulfil this role. The gangmaster system of supplying labour is essential to the industry.

12. Nevertheless, we received a wealth of evidence describing a range of abuses by some gangmasters. Such abuses are often connected to the deductions made from wages to pay for accommodation, travel to and from the workplace, and, in some cases, the cost of coming to the UK. Evidence from Citizens Advice was particularly helpful in providing examples though other witnesses provided similar stories:

- A Citizens Advice Bureau (CAB) in Norfolk reported a case of a group of Portuguese nationals who were being paid £3.00 each for cutting 1,000 daffodils after deductions for accommodation and travel.<sup>6</sup>
- A CAB in Cambridgeshire described workers being housed in partitioned containers with no water supply. The conditions of their contracts included an agreement to repay recruitment costs of up to £100 if they left within six months.<sup>7</sup>
- A CAB in the Midlands described how a woman from the Ukraine had been recruited by a gangmaster who had charged her £600 for documentation which she had never seen. Her wages were less than the minimum wage. Accommodation was provided in portacabins with one kitchen and one toilet between 18 people.<sup>8</sup>
- CABx have been approached by workers who are in fear of their gangmasters. Intimidation is also sometimes less direct: workers fear that they will lose both their jobs and their accommodation if they complain. CABx report that EU nationals, particularly those from Portugal, are told by their gangmaster that they are working illegally even though they have a right of freedom of movement throughout the EU. This creates a culture of fear and a reluctance to seek advice.<sup>9</sup>

13. A TGWU paper from August 2000 on the gangmaster system in Sussex contains details of the way illegal immigrants are brought into the country by gangmasters and the conditions in which they are working. It describes how they respond to advertisements in their own country. They pay up to £2,000, often borrowed at exorbitant interest rates from the person making the arrangements, for setting up the job, obtaining a visa and travel to the UK. The paper goes on to describe the exploitation of the workers once they are in the UK:

“From the money paid to the workers the gangmaster deducts rent, transport charges, interest on loans and any other items which enable him to claw back money. Little or no attention is given to the National Minimum Wage or Agricultural Wages Order by the gangmasters. The illegal workers have no recourse to get their rightful wages, as they fear if they complain, they will be sent back home. Threats, intimidation and even physical beatings are not unknown. The work itself is often boring, with hard labour and long hours. It can be hot and dirty, or wet and dirty if

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<sup>6</sup> Ev 91, para. 2.1

<sup>7</sup> Ev 91, para. 3.1

<sup>8</sup> Ev 91, para. 3.2

<sup>9</sup> Ev 93, para. 4.2

doing field work. It is known that workers are fined (money deducted from their wages) if the gangmaster/producer does not think that they are working fast or hard enough.”<sup>10</sup>

14. Government officials confirmed these stories. For example, an official from the Immigration Service in the West Midlands described how there had been two fatalities in Lincolnshire. The deaths were related to the “the long and arduous working conditions for the people concerned”.<sup>11</sup>

15. Since we started our inquiry there have been a number of reports of serious incidents involving migrant labourers who work for gangmasters. On 7 July three migrant workers who had travelled from Birmingham that morning to pick spring onions, were killed when the van in which they were travelling collided with a train at an unmanned level crossing in Worcestershire. The occupants of the van were reported to be working for gangmasters.<sup>12</sup> On 8 June there was a serious fire in a three-bedroom house on the Fairhead estate in Kings Lynn. It was reported that there were 18 Chinese migrant workers staying in the house at the time of the fire.<sup>13</sup>

16. The Government confirmed that some gangmasters are meeting labour shortages by supplying non-EU citizens who are working in the UK illegally and UK nationals working illegally while in receipt of benefit.<sup>14</sup> Other forms of illegal activity include non-compliance with the Agricultural Wages Order, which sets the Agricultural Minimum Wage, and with the National Minimum Wage; failure to collect income tax and National Insurance Contributions; the use of bogus self-employment status; failure to register or pay VAT; and the violation of health and safety regulations.<sup>15</sup>

17. Although many witnesses who gave evidence to the Committee could cite examples of illegal activity, none was able to provide evidence of the scale of the problem or what proportion of gangmasters are engaged in illegal activities. The Committee approached the inquiry relying on anecdotal evidence; we were surprised to find that all those connected with the industry were similarly reliant on anecdotal evidence to demonstrate to us that the problem is “getting worse”. We acknowledge that quantifying illegal activity is, by its very nature, extremely difficult. The Government stressed this point to us in its written and oral evidence. Nevertheless, we were surprised that there appears to have been very little research carried out into the scale of operations by gangmasters. The Government could not tell us how many gangmasters are operating, what work they are engaged in and what are the scale of their operations.

18. Similarly, the Government appears to have little idea how many casual workers are employed in the horticultural and agricultural industries. The June 2002 census of agriculture and horticulture in the UK shows that 64,000 seasonal and casual workers were employed in these industries. The Government states that this is “generally thought to

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<sup>10</sup> TGWU, Gangmaster system in Sussex, August 2000

<sup>11</sup> Q 221

<sup>12</sup> “Victims of a train and the demand for cheap food”, *Times*, 8 July 2003

<sup>13</sup> “Investigation to be launched to root out illegal trafficking of migrant workers”, *Eastern Daily Press*, 19 June 2003

<sup>14</sup> Ev 68, para.11

<sup>15</sup> Ev 68, para. 12

understate the total number” because the numbers will increase in the harvest months of late summer. The census does not count those working in related industries such as the packhouses. When pressed on the lack of available information in this area, Lord Whitty said “we [Defra] do not do labour statistics or labour market research”.<sup>16</sup>

19. If the Government does not even know how many casual workers there are and who they are working for, it is plainly difficult for it to make any estimate of the scale of any illegal activity being carried out within that section of the labour market. The Government cannot develop an appropriate policy response to a problem, or allocate appropriate resources, if it cannot make even a rough estimate of the scale of that problem. Lord Whitty confirmed that “Defra had not commissioned any specific research” and that it does not “have a sufficiently comprehensive view of the situation”.<sup>17</sup>

**20. Defra’s response to criticism that, by its own acknowledgement it “does not have a sufficiently comprehensive view of the situation”, is extremely disappointing. Moreover no Government Department appeared willing to take any responsibility for addressing the difficulties with gangmasters. We recommend that the Government commission a detailed study into the use of casual labour in the agricultural and horticultural industries. This study should not be used as an excuse to delay further any concerted policy action but should be used to inform ongoing policy solutions. It should publish its findings by March 2004.**

## Pressures on the food chain

21. As we describe in the introduction to this Report, changes in the demand for casual labour can be attributed to changing consumer tastes in terms of the demand for ready-packed produce, to more sophisticated farming methods, and to the ability of supermarkets to monitor the demand for produce in a more responsive way. However, we were also told about how the risks associated with changing demand are being transferred down the food chain. Some witnesses claimed that the costs of labour, and the risks associated with the highly elastic demand for it, are being met by those at the bottom of the food chain and not those at the top.

22. We were told that the contractual relationship between a supplier and the supermarkets is “a relation contract, not a written contract”.<sup>18</sup> That is, there is no commitment to buy and if goods are rejected a supplier is left with no other market in which to sell them; but he or she still carries the cost of the labour used to produce the goods. Gangmasters also told us that suppliers were often heavily reliant on individual supermarkets and could not therefore risk antagonising their major customer by trying to negotiate over price or why produce was being rejected. The main variable cost which suppliers have is the cost of labour. It follows that they will seek to reduce this cost when their costs are under pressure. We heard conflicting evidence about whether using unscrupulous gangmasters helps suppliers reduce costs.

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<sup>16</sup> Q 339

<sup>17</sup> Q 333

<sup>18</sup> Q 283

23. In its evidence to us, the Fresh Produce Consortium (FPC) argued that there was no relationship between the illegal activities of gangmasters and the prices paid by supermarkets, arguing that any money saved from, for example, the non-payment of taxes and National Insurance disappeared into the profits of illegal gangmasters. In his oral evidence to the Committee the Chief Executive said: “The industry does not get a cheap deal out of this. Criminal gangmasters make a lot of money but that is in their pockets; it is not in a reduced price to the pack-house that uses them.”<sup>19</sup> This view was also supported by the National Farmers’ Union. One of its witnesses acknowledged that the prices paid by supermarkets were “extremely competitive” but he did not believe that this “is having a major effect on the cost that we are paying for labour”.<sup>20</sup> The FPC argued that “By trying to switch the responsibility onto supermarkets, it is taking our eye away from what the real issue is”.<sup>21</sup>

24. However, gangmasters said that they struggled to compete with illegal gangmasters who were able to offer a lower price because they were not paying the correct taxes or working within the legislation.<sup>22</sup> The Government’s evidence appears to support this view. It argues that illegitimate gangmasters “are able to supply workers at rates which legitimate gangmasters cannot match”. Furthermore, there is “little evidence of most labour users being prepared to pay a premium for ‘legitimate’ gang labour”.<sup>23</sup>

**25. We are convinced that the dominant position of the supermarkets in relation to their suppliers is a significant contributory factor in creating an environment where illegal activity by gangmasters can take root. Intense price competition and the short time-scales between orders from the supermarkets and deliveries to them put great pressure on suppliers who have little opportunity or incentive to check the legality of the labour which helps them meet these orders. Supermarkets go to great lengths to ensure that the labels on their products are accurate, for example, whether they are organic or contain certain products. We believe they should pay equal attention to the conditions under which their produce is harvested and packed, and label it accordingly.**

**26. We ask the supermarkets to re-examine their policies in this area bearing in mind their own stated policies on corporate social responsibility. Supermarkets cannot wash their hands of this matter. We urge them to monitor their suppliers more closely, eliminate supply routes which rely on illegal gangmasters, and take action where illegal activity has been identified.**

27. We note the work carried out by the Competition Commission in its 2000 report into supermarkets.<sup>24</sup> The evidence we heard echoed that given to the Competition Commission, in particular, the unreasonable transfer of risk from the supermarket to the supplier. We received no evidence to suggest that the Code of Practice recommended by the Competition Commission and adopted by the industry, is making a significant

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<sup>19</sup> Q 6

<sup>20</sup> Q 127

<sup>21</sup> Q 38

<sup>22</sup> Q 60, Ev 95, and private conversations with gangmasters.

<sup>23</sup> Ev 71, para. 37

<sup>24</sup> Competition Commission, *Supermarkets: a report on the supply of groceries from multiple stores in the United Kingdom*, Cm 4842, 2000

contribution to reducing the activities described in the 2000 report. The Office of Fair Trading (OFT) is currently reviewing the effectiveness of the code. In our private meetings with gangmasters, the Code was dismissed. **We recommend that the Department for Trade and Industry revisit the relationship between the supermarkets and their suppliers. The evidence we received during the course of this inquiry suggests that the code of practice recommended by the Competition Commission has failed. We welcome the OFT's review of the code. A more interventionist approach may now need to be considered.**

28. Arguably the pressure on costs throughout the food chain is fuelled by the demands of consumers. However, comparisons can be made with consumers' concerns about some imported goods, such as coffee, and the conditions under which they are produced. For example, it is clear that some consumers are willing to pay more for produce which has been what the Ethical Trading Initiative describes as 'ethically sourced'.

29. There appears to be little public awareness of the problems with the illegal activity of some gangmasters and the working conditions of those who are employed by them. It seems likely that there is potential for informed consumer pressure to encourage and support good labour practices in the supply of fresh produce. The Ethical Trading Initiative has hosted seminars about gang labour with industry representatives. **More needs to be done to promote consumer awareness of the issues related to gang labour and identify those suppliers and supermarkets who subscribe to, and enforce, ethical employment practices. Such a development could have an effect on purchasing decisions in the same way that public demand is now growing for Fairtrade products.**

## 3 What has been the response to the problems?

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### Industry response

30. Representatives from across the food industry stressed to us that they took the issue of illegal activity by gangmasters extremely seriously. Voluntary Codes of Practice, covering both field and packhouse workers, have been developed in collaboration with the Government. The supermarkets have adopted the packhouse code of practice as a supplier requirement.

31. From the evidence we received there is a clear consensus that, while the codes of practice within the industry have helped to an extent, they have not eliminated illegal activity by gangmasters. In his evidence on behalf of the Fresh Produce Consortium, the Chief Executive, Doug Henderson, described the difficulties faced by those trying to enforce a voluntary code of practice:

“...a gangmaster can contract with a packer and be quite a legitimate business and be paying VAT, or ostensibly look as if he is paying VAT; but all the labour is in fact subcontracted. What is a legitimate business in the front becomes an illegitimate

subcontractor where the fraud takes place. It is very difficult for businesses in the normal course of their activities to identify whether this fraudulent activity is taking place or not.”<sup>25</sup>

Thus a supplier can be signed up to a code of practice with which he or she is trying to comply but may be unable to verify that the gangmaster being used is, in fact, meeting the requirements set out in the code. These problems are exacerbated in relation to illegal working. Mr Henderson went on to describe how staff in packhouses are not able to distinguish between forged and genuine documents.<sup>26</sup> This point was also made to us in private meetings with gangmasters who said that they had difficulty verifying the status of people from abroad. They also told us that the Immigration Service was not equipped to respond to queries which would help them verify documents presented to them. The NFU reiterated the view that voluntary codes were not working. Representatives pointed out that the NFU could not discipline those members who did not comply with the codes, and they had no powers to enforce them.<sup>27</sup>

**32. We welcome the work that the industry has carried out to develop codes of practice on the use of temporary labour. We also recognise the problems faced by those in the industry who are trying to monitor compliance with the codes. While they may have served some purpose in raising awareness of the problems within the industry, we conclude that it is unrealistic to expect the voluntary codes to prevent widespread illegal activity by gangmasters. The industry must be a major part of the solution; it cannot, however, be expected to stamp out illegal activity by gangmasters on its own.**

33. We wrote to the major supermarkets to ask for their response to the problems associated with the use of temporary labour by food and horticultural suppliers, and details of any checks they carried out to ensure that the temporary labour used by its suppliers is provided by those operating within the law. Tesco, Asda and Marks and Spencer described, or provided, the documentation they issue to suppliers and, where applicable, the checks they carried out to ensure compliance.<sup>28</sup> **We were concerned to note that of the three supermarkets which responded to our request for details of their policy on gangmaster labour, only one was committed to taking action against suppliers who did not comply with its required employment practices.**

## Government response

34. In 1997, the Government established an Interdepartmental Working Party on Gangmasters. The Working Party was asked to consider what action could be taken to control the activities of gangmasters and to address those concerns. As part of its work, MAFF officials made visits to a number of producers. They also held bilateral meetings with officials from other Government departments to establish how wider Government policy initiatives might impact on the operation of gangmasters.

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<sup>25</sup> Q 5

<sup>26</sup> *Ibid*

<sup>27</sup> Q 86; Q 107

<sup>28</sup> Ev 105-109

35. The Working Party reported in June 1998.<sup>29</sup> It noted that Government enforcement agencies “had different objectives: one agency sought to prevent payments being made where people were not entitled to them, three sought to collect money due to the Exchequer, and the others were concerned with wages, health and safety and illegal immigration”.<sup>30</sup> The Working Party recommended that co-ordination between all departments should be piloted in the summer of 1998. The Benefit Agency agreed to consider initiating a collaborative enforcement initiative to be known as Operation Gangmaster.

### *The legal framework for gangmasters*

<b>Activity</b>	<b>Main legislation</b>	<b>Enforcement agency</b>
Illegal working	Asylum and Immigration Act 1996	Immigration and Nationality Division (Home Office)
National Minimum Wage	National Minimum Wage Act 1998	Inland Revenue on behalf of DTI
Agricultural Minimum Wage	Agricultural Wages Act 1948	Defra
Deductions from pay	Employment Rights Act 1996	By an individual worker bringing a complaint to an Employment Tribunal
Employment Agencies minimum standards	Employment Agencies Act 1973	DTI’s Employment Agency Standards Inspectorate.
Notice of termination of employment	Employment Rights Act 1996	By an individual worker bringing a complaint to an Employment Tribunal
Written statement of employment particulars	Employment Rights Act 1996	By an individual worker bringing a complaint to an Employment Tribunal
Working time and holidays	Working Time Regulations and Agricultural Wages Order	By an individual worker bringing a complaint to an Employment Tribunal
Income Tax and National Insurance	Taxes Acts	Inland Revenue
Benefit fraud	Social Security and Administration Act 1992 and Theft Act 1968	Department for Work and Pensions
VAT	VAT Act 1994	Customs and Excise
Health and Safety	Health and Safety at Work etc Act 1974	Inspectorate of the Health and Safety Executive

<sup>29</sup> MAFF, *Report of the Interdepartmental Working Party on Agricultural Gangmasters*, June 1998

<sup>30</sup> *Ibid*, para. 27

36. The need for an inter-departmental response to the problem of illegal activities by gangmasters is clear from the complexity of the relevant legislation and the range of government agencies involved in enforcing it. Annex 3 of the Working Party report describes the legal framework. The table above summarises the current position taking into account legislative and departmental changes since the Working Party reported.

37. The Working Party felt that publicity was an important element in the enforcement process. It therefore recommended that successful prosecutions should be publicised to discourage perpetrators.<sup>31</sup> It also felt that employers and employees should have a better understanding of their obligations and rights. The Government should contribute to this by “providing explanatory leaflets for growers, workers and gangmasters setting out the basic legal provisions under which they operate.”<sup>32</sup>

### **Operation Gangmaster**

38. Operation Gangmaster was launched as a pilot initiative in Lincolnshire and parts of East Anglia in 1998. The Government departments involved in the operation include the Home Office, Department for Work and Pensions (DWP), Customs and Excise, Inland Revenue and Defra. The Government is currently rolling out Operation Gangmaster to other areas of the UK where gangmasters are active.<sup>33</sup>

39. Much of the original impetus behind Operation Gangmaster was provided by MAFF. With the launch of Lord Grabiner’s report on the Informal Economy in March 2000, and the subsequent implementation of various initiatives to tackle the hidden economy, the control of Operation Gangmaster was moved to the Grabiner Working Group, chaired by DWP and on which Defra sits. DWP provides the lead and secretariat for Operation Gangmaster.

40. The Government argues that this arrangement provides Operation Gangmaster with greater enforcement strength and better legislative avenues with other major departmental players for the exchange of intelligence about individual gangmasters.<sup>34</sup> In response to a Parliamentary Question on Operation Gangmaster in July 2000, the Minister of State at MAFF described it as “a good example of joint action by several Government agencies”.<sup>35</sup>

41. Doubts about the adequacy of Operation Gangmaster as a response to the problems associated with illegal activities by gangmasters were identified at an early stage. The Report of the 1998 Working Party noted that in taking the lead on Operation Gangmaster, what was then the Benefits Agency was “not able to commit additional resources to this area of work”.<sup>36</sup> An economic evaluation of Operation Gangmaster in April 1999 similarly commented that “no additional resource of any consequence has been put behind Operation Gangmaster”. This evaluation also noted that Operation Gangmaster was difficult to evaluate because it was “a pilot operation, without the benefit of careful

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<sup>31</sup> *Ibid*, para. 31

<sup>32</sup> *Ibid*, para. 32

<sup>33</sup> MAFF news release, *Elliot Morley announces extension of Operation Gangmaster*, 20 March 2000

<sup>34</sup> Note on Operation Gangmaster, DWP, November 2002, para. 3

<sup>35</sup> HC Deb 27 July 2000 c 1222

<sup>36</sup> Report of the Interdepartmental Working Party on Agricultural Gangmasters, June 1998, para.29

preparatory work enabling clearly-defined objectives to be set or the conduct of baseline research (internally and externally) against which change could be measured”.<sup>37</sup>

42. In its Memorandum to the Committee, the Government described two operations carried out under Operation Gangmaster: Operation Shark and Operation Twin Stem. Apart from these operations, we found it difficult to obtain any idea of what work had been carried out under Operation Gangmaster since it was established in 1998. The Government told us that “it is not always possible to quantify precisely the enforcement activity taken against gangmasters, as Government Departments use different means to record enforcement activity and results”.<sup>38</sup> Much of the information presented to us lacked any detail whatsoever. For example, in relation to the Immigration Service and National Asylum Support Service, we were told that “*many* raids have been undertaken” and “*numerous* illegal workers and failed asylum seekers have been detected” [emphasis added].<sup>39</sup>

43. Officials confirmed that there are no targets for Operation Gangmaster as a whole.<sup>40</sup> Furthermore, there is no single Minister to whom the whole operation reports.<sup>41</sup> The TGWU told us that when they asked what Operation Gangmaster had done since 1998 they were given two paragraphs of information.<sup>42</sup> Moreover, Operation Gangmaster appears to have carried out no significant analysis of the scale of the problem it has been set up to address, or the adequacy of its response. Lord Whitty told us that a report on Operation Gangmaster would be produced at the end of the financial year 2003/04.<sup>43</sup> When this is published it will be the first report describing activities undertaken as part of Operation Gangmaster for six years.

44. The DWP was able to tell us that it had deployed 51 staff on gangmaster activity at a cost of about £1 million. However, we were told that “Customs and Excise has no staff allocated specifically to combating gangmasters and no specific budget allocation”.<sup>44</sup> The official from the Inland Revenue said that his Department had not assessed the costs to it of working on Operation Gangmaster.<sup>45</sup> Defra told us that “Agricultural Wages Inspectors devote some 2-3 staff years to enforcement work under the Agricultural Wages Act 1948 at a cost of roughly £125,000 ... but only a small proportion of this activity is directly associated with gangmasters”.<sup>46</sup> The Home Office could “not provide a breakdown of the amount of staff hours or costs involved in Operation Gangmaster activities”.<sup>47</sup>

**45. We are appalled by the lack of priority given to, and political accountability for, what is supposed to be the Government’s co-ordinated response to illegal activity by gangmasters. Operation Gangmaster appears to be little more than an umbrella term**

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<sup>37</sup> MAFF, *An economic evaluation of Operation Gangmaster*, April 1999

<sup>38</sup> Ev 72, para. 52

<sup>39</sup> Ev 73, para. 55

<sup>40</sup> Q 225

<sup>41</sup> Q 260

<sup>42</sup> Q 185

<sup>43</sup> Q 348

<sup>44</sup> Ev 48

<sup>45</sup> Q 241

<sup>46</sup> Ev 48

<sup>47</sup> *Ibid*

for a few local enforcement operations in which the various agencies have exchanged information. Five years after it was established Operation Gangmaster has had no significant resources allocated to it, has no targets and no Minister to take overall responsibility for its activities. Nobody could give us a comprehensive picture of what Operation Gangmaster does, how much it has spent and what it has achieved. Far from being a “good example of joint action by several Government agencies” we conclude that Operation Gangmaster remains a woefully inadequate response to the complex enforcement issues arising from the illegal activities of gangmasters.

46. We accept that the lack of centrally available information about the activities of Operation Gangmaster does not necessarily mean that nothing has been happening on the ground. We note the comments of the official from the Immigration and Nationality Services Division who said:

“We have moved on in the last few years from government departments that never even spoke to each other—refused to speak to one another—to a group of diverse organisations ... my people meet with people from their departments on a regular and continuous basis. We talk to one another. My department has gained access to industries that it would not have been able to do to take out areas where there has been exploitation and where there is illegal working, which has been on the back of the DWP. We have worked together with the agricultural investigation teams, and I do not think we should just throw out the baby with the bath water.”<sup>48</sup>

47. We accept that Operation Gangmaster has facilitated some joint working between officials of different agencies. However, it appears to us that Operation Gangmaster serves as a convenient reference point for Ministers to give the impression that the Government is doing far more about dealing with the problems associated with gangmasters than is the case. We recommend that a Defra Minister take overall responsibility for Operation Gangmaster. The Operation should be given clear aims and objectives and it should report regularly on these to the responsible Minister. Defra’s annual report should include a section on the Operation’s work and achievements. Data should be collected from the different agencies involved enabling a comprehensive record of activities maintained and lessons learned. Operation Gangmaster should have a single budget derived from the budgets of each of the relevant Government agencies and Departments.

## 4 A way forward

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### Demands for a registration scheme

48. An industry consensus is building that the way to combat the illegal activities of gangmasters is a statutory registration scheme under which all gangmasters would be registered, and would be required to meet certain standards. In April and May 2002, the

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<sup>48</sup> Q 251

Ethical Trading Initiative (ETI) organised two consultative seminars to discuss problems and identify solutions related to the use of gangmasters in the UK. Over 100 growers, packers, retailers, labour providers, trade unions and manufactures attended.<sup>49</sup> The outcome of these seminars was a call for a statutory registration scheme to be introduced.

49. This consensus is reflected in the evidence submitted to the Committee. Organisations representing the farmers, supermarkets and agricultural workers all advocate statutory registration. It is also supported by legitimate gangmasters who operate within the law but who believe that they are currently being undercut by those operating illegally. Although most of those who submitted evidence to the Committee support the idea of a statutory registration scheme, there is little detail available about how its proponents believe it should operate and be enforced. There are also those who argue that registration schemes have been tried before and have proved unsuccessful.

50. Given the strength of opinion on this issue, we feel it requires some analysis; in particular whether a statutory registration scheme would deal with the complexities at the heart of the problem of illegal activities by gangmasters. This section therefore summarises previous attempts to register gangmasters, sets out the available detail of what is currently being proposed, and considers the arguments.

51. Legislation covering agricultural gangmasters can be traced back to the Agricultural Gangs Act 1867 which was introduced to protect children and women from exploitation. More recently, gangmasters were subject to registration in the period immediately after the war as part of emergency regulations relating to the war effort.<sup>50</sup> The registration scheme had two aims. First, it was designed to stop the movement of casual workers across the country, thus saving valuable transport resources. Second, it aimed to prevent gangmasters exploiting farmers' demand for labour by demanding exorbitant rates for casual labour and pushing up the price of food. The scheme was withdrawn in 1951 and the legislative authority is no longer useable.<sup>51</sup>

52. The post-war registration scheme appears to have been the last attempt specifically to regulate agricultural gangmasters though provisions to license employment agencies under the Employment Agencies Act 1973 did apply to some gangmasters. Some witnesses have made reference to these arrangements in their submissions to the Committee.<sup>52</sup> These sections of the 1973 Act which provided for licensing were repealed with effect from January 1995 by the Deregulation and Contracting Out Act 1994. At the same time, a new power to prohibit unsuitable persons from running agencies and businesses for periods of up to ten years was given to Employment Tribunals.

53. Not all agricultural gangmasters were covered by the 1973 licensing provisions. Whether individual agricultural gangmasters were required to be licensed under the Act depended upon their method of operation. If the hirer of workers exercised control and supervision of workers hired out by a gangmaster, the gangmaster was required to be

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<sup>49</sup> Ev 96, para. 3

<sup>50</sup> MAFF, *Report of the Interdepartmental Working Party on Agricultural Gangmasters*, June 1998, para. 8

<sup>51</sup> *Ibid*, para. 17

<sup>52</sup> Ev 8; Ev 9

licensed. If the gangmaster retained control and supervision of the workers, he or she effectively acted as a subcontractor and was outside the Act.

54. In its Memorandum, the Department for Trade and Industry argues that licensing or registration schemes, particularly where a fee is demanded, “are burdensome for business and public authorities alike and the burden falls especially heavily on small enterprises”.<sup>53</sup> It draws a distinction between ‘licensing’ schemes which involve vetting of applicants, and ‘registration’ schemes which simply require those intending to operate to notify an authority of certain details before commencing business. However, it argues that registration is not significantly less burdensome than licensing. It goes on to suggest that “an effective register could only be maintained if suitable sanctions were created to enable an authority to prevent the business trading whilst unregistered and if mechanisms existed for removing persons from the register”.<sup>54</sup>

55. The DTI also argues that such schemes are not effective. When the 1973 licensing of employment agencies provisions were in force only 0.1% of new applicants or licence renewals were rejected. Furthermore, a significant number of complaints concerned agencies which were discovered to be operating without a licence. There were also breaches of regulations amongst those with licences. The Employment Agencies Act is enforced by the Employment Agency Standards (EAS) Inspectorate which now comes under the DTI. The DTI told us that gangmasters first came to the attention of EAS Inspectorate in 1989 following complaints from other employment agencies. Visits to gangmasters were undertaken to seek to enforce the licensing requirements though it appears that there was relatively little action taken. The Memorandum states that the Department is “aware of one case where the Inspectors prosecuted one operator for trading without a licence”.<sup>55</sup>

56. The industry continues to argue for a registration scheme. A TGWU paper sets out the principles which it believes need to be at the heart of any registration scheme.<sup>56</sup> These include effective sanctions to be enforced by statutory agencies, open access to the register and certain requirements on those seeking to register. Most of these requirements, such as no deductions from wages without the consent of employees and adequate washing and toilet facilities at the place of work, are already requirements under existing legislation. Of the eleven requirements set out in the TGWU paper, it appears that only two would be new statutory requirements.

57. The DTI has “no plans to re-introduce licensing or bring in a form of registration as it is considered that neither would result in an effective regime”.<sup>57</sup> In its Memorandum to the Committee, Defra told us that the Government “has yet to take a considered view on the question of legislation on compulsory registration of gangmasters”.<sup>58</sup> Lord Whitty told us that he thought “it [compulsory registration] might be necessary”. He went on to say that “I think the issue is really whether it is effective or not.”<sup>59</sup>

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<sup>53</sup> Ev 101, para. 3

<sup>54</sup> *Ibid*, para. 4

<sup>55</sup> Ev 102, para. 11

<sup>56</sup> Annex to memorandum, entitled *Registration of Gangmasters* [not printed]

<sup>57</sup> Ev 102, para. 15

<sup>58</sup> Ev 75, para. 81

<sup>59</sup> Q 371

58. We are not convinced that a statutory registration scheme offers a stand-alone solution to the problems of illegal gangmasters. Certainly, without concerted action to remedy the shortcomings in enforcement that we have highlighted in this Report, a statutory registration scheme, introduced as a single policy response, will solve nothing. It is difficult to imagine that those individuals engaged in the types of illegal activity about which we received evidence would be affected by a registration scheme unless it were rigorously enforced. A statutory registration scheme may prove to be necessary, but it will only be effective if it is introduced as part of a wide range of policy initiatives designed to confront the difficulties associated with the supply of temporary labour to the agriculture and horticulture industries. We set out some complementary policy options in the next section.

## Other policy responses

### *Working with the industry*

59. The Government told us that some in the industry had suggested “a good practice blueprint for labour providers, which would put the onus of checking and legal compliance on the gangmaster, linked to a system of independent verification”.<sup>60</sup> This would help suppliers check the legitimacy of the labour supplied by gangmasters and the supermarkets check that farmers and packhouses supplying them are meeting the required standards. Defra Ministers agreed to the secondment of a member of its staff to work with an Evesham-based gangmaster who is widely recognised in the industry and in Government as being an example of good practice. The aim is to develop these ideas with the industry.

60. We support this work but believe it could go further. Many of the gangmasters we spoke to said that they had great difficulty verifying the legal status of people coming from abroad. They suggested that the emphasis of the Immigration and Nationality Services Directorate was concentrated on removing illegal asylum seekers but was paying insufficient attention to the issue of illegal working. Gangmasters to whom we spoke at a meeting in Cambridge said that they received little help from the authorities on how to identify false documents and people working illegally. They also offered valuable insights into the way abuses of the asylum and immigration system are perpetrated, and could be prevented.

61. We are concerned that those gangmasters who are striving to operate within the law are given little support, especially in relation to immigration and illegal working. We were told that the law in this area is complicated with many ‘grey areas’ but there are few reliable sources of advice. Similarly, the documentation issued to people from abroad, especially those who first entered the country a number of years ago, is easily forged and difficult to verify. Gangmasters claimed that staff from the immigration authorities had insufficient resources to help verify identities and were often unable to help confirm an individual’s immigration status.

62. There are also issues for other Government Departments. Gangmasters told us how the application of the Agricultural Wages Order and the National Minimum Wage created

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<sup>60</sup> Ev 75, para. 80

anomalies and potential loopholes which could be exploited. For example, workers in packhouses sited on the farm where the produce was grown are entitled to the agricultural minimum wage; those packing produce from another farm are entitled to the National Minimum Wage. Minimum rates of pay under the Agricultural Wages Order are approximately 15% higher than the National Minimum Wage. Gangmasters in Cambridge told us that it was common for suppliers to pack their own produce on neighbouring farms to avoid paying the higher rate. This is an appalling indictment of how the current system works.

**63. We recommend that the scope of the pilot work that Defra is carrying out with a firm of gangmasters is extended. The enforcement issues cross many different Government Departments; a cross-departmental approach is therefore required. Specifically, we recommend that an official from the Immigration and Nationality Directorate is seconded to work with the Defra official to help develop a good practice blueprint linked to a system of independent verification of individuals' employment and immigration status. Officials from other Government Departments such as the Inland Revenue and the Department for Work and Pensions should also work closely with the project and use its findings to inform policy.**

64. The Evesham gangmaster who is working with Defra on a good-practice blueprint is also working with his local Regional Development Agency, Advantage West Midlands, and the Government Office for the West Midlands to develop what he describes as a 'gateway centre'. This would consist of an adult training establishment and food processing operation which would help create links between the urban areas from where gang labour is often drawn and the rural areas where it is used. The proposals are still being developed but it is envisaged it could offer advice and training to those working in the industry and a potential clearing house for those who work for gangmasters. This idea has the potential for further development.

**65. We believe there is a role for Regional Development Agencies and Government Offices in those parts of the country where gang labour is commonly used. We recommend that the pilot project being developed in the West Midlands is monitored and, if successful, should be developed in other parts of the country. We also believe that there is scope for private funding of such projects. The supermarkets told us that they took the problems associated with gang labour very seriously: such initiatives provide them with an opportunity to support projects which would help prevent these problems.**

## **Immigrant labour**

66. It is clear from the evidence we received that many of the people now working as casual labour in the agricultural and horticultural industries are coming from abroad. It is important to note that many of these are working legally. For example, some come from countries within the European Union and as such are entitled to work in the United Kingdom. Some of the evidence we received suggests that even those working legally are often not aware of their rights under UK law. This has resulted in them being exploited by unscrupulous gangmasters.

67. There appears to be a particular problem associated with Portuguese workers in East Anglia. Following a campaign by a local Citizens Advice Bureau and articles by a Portuguese journalist, we have been told that Government Ministers from the UK and their Portuguese counterparts are working on a joint information campaign to warn Portuguese workers about unscrupulous agents who are recruiting people to work in the agriculture industry in East Anglia. The Thetford Citizens Advice Bureau is developing a leaflet in employment rights and other issues on which foreign workers are seeking advice. The leaflet will be distributed in job centres and local authority offices.

**68. We applaud the work that the Thetford Citizens Advice Bureau has undertaken to support Portuguese workers who are facing exploitation by gangmasters. We recommend that in areas where gang labour is commonly used, local authorities, job centres and advice agencies form local forums to co-ordinate responses to ensure that workers, particularly those from abroad, know their rights. Defra should provide the small amount of funding such projects would require as part of its rural affairs remit.**

69. The other main source of legal foreign labour for casual work in the agriculture and horticulture industries is provided through the Seasonal Agricultural Workers Scheme (SAWS). This is a Home Office scheme under which a certain number of students from countries outside the European Union are allowed to work in the UK agriculture industry. The Government's memorandum notes that the quota of students allowed under the scheme has increased from 5,500 in 1996 to 18,700 in 2002.<sup>61</sup> The quota is due to rise to 25,000 this year as part of an expansion of the scheme.

70. We heard conflicting evidence on SAWS. The NFU told us that it was "a robust system" and the "students are well regulated and organised".<sup>62</sup> Similarly, the TGWU said that there had "not been a high level of complaint" about the way students are treated under the scheme.<sup>63</sup> However, we heard that students under SAWS were being used for skilled labour which is not allowed under the rules of the scheme.<sup>64</sup> Also, the evidence from Citizens Advice described how a Russian student brought to the UK under the scheme had left after four months "as the working and living conditions were so dreadful".<sup>65</sup>

71. There are also concerns that SAWS students provide a cheap source of labour which further depresses the price which is paid for temporary labour. Lord Whitty rejected this argument pointing out that SAWS students were required to be paid at least the agricultural minimum wage.<sup>66</sup> This misses the important point that those who take SAWS students are not required to pay National Insurance for them. They therefore offer a cheaper source of labour to, for example, UK-based workers being paid the agricultural minimum wage. In a market where margins are very tight this has the potential to create an environment where those who cannot recruit sufficient workers through SAWS are at least disinclined to ask too many questions about the National Insurance and tax status of those provided by other providers of temporary labour.

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<sup>61</sup> Ev 74, para. 71

<sup>62</sup> Q 88

<sup>63</sup> Q 180

<sup>64</sup> Q 71

<sup>65</sup> Ev 92, para 3.7

<sup>66</sup> Q 324

72. There appears to be a lack of joined-up thinking within Government in relation to SAWS. Defra told us that as a result of the fall in the supply of traditional sources of seasonal labour in recent years, “the Seasonal Agricultural Workers Scheme has become an increasingly important source of seasonal and casual workers for the agricultural and horticultural industries”.<sup>67</sup> In its evidence to the Trade and Industry Committee in July 2000, the Home Office, which runs the scheme, said that SAWS “was essentially a youth mobility scheme and is not primarily designed to meet manpower shortages in the agricultural industry”.<sup>68</sup> Lord Whitty suggested that these two positions are “not necessarily incompatible”.<sup>69</sup>

**73. We recognise that the Seasonal Agricultural Workers Scheme (SAWS) provides a useful source of temporary labour for the agriculture industry. Similarly, workers from EU countries who are able to work in the UK help to meet the shortfall between the demand and supply for casual labour in rural areas. This legal source of foreign labour is likely to increase with the accession of the new Member States to the European Union. Nevertheless there appears to be a lack of co-ordination between Government Departments in the management of migrant labour. Earlier in the Report, we recommended that Defra carry out a detailed study into the use of casual labour in the agricultural and horticultural industries. This work should assess the demand for foreign workers and be used to inform decisions about SAWS.**

**74. If the demand for casual labour in the agricultural and horticultural industries continues to be met by workers from abroad because local people are not attracted by the terms and conditions offered, there may be wider issues for the Government to consider. Defra has a rural affairs remit. In its assessment of the temporary labour market, it should consider the implications for rural services and how these can be best managed. Projects such as the proposed Gateway scheme in the West Midlands could make an important contribution to policy in this area. Defra needs to take a lead on these issues and ensure that it has sufficient information available to enable it to suggest appropriate policy responses, including a review of the current system of work permits.**

## 5 A joined-up response

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75. There are clearly people providing casual labour to the industry who do so within the law and provide good terms and conditions; equally clearly there are a significant number who do not and are currently operating with little fear of prosecution. Many of the problems have been around for a number of years: it is now time for the Government to demonstrate the political will to tackle them.

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<sup>67</sup> Ev 68, para 10

<sup>68</sup> Trade and Industry Committee, Industrial and trade relations with the Baltic States, Twelfth Report HC 835 1999-2000 20 July 2000, p 18

<sup>69</sup> Q 323

76. We do not believe that, to date, the Government has given sufficient priority to the issues relating to the demand and supply for temporary labour in the agriculture and horticulture industry. The abuses within the gangmaster industry are, to varying degrees, a product of the fall in the supply of casual local labour in rural areas, the relationship between supermarkets and their suppliers, and the lack of enforcement of the legislation covering the employment of temporary labour. Therefore there are implications for a wide range of Government Departments: the Treasury and its Executive Agencies; the Home Office; the Department for Work and Pensions; the Department for Trade and Industry; and Defra itself. Defra cannot be expected to deal with these issues in isolation from the rest of Government.

**77. This is a policy area which would benefit significantly from a cross-departmental approach. Unfortunately, we found no evidence to suggest such an approach has been effectively applied. The Government needs to deal with the issues we have identified if it is to realise its vision of a competitive farming and food industry based on sustainable practices.**

**78. We therefore recommend that the Government establish an inter-departmental working group which would report to a Defra Minister of State with overall responsibility for policy on gangmasters. The Minister and inter-departmental group should have a small number of clearly-defined and measurable targets. Defra should report to us annually on the actions it has taken and the working group's performance against its targets. We believe that the Government must demonstrate that it is taking seriously the problems in the agriculture and horticulture labour markets and has the political will to tackle them; the establishment of such an inter-departmental group would go some way to doing so.**

## Conclusions and recommendations

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1. Defra's response to criticism that, by its own acknowledgement it "does not have a sufficiently comprehensive view of the situation", is extremely disappointing. Moreover no Government Department appeared willing to take any responsibility for addressing the difficulties with gangmasters. We recommend that the Government commission a detailed study into the use of casual labour in the agricultural and horticultural industries. This study should not be used as an excuse to delay further any concerted policy action but should be used to inform ongoing policy solutions. It should publish its findings by March 2004. (Paragraph 20)
2. We are convinced that the dominant position of the supermarkets in relation to their suppliers is a significant contributory factor in creating an environment where illegal activity by gangmasters can take root. Intense price competition and the short time-scales between orders from the supermarkets and deliveries to them put great pressure on suppliers who have little opportunity or incentive to check the legality of the labour which helps them meet these orders. Supermarkets go to great lengths to ensure that the labels on their products are accurate, for example, whether they are organic or contain certain products. We believe they should pay equal attention to the conditions under which their produce is harvested and packed, and label it accordingly. (Paragraph 25)
3. We ask the supermarkets to re-examine their policies in this area bearing in mind their own stated policies on corporate social responsibility. Supermarkets cannot wash their hands of this matter. We urge them to monitor their suppliers more closely, eliminate supply routes which rely on illegal gangmasters, and take action where illegal activity has been identified. (Paragraph 26)
4. We recommend that the Department for Trade and Industry revisit the relationship between the supermarkets and their suppliers. The evidence we received during the course of this inquiry suggests that the code of practice recommended by the Competition Commission has failed. We welcome the OFT's review of the code. A more interventionist approach may now need to be considered. (Paragraph 27)
5. More needs to be done to promote consumer awareness of the issues related to gang labour and identify those suppliers and supermarkets who subscribe to, and enforce, ethical employment practices. Such a development could have an effect on purchasing decisions in the same way that public demand is now growing for Fairtrade products. (Paragraph 29)
6. We welcome the work that the industry has carried out to develop codes of practice on the use of temporary labour. We also recognise the problems faced by those in the industry who are trying to monitor compliance with the codes. While they may have served some purpose in raising awareness of the problems within the industry, we conclude that it is unrealistic to expect the voluntary codes to prevent widespread illegal activity by gangmasters. The industry must be

a major part of the solution; it cannot, however, be expected to stamp out illegal activity by gangmasters on its own. (Paragraph 32)

7. We were concerned to note that of the three supermarkets which responded to our request for details of their policy on gangmaster labour, only one was committed to taking action against suppliers who did not comply with its required employment practices. (Paragraph 33)
8. We are appalled by the lack of priority given to, and political accountability for, what is supposed to be the Government's co-ordinated response to illegal activity by gangmasters. Operation Gangmaster appears to be little more than an umbrella term for a few local enforcement operations in which the various agencies have exchanged information. Five years after it was established Operation Gangmaster has had no significant resources allocated to it, has no targets and no Minister to take overall responsibility for its activities. Nobody could give us a comprehensive picture of what Operation Gangmaster does, how much it has spent and what it has achieved. Far from being a "good example of joint action by several Government agencies" we conclude that Operation Gangmaster remains a woefully inadequate response to the complex enforcement issues arising from the illegal activities of gangmasters. (Paragraph 45)
9. We accept that Operation Gangmaster has facilitated some joint working between officials of different agencies. However, it appears to us that Operation Gangmaster serves as a convenient reference point for Ministers to give the impression that the Government is doing far more about dealing with the problems associated with gangmasters than is the case. We recommend that a Defra Minister take overall responsibility for Operation Gangmaster. The Operation should be given clear aims and objectives and it should report regularly on these to the responsible Minister. Defra's annual report should include a section on the Operation's work and achievements. Data should be collected from the different agencies involved enabling a comprehensive record of activities maintained and lessons learned. Operation Gangmaster should have a single budget derived from the budgets of each of the relevant Government agencies and Departments. (Paragraph 47)
10. We are not convinced that a statutory registration scheme offers a stand-alone solution to the problems of illegal gangmasters. Certainly, without concerted action to remedy the shortcomings in enforcement that we have highlighted in this Report, a statutory registration scheme, introduced as a single policy response, will solve nothing. It is difficult to imagine that those individuals engaged in the types of illegal activity about which we received evidence would be affected by a registration scheme unless it were rigorously enforced. A statutory registration scheme may prove to be necessary, but it will only be effective if it is introduced as part of a wide range of policy initiatives designed to confront the difficulties associated with the supply of temporary labour to the agriculture and horticulture industries. (Paragraph 58)

11. We recommend that the scope of the pilot work that Defra is carrying out with a firm of gangmasters is extended. The enforcement issues cross many different Government Departments; a cross-departmental approach is therefore required. Specifically, we recommend that an official from the Immigration and Nationality Directorate is seconded to work with the Defra official to help develop a good practice blueprint linked to a system of independent verification of individuals' employment and immigration status. Officials from other Government Departments such as the Inland Revenue and the Department for Work and Pensions should also work closely with the project and use its findings to inform policy. (Paragraph 63)
12. We believe there is a role for Regional Development Agencies and Government Offices in those parts of the country where gang labour is commonly used. We recommend that the pilot project being developed in the West Midlands is monitored and, if successful, should be developed in other parts of the country. We also believe that there is scope for private funding of such projects. The supermarkets told us that they took the problems associated with gang labour very seriously: such initiatives provide them with an opportunity to support projects which would help prevent these problems. (Paragraph 65)
13. We applaud the work that the Thetford Citizens Advice Bureau has undertaken to support Portuguese workers who are facing exploitation by gangmasters. We recommend that in areas where gang labour is commonly used, local authorities, job centres and advice agencies form local forums to co-ordinate responses to ensure that workers, particularly those from abroad, know their rights. Defra should provide the small amount of funding such projects would require as part of its rural affairs remit. (Paragraph 68)
14. We recognise that the Seasonal Agricultural Workers Scheme (SAWS) provides a useful source of temporary labour for the agriculture industry. Similarly, workers from EU countries who are able to work in the UK help to meet the shortfall between the demand and supply for casual labour in rural areas. This legal source of foreign labour is likely to increase with the accession of the new Member States to the European Union. Nevertheless there appears to be a lack of co-ordination between Government Departments in the management of migrant labour. Earlier in the Report, we recommended that Defra carry out a detailed study into the use of casual labour in the agricultural and horticultural industries. This work should assess the demand for foreign workers and be used to inform decisions about SAWS. (Paragraph 73)
15. If the demand for casual labour in the agricultural and horticultural industries continues to be met by workers from abroad because local people are not attracted by the terms and conditions offered, there may be wider issues for the Government to consider. Defra has a rural affairs remit. In its assessment of the temporary labour market, it should consider the implications for rural services and how these can be best managed. Projects such as the proposed Gateway scheme in the West Midlands could make an important contribution to policy in this area. Defra needs to take a lead on these issues and ensure that it has

sufficient information available to enable it to suggest appropriate policy responses, including a review of the current system of work permits. (Paragraph 74)

16. This is a policy area which would benefit significantly from a cross-departmental approach. Unfortunately, we found no evidence to suggest such an approach has been effectively applied. The Government needs to deal with the issues we have identified if it is to realise its vision of a competitive farming and food industry based on sustainable practices. (Paragraph 77)
17. We therefore recommend that the Government establish an inter-departmental working group which would report to a Defra Minister of State with overall responsibility for policy on gangmasters. The Minister and inter-departmental group should have a small number of clearly-defined and measurable targets. Defra should report to us annually on the actions it has taken and the working group's performance against its targets. We believe that the Government must demonstrate that it is taking seriously the problems in the agriculture and horticulture labour markets and has the political will to tackle them; the establishment of such an inter-departmental group would go some way to doing so. (Paragraph 78)

# Formal minutes

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**Wednesday 10 September 2003**

Members present:

Mr David Curry, in the Chair

Mr Patrick Hall	Diana Organ
Mr Michael Jack	Mrs Gillian Shephard
Mr Mark Lazarowicz	Alan Simpson
Mr David Lepper	Paddy Tipping
Mr Austin Mitchell	Mr Bill Wiggin

The Committee deliberated.

Draft Report [*Gangmasters*], proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 78 read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Fourteenth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

Several Papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman*).

Several memoranda were ordered to be reported to the House.

The Committee further deliberated.

[Adjourned till Monday 15 September at a quarter past Two o'clock.]

## Witnesses

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### Wednesday 7 May 2003

*Page*

Doug Henderson, **Fresh Produce Consortium**

Ev 2

Marilyn Day, **Farmforce**

Ev 10

Michael Paske, Bob Fiddaman and David Brown, **National Farmers' Union of England and Wales**

Ev 16

### Wednesday 21 May 2003

Peter Allenson and Don Pollard, **Transport and General Workers' Union**

Ev 26

Richard Kitchen, **Department for Work and Pensions**, Lindsay Harris, **Department for Environment, Food and Rural Affairs**, David Lambert, **HM Customs and Excise**, Graham Black, **Inland Revenue**, and Rolf Toolin, **UK Immigration Service**

Ev 35

### Wednesday 4 June 2003

Dr Jennifer Frances, **Institute of Manufacturing, University of Cambridge**

Ev 58

Lord Whitty and Lindsay Harris, **Department for Environment, Food and Rural Affairs**

Ev 77

## List of written evidence

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Fresh Produce Consortium	Ev 1, 8
Farmforce	Ev 9
National Farmers' Union of England and Wales	Ev 14
Transport and General Workers' Union	Ev 25
Department for Environment, Food and Rural Affairs	Ev 48, 66
Dr Jennifer Frances, University of Cambridge	Rv 49
The British Retail Consortium	Ev 89
PC Tinsley Ltd	Ev 89
Dr GR Smith	Ev 90
Citizens Advice	Ev 90
Mr D Piccaver	Ev 95
Ethical Trading Initiative	Ev 95
Department of Trade and Industry	Ev 100
Cambridge Housing and Environmental Consultants	Ev 103
Asda Stores Ltd	Ev 105
Marks and Spencer plc	Ev 106
Tesco plc	Ev 109

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Transport and General Workers' Union (Annexes)

Fresh Produce Consortium (Annex)

## Reports from the Committee since 2001

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### Session 2002–03

Thirteenth Report	Poultry Farming in the United Kingdom	HC 779-I
Twelfth Report	The Departmental Annual Report 2003	HC 832
Eleventh Report	Rural Broadband	HC 587
Tenth Report	Horticulture Research International ( <i>Reply HC 1086</i> )	HC 873
Ninth Report	The Delivery of Education in Rural Areas ( <i>Reply HC 1085</i> )	HC 467
Eighth Report	The Future of Waste Management ( <i>Reply HC 1084</i> )	HC 385
Seventh Report	Badgers and Bovine TB ( <i>Reply HC 831</i> )	HC 432
Sixth Report	Rural Payments Agency ( <i>Reply HC 830</i> )	HC 382
Fifth Report	The Countryside and Rights of Way Act 2000 ( <i>Reply HC 748</i> )	HC 394
Fourth Report	Water Framework Directive ( <i>Reply HC 749</i> )	HC 130
Third Report	The Mid-term Review of the Common Agricultural Policy ( <i>Reply, HC 615</i> )	HC 151
Second Report	Annual Report of the Committee 2002	HC 269
First Report	Reform of the Common Fisheries Policy ( <i>Reply, HC 478</i> )	HC 110

### Session 2001–02

Tenth Report	The Role of Defra ( <i>Reply, HC 340, Session 2002-03</i> )	HC 991
Ninth Report	The Future of UK Agriculture in a Changing World ( <i>Reply, HC 384, Session 2002-03</i> )	HC 550
Eighth Report	Hazardous Waste ( <i>Reply, HC 1225</i> )	HC 919
Seventh Report	Illegal Meat Imports ( <i>Reply, HC 1224</i> )	HC 968
Sixth Report	Departmental Annual Report 2002 ( <i>Reply, HC 1223</i> )	HC 969
Fifth Report	Genetically Modified Organisms ( <i>Reply, HC 1222</i> )	HC 767
Fourth Report	Disposal of Refrigerators ( <i>Reply, HC 1226</i> )	HC 673
Third Report	Radioactive Waste: The Government's Consultation Process ( <i>Reply, HC 1221</i> )	HC 407
Second Report	The Countryside Agency ( <i>Reply, HC 829</i> )	HC 386
First Report	The Impact of Food and Mouth Disease ( <i>Reply, HC 856</i> )	HC 323