

## **Section 1 Purpose**

The purpose of this guidance document is to provide assistance to the company wishing to employ migrant workers (see section 4 for definitions) in relation to the provision of their contracts.

## **Section 2 Scope**

This document applies throughout DP3 on all contracts carrying out all services.

## **Section 3 Guidance**

### **Section 3.1 Introduction**

Current HSE research, suggests there is no evidence to show that the “Migrant Workforce” is at any greater risk of sustaining an accident or incident than the current local labour force. The research has however identified that the migrant workers are less likely to report accidents / incidents and are more likely to be employed within occupations / industries that have a greater degree of risk attached to them, in which they are likely to be at an increased risk due to the: -

- Relatively short period of time that they have actually worked within the UK / actually work within the UK before having to return to their home country
- Limited knowledge of the UK’s health and safety systems
- Motivational factors that have brought them to the UK i.e. the ability to earn as much as they can within the shortest period possible therefore it is reasonable to assume that corners may be cut to enable them to achieve this goal
- Inability of the workers to effectively communicate with the UK workforce and their respective supervisors, particularly in relation to their understanding of hazards and risks and the control measures that must be implemented to avoid / control the risks
- Workers having access to suitable and effective health and safety training and their inability to understand the information that is being provided to them where they are not proficient in English
- Employers failing to fully check their training records / skills prior to engaging them to work for and on their behalf

Therefore prior to engaging any migrant workers, it will be necessary for the company to establish suitable and effective safe systems of work that address all of the following issues: -

- In line with all UK employers obligations under Section 2 of the Health and Safety at Work etc Act 1974 the company wishing to employ migrant workers must be able to demonstrate that they have the ability to provide all of the following: -
  - Suitable and sufficient information, instruction and training (see section 4 definitions) to individuals in relation to the

- Hazards and risks associated with the operations that they have been recruited to execute
- Control measures that must be adopted whilst executing their work
- Health and safety standards that must be observed at all times, including any Company, Client or Specific Site Rules

The Company must also be able to demonstrate that the respective individuals had clearly understood the health and safety instructions that had been issued to them and were able to fully implement them.

In order to ensure that the above issues have been fully addressed, it will be necessary to establish an action plan / working group in advance of migrant workers commencing their employment in order to determine the following:-

- The nature of the hazards associated with the work that the migrant workforce will be executing including the language barriers
- The nature of the information, instruction and training that we need to provide to them
- The nature of the emergency procedures and emergency action that the migrant workforce need to be conversant with
- How the information, instruction and training will be provided to the migrant workforce and to verify with the aid of the interpreter if we are able to directly convert the current English information, instruction and training notes etc in to the mother tongue of the new workforce without losing the context of the information or changing the emphasis or meaning of the words etc. This needs to be looked at very carefully to ensure that the meaning of the word is the same in both languages
- The mix of people within the team(s) to ensure that there are sufficient English speaking people within each team to enable them to communicate with supervisors and vice versa and be able to raise the alarm in the event of an emergency
- If the services of an interpreter are used to provide the induction training to the none English speaking foreign nationals, it is essential to ensure that the interpreter is a competent trainer and capable of delivering the correct message in front of the target audience and to ensure that the interpreter is capable of translating all of the required information to the audience without losing the context of any words etc. (This will need to be verified in advance of the training session in order to iron out any areas of concern). It will also be necessary to conduct an evaluation of the training on conclusion of each training session in order to enable verification that the operatives have understood the training and have retained the message that was delivered
- To agree and ensure that all of the site instructions, site specific risk assessments or equivalent etc are completed in English to ensure that the supervisors and auditors are able to verify the nature, content and extent of the information to ensure that the

individuals have understood the nature of the control measures that must be adopted and are taking appropriate action to control the hazards.

- To establish a means by which further information, instruction and training can be communicated to the workforce during the course of their employment i.e. safety alerts, tool box talks, safety related training (emergency first aid, abrasive wheels, plant safety awareness training etc).
- To establish, as part of the company's emergency procedures, a means for interviewing non English speaking employees following accidents and incidents in order to gain a full and detailed understanding of the events that lead to incident.

### **Section 3.2 Health and Safety Training**

Establishing safe systems of work / health and safety training for migrant workers is no different than organising and developing safe systems of work / health and safety training for the current workforce. The only difference being the ability to assure that the information provided is understood and can be acted upon by the migrant workers.

The main area of concern is that the HSE have identified that a large percentage of migrant workers actually claim to have a greater understanding of English than they actually have based upon their fear of not being able to obtain work. This seriously impairs their ability to follow or understand the health and safety training that has been provided. It is therefore essential to ensure that all health and safety related training is accompanied by a knowledge based pass or fail test at the end of each training package or session.

#### **Induction Training**

When running induction training sessions, in the mother tongue of the migrant workers it is essential to ensure that the translator can: -

- Translate the written word in to the spoken word
- Translate all technical requirements from English to the mother tongue without losing any meaning
- Answer any health and safety questions that are posed to them or have the ability to pose the question to the trainer in English and to provide the answer back to the migrant workers

**Note:** - It is not acceptable to use a bi-lingual member of the team to translate the health and safety message to the rest of the migrant workers as the induction training session is being delivered

#### **Specific Health and Safety Training**

Similar to running induction training sessions, it will be necessary to ensure that the trainer for all specific health and safety training courses can communicate the correct message to the migrant workers and to be able to gain assurances that the information has been understood

and will be acted upon i.e. Cat and Genny Training, Emergency First Aid Training, Plant Training etc

If the Company wishes to use migrant workers to fulfil a supervisory role (agent and above) it is essential to ensure that the individuals have a good command of the English language and to ensure that they are fully conversant with the health and safety roles and responsibilities.

### **Section 3.3      Supervision**

Line **manager's** must provide the migrant workers with all necessary information and instruction, to enable them to recognise the hazards and appreciate the risks involved with the work that they are executing. In order to ensure full compliance with this requirement, it will be necessary to establish and maintain supervision in English with a bi-lingual team leader providing the onsite instructions in the workers own language (for this reason all migrant worker teams must be populated with workers from the same ethnic background in order to ensure that the team leader can communicate with all parties in the team).

### **Section 3.4      Training Records**

At the time of recruiting the migrant worker(s), it is essential to check their right to work in the UK along with health and safety and trade related qualifications as an integral part of the recruitment process. The information gained via the review process must be recorded to ensure that a unique training plan is developed for each individual.

Wherever there is a doubt in relation to the validity of the migrant workers training certification and ability to execute a task, the individual must be subjected to a "show me" or skills based test in order to verify that they have the ability to conduct the task. If the individual fails the "show me"/skills based test, they must be prevented from carrying out work in relation to the skill they have failed until such time that they have been provided with suitable and effective training.

### **Section 3.5      Health and Safety Procedures and Safety Equipment**

As part of the overall health and safety induction process, it is essential to ensure that the migrant workers are made familiar with and understand how to use the following: -

- The HSE information specific to the contract – unless this information is made known and effectively communicated to the migrant workers, the information will be worthless and will not provide any defence to the management team, for example if a migrant team leader is instructed to complete a site specific risk assessment form prior to commencing any new work, it is reasonable to assume that the individual will complete the document but will have little or no understanding of why he is completing the document, what he must do with the information or what he must do if he / she identifies a risk that they cannot control
- The accident/incident reporting requirements – the HSE have established that the

migrant workers have an increased tendency to under report accidents and incidents due to a perception that they may lose their job following an accident or be perceived as being an increased liability to their employer as a result of the accident/incident. It is therefore essential to ensure that corporate accident/incident reporting requirements are effectively communicated to the migrant workers stating that action will be taken against those individuals who do not report accidents / incidents

- The PPE that is provided
- The use of any/all safety equipment that is provided e.g. cable avoidance tools, gas detectors, etc, etc

In order to maximise the amount of health and safety information provided to the migrant workers in their mother tongue, it would be advisable to provide the individuals with a copy of the relevant HSE information/guidance documents translated into their mother tongue, thus effectively enabling us to demonstrate compliance with the provision of suitable and effective information.

### **Section 3.6      Auditing and Inspection**

As the migrant workers are at greater risk of sustaining an accident or incident due to their potential lack of knowledge and awareness of the health and safety risks associated with the operations that they are conducting, it will be necessary to increase the number of audits / inspections conducted on each individual / team until such time that a level of confidence with their performance is achieved. Note: evidence to support this claim i.e. good supervisor / independent audit results must be in place.

Once it has been established that an individual / team have a good health and safety performance they should be subjected to a reduced number of audits / inspections in line with the audit / inspection regime that has been agreed for the Contract. Should the individuals / teams health and safety performance deteriorate, the audit / inspection frequency must be increased until confidence in their performance is gained.

### **Section 4      Definitions**

**Migrant Workers** can include any of the following categories of worker: -

- Nationals of the European Economic Area (EEA) who have the right to travel, live and work in the UK
- Nationals of all other countries who require a work permit, which is obtained by an employer who cannot find a suitable national to fill the post
- Nationals of Switzerland and British Overseas Territories and people employed in a

limited number of activities, who require clearance to enter the UK but do not require a permit to work

- Commonwealth Working Holiday Makers – Individuals between the ages of 17 – 30 who can work in the UK for up to 2 years

**Information** – The provision of factual material which clearly informs people about the risks to their health and safety associated with the work that they are going to execute and to provide them with specific clear guidance and information in relation to the control measures that must be adopted at all times to ensure that the hazard is adequately controlled.

**Instruction** – The provision of information that tells people how to do the job / task in hand and specific guidance in relation to the measures that they must take to protect themselves and others who may be affected by their acts or omissions.

**Training** – The provision of training to help them learn how to conduct a task in accordance with the agreed safe systems of work etc and must include training in the use and implementation of emergency procedures and the action that the respective individuals must take in the event of an emergency situation arising.

## Section 5 Document History

May 2013 New Document

Date 30/5/13  Signed (MD)