Foreign & Migrant Workers Procedure

Section Contents

Title Page Including:
Revision History
Contract Specific notes & Amendments

This Document:

1.0 Introduction
2.0 Foreign & Migrant Worker issues
3.0 Identifying risks
    Control measures
Foreign & Migrant Workers Procedure

Introduction

According to the Health & Safety Executive, the vast majority of migrant individuals come to the UK for work purposes.

Many foreign / migrant workers traditionally came from commonwealth countries. Now, with an expansion of the European Community, together with the freedom to travel, to trade and work wherever one wishes within the EC boundaries, the number of foreign workers in the UK is increasing.

As well as the known legal migrants, the Home Office estimates there are in excess of 500,000 illegal immigrants in the UK. Migrant workers are employed in many sectors of UK industry. Traditionally they have been found in the hospitality and leisure sector, healthcare, agriculture and construction.

Health and safety legislation applies to all workers, whatever their background, and it is now increasingly likely that the company's Health & Safety system will need to include protecting the health, safety and well-being of employees who would fall into the category of migrant / foreign workers.

The key is to identify those who may be most at risk, identifying what the risks could be and then controlling the risks accordingly.

Foreign / migrant worker issues

All workers, not just foreign / migrant, can be exposed to some level of risk at work.

The HSE has stated that workers are not at more risk by virtue of being foreign / migrant, rather it's that some of the industries that they naturally tend to get employment in are industries traditionally having high rates of injury both numerically and proportionately.

However, whatever sector foreign / migrant workers may be employed in, factors that may make them more vulnerable include:

- The relatively short periods they may have worked in the UK
- Their limited knowledge of the UK's Health & Safety legal requirements
- Their different experiences of Health & Safety regimes in countries of origin
- Their motivations in coming to the UK (e.g. high earnings in a short period of time)
- They may not be able to communicate effectively with other workers and with supervisors, particularly in relation to their understanding of risk
- Their access to limited Health & Safety training and, where proficiency in English is limited, their difficulties in understanding what is being offered
- The failure of employers to check on their skills for work and on their language skills
- Where workers are supplied by recruitment agencies or are self-employed their employment relationships are unclear and there may be uncertainty concerning who has responsibility for Health & Safety
- Their lack of knowledge about Health & Safety rights, how to raise them and the channels through which they can be represented.
Foreign & Migrant Workers Procedure

Identifying risks

It is irrelevant as to what an employee's status is or whether foreign / migrant workers are illegally or legally working in this country as Health & Safety law applies wherever anyone is at work in British territory.

Many foreign / migrant workers face no, or very little, increased risk. They may speak fluent English, may have worked in the UK for many years and generally have the same risk profile as their colleagues.

However, the employment of foreign / migrant workers is not something to be undertaken without full consideration of the possible additional risks involved. It is recommended that as employers, Sample should carry out risk assessments adapted specifically to the presence of foreign / migrant labour should it be required.

When carrying out an assessment, initial thought will have to be given to the approach to be taken. For example, is it necessary to review all risk assessments for all activities or is it possible to carry out a more generic risk assessment if foreign / migrant workers are found throughout the organisation or project? It may be necessary to determine how many foreign / migrant workers there are, where they are working and what they are doing.

It then has to be determined if foreign / migrant workers are at greater risk than the working population generally and if so, why? Factors to consider will include the following:

- What the employment status of the foreign / migrant workers is (e.g. employed, self-employed, agency),
- Language and literacy skills with regard to their ability to communicate and understand information (written and oral) in relation to the work activities and general Health & Safety of the work environment,
- The level of information, instruction, training and supervision required in relation to the work
- Prior work experience and the extent to which it is relevant in relation to Health & Safety practices in the work activity being undertaken,
- Perception of risk and extent to which this may differ due to experience of another country's Health & Safety workplace culture,
- Relationships between foreign / migrant workers and UK workers and the potential impact this could have on Health & Safety.

The assessment may also highlight issues within the organisation that could enhance the risk factor including the following:

- Is Health & Safety information provided in languages other than English?
- Are induction and on-going training provided and how are these tailored to make sure foreign / migrant workers understand them?
- Is personal protective equipment provided and are steps taken to ensure that foreign / migrant workers use it appropriately?
- Are foreign / migrant workers are informed of their rights in relation to Health & Safety?
- Are there systems in place to ensure that foreign / migrant workers are able to report accidents or raise concerns?
- Are responsibilities for Health & Safety clearly defined when temporary agency and / or casual foreign / migrant labour are commissioned?
Foreign & Migrant Workers Procedure

Control measures

In an approach to managing foreign / migrant workers' Health & Safety it should be based upon the basic principles detailed in HSG65 Successful Health & Safety Management. It is necessary to make arrangements to ensure that procedures reflect the need to consider foreign / migrant workers' Health & Safety. Therefore risk assessments must be reviewed and monitored to ensure their effectiveness.

It is always preferable to eliminate or reduce risk at source and much can be achieved by ensuring that those to be appointed are suitable for the work activities to be undertaken. It is best to eliminate or reduce risk at the “input stage” to the organisation and in light of this Sample and its sub-contractors should try to ensure that they employ legally entitled foreign / migrant workers and not those who may have an illegal status (e.g. those without a work permit, illegal immigrants).

Clearly, each individual's competency should match as closely as possible the required competency for the work activities to be undertaken and reasonable attempts should be made to determine whether or not the individual has the necessary skills, qualifications and experience required, including the necessary language skills.

Even where competency levels are adequate, migrant workers, like all employees, should receive an appropriate level of information, instruction and training.

Induction and job-specific training involving lectures or videos are unlikely to be effective with foreign / migrant workers who have limited command of English. Simultaneous translation by use of an interpreter is possible but may not work well in practice. If significant numbers of foreign workers are expected, Sample will consider preparing material in the appropriate language and amending the delivery method, e.g. by using bilingual employees.

It may also be necessary to have Health & Safety related documents such as risk assessments and operating procedures translated into the appropriate languages. This may also apply to procedures such as permit-to-work systems.