

Illegal Working Group - eighth meeting, 2 February 2004

Date: 2 February 2004; Time: 1400

Location

Home Office, 50 Queen Anne's Gate, London SW1

The minutes of the eighth meeting of the Illegal Working Steering Group and steering group members, held at the Home Office, 50 Queen Anne's Gate, London SW1 on Monday 2 February 2004 at 14:00.

Present

Ministers

Beverley Hughes, Minister of State for Citizenship, Immigration and Counter-Terrorism (Chair); Gerry Sutcliffe, Parliamentary Under-Secretary of State for Employment Relations, Competition and Consumers.

Members

Ian Barr (CRE); George Brumwell (CSCS); David Butterworth (NFU); Kay Carberry (TUC); Martin Couchman (BHA); Tom Hadley (REC); Colin Moffat (J Sainsburys); Anthony Thompson (CBI).

Officials Attending

Martin Donnelly; Lorraine Rogerson; Tim Woodhouse; Catherine Pool; Nicola Mortlock; Peter Whittington; Jason Goddard.

Apologies

Lutfur Ali (DOH); Shaun Leavey (NFU); Lewis Sidnick (BCC); Marks and Spencers (pending appointment of Head of People Procurement).

1. Introductions

The Chair introduced Gerry Sutcliffe from the Department for Trade and Industry, welcomed new members from the CBI, CSCS, NFU, and REC and tendered the apologies of members who were unable to attend.

2. Minutes

The Chair reported progress against the action points raised at October's meeting:

- Firstly, as requested, steering group members had received a more detailed breakdown of the responses to the consultation on section 8 changes (concluded in October). Members were satisfied with the report.
- Secondly, the Dutch approach to tackling illegal working was re-evaluated. In short, while this was deemed effective, it could not be adopted as a model in the UK due to the different contexts.
- The third point related to capturing reasons for failed section 8 prosecutions. Current data collection methods within Magistrates and Crown Courts did not allow us to identify this information, but we would continue to work with the Attorney General on this issue.

3. Matters Arising

Changes to section 8

The Chair reminded the group that the response to the public consultation on section 8 changes had been equivocal. Whilst there were concerns about burdens on business and reservations about effectiveness, the proposed changes had attracted support, and the new document list remained the only currently viable option for improving enforcement of the law to prevent illegal working.

The Government had therefore decided to lay the requisite Order at the end of February, with a view to bringing the changes into effect in April. It was imperative now to use the Illegal Working Steering Group and steering group members expertise to prepare business for the forthcoming changes and to look at both long and short guidance to ensure that these would support compliance effectively.

Gangmasters

The Chair informed the group that a Private Members' Bill to introduce a statutory accreditation system for gangmasters was under consideration by the Government.

4. Discussion: communications strategy options/distributing guidance

Introduction

The Chair handed over to Tim Woodhouse to introduce a communications paper examining means of disseminating guidance and raising and maintaining awareness of the law to prevent illegal working. The paper had been sent to the IWSG and steering group members before the meeting.

Tim Woodhouse explained that the communications strategy was a two stage process: firstly the initial launch of the changes and the new guidance; and secondly the ongoing, iterative work to ensure that compliance and awareness levels were maintained over the medium to long term.

For the initial launch, interim draft guidance would be made available on the Home Office website as soon as the Order amending section 8 was made in Parliament. This would be accompanied by a media launch announcing the changes. The Home

Office would aim to issue guidance to all employers on the Inland Revenue's PAYE database (some 1.3 million employers) before the new arrangements came into force. This would include employment agencies that were registered with the Inland Revenue for PAYE purposes.

To follow up on the initial launch, the paper suggested maximising use of government websites, using media opportunities to the fullest extent, and utilising the IWSG and steering group members and its links with supporters and members to encourage employer compliance. The guidance would be available on request from the Employers' Helpline as at present.

The paper went on to outline a number of other options including targeted advertising and editorial for trade press, other advertising and disseminating information through key intermediaries such as accountants. Some of these would probably not be cost effective options, but the paper aimed to cover all the possibilities.

Discussion

The Chair intended for this "ideas" paper to be translated into a full communications strategy following discussion within the group. She opened the discussion by asking members their opinion of the options in the paper and which of these they felt would have most impact and reach most people - i.e. which methods would represent best value?

Steering group members suggested a number of industry bodies that could help launch the changes initially, and also carry out ongoing work to maintain the profile of section 8, including the Federation of Small Businesses and Citizens Advice Bureaux. In the construction industry, examples of such bodies included the Construction Industry Training Board, the Federation of Master Builders, and the Construction Confederation. It was agreed that IWSG and steering group members would provide officials with a comprehensive list of industry-specific organisations that could be contacted about distributing information to employers. Action point: IWSG and steering group members to supply officials with a list of organisations, sub-organisations and publications that might be useful in promulgating information about illegal working.

The second point raised was about the nature of the message to be conveyed (as opposed to the way in which to convey it). The IWSG and steering group members felt that industry would understand the rationale behind the changes, but recognised a risk that the press, or individuals and organisations with a particular agenda, might misinterpret section 8 changes to the detriment of UK community relations.

The Chair agreed that this was an important point and emphasised the Government's unprecedented record in presenting the public with the benefits of managed migration.

An IWSG member asked if indeed the changes would be presented as a means of tackling the small minority of employers who act in an illegal way, often in more than one area of employment law? The Chair confirmed that the overall message on

migration should be a positive one, welcoming managed migration, and that the changes should be seen as a means of tackling abuse of managed migration routes.

Gerry Sutcliffe concurred, explaining that given demographic and organisational changes in the UK over recent years, we would depend increasingly on migrant labour in future to remain competitive. IWSG and steering group members also felt that industry welcomed the skills that migrants brought to the UK's labour market.

The group felt that repetition of the message that employers must check their workers are legally entitled to work, and subsequent waves of communications activities to reinforce the initial launch of section 8 changes, were crucial. Several members expressed their willingness to use their own websites, newsletters and other means of communicating with their members and associates for this purpose.

One option in the paper was to use intermediaries to cascade information to employers. If this were to be pursued, it was suggested that bookkeepers as well as accountants be contacted to reach smaller employers who might not use accountants. However, on balance the IWSG and steering group members were not convinced that this option represented the best use of resources, as there would be no guarantee that intermediaries would be ambassadors for section 8 compliance, and they would have no official auditing role. Trade press was felt to be a more effective method, although in the case of editorial, we would have to exercise caution so that the magazines would present the changes in the correct light.

The point was made that not only would the effectiveness of the legislation need to be reviewed, but the communications strategy would also need to be reviewed over the longer term. The Chair recognised this point and indicated that the IWSG and steering group could help with this.

In response to a query from a group member, Tim Woodhouse clarified that while it would avoid the risk that employers would dismiss the guidance as junk mail from the Inland Revenue, we could not use their database to do the mailing ourselves due to data protection/privacy issues.

One steering group member asked whether consideration had been given to communicating the changes to migrant workers so that they would know what was expected of them in terms of providing the relevant documents to employers. Links with other Government departments could be used to achieve this. Gerry Sutcliffe endorsed this point, using the DTI's recent guidance for Portuguese workers on their employment rights as an example. This is something that could be included in the final communications strategy.

Guidance

IWSG members had received colour copies of the draft long guidance on the revised section 8 law through the post. The Chair stressed the need for the guidance to be as clear and accessible as possible to support employer compliance, and invited steering group members to participate in sub groups to look at the guidance. This was done successfully with the short guidance.

Action point: Officials will set up sub-groups with IWSG members who wish to contribute to improving the draft long guidance.

Other points raised on the guidance included the length of the document (currently fifty-two pages) and whether this could be broken up in any way, and the need to refer to discrimination on the basis of religion as well as race.

5. Future work of the IWSG

The Chair wished to agree a forward programme of work she envisaged the IWSG pursuing up until the end of 2004, when a review of the group's work and future would be undertaken. Five areas were identified:

- EU enlargement - particularly conveying the rights to be acquired by accession state nationals on 1 May to employers;
- gangmasters - developments with the Private Members Bill and other initiatives to tackle illegality in this sector;
- research - although there were inherent difficulties in researching illegality, there is a clear need for more information about the nature and extent of illegal working in the UK. The IWSG might be able to suggest some ways of carrying out research in their sectors;
- codes of practice - suggesting and helping to develop practical means of improving employer compliance was always intended to be one of the steering group's main purposes;
- monitoring the impact of section 8 changes and the efficacy of the communications strategy.

IWSG members particularly endorsed the inclusion of codes of practice (which some organisations already have in place and will send to officials for information), research and enlargement in the work programme. One member's organisation was re-launching its code of practice, which had been revised to include references to section 8 compliance, and they could time the launch of this code with the introduction of section 8 changes.

On enlargement, the Chair suggested that this be a substantive agenda item at the next meeting, and that a presentation outlining existing research and the likely impact of enlargement of migrant work (legal and illegal) in the UK be given. A group member asked how much research was available on migrant workers. The Chair explained that there was a good deal of information on numbers coming to work in the UK through legal routes (such as work permit holders) but that data on illegal workers was at best incomplete.

Tim Woodhouse explained that some intelligence could be gathered from enforcement operations (those illegals that were caught) and that some research had been done specifically on gangmasters, but that more thorough research was needed. An IWSG member asked whether the UCL research on enlargement could be discussed at the next meeting. The Home Office agreed to look into this.

Action point: Officials will invite a UCL representative to speak on enlargement at the next meeting of the IWSG, as part of a wider presentation on the subject.

Other issues put forward as possible agenda items included looking at employment standards and the conditions which migrants, both legal and illegal, work in, and using existing enforcement bodies to uncover illegal working alongside other offences, such as non-compliance with health and safety and national minimum wage legislation. Concern was expressed that the group should not broaden its remit too much, risking losing its focus on tackling illegal working, but it was agreed to consider examining the working conditions of illegal workers.

Better enforcement of the legislation was also raised, but the Chair explained that the section 8 changes were intended to facilitate enforcement, and as a result, the prosecution and conviction of section 8 offenders. The IWSG and steering group members would have a role to play in monitoring this.

Action point: A revised programme detailing main areas of work up to the end of 2004 will be drawn up and circulated to members of the steering group.

6. Any Other Business

No other items were raised.

7. Date and Time of Next Meeting

It was agreed that the next meeting of the IWSG would be held at the end of February to confirm the communications strategy and to look at the issue of EU enlargement prior to the accession of the new member states on 1 May 2004. This will take place on 25 February 2004 at 09:45 in the Home Office (Queen Anne's Gate)