

Equality and Human Rights Commission  
Research Report

# Experiences of Migrant Workers in Fish and Food Processing in North-East and Central Scotland:

A fact finding study 2015

## Acknowledgements

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## 1. Background and Remit

The Equality and Human Rights Commission Scotland (EHRC) engaged Central Scotland Regional Equality Council (CSREC) and Grampian Regional Equality Council (GREC) to conduct a small scale fact finding study into migrant workers in the food (Central Scotland) and fish processing (North East Scotland) sectors. The study was conducted between July and October 2015.

The study was prompted by an earlier (full scale) inquiry conducted by the EHRC into the Meat and Poultry Industries in England and Wales (EHRC March 2010). That earlier research revealed some areas of concern and the EHRC was able to make recommendations to the industry based on these areas of concern, as well as areas of good practice revealed by that research (see table 1). Given the similarities of the sectors, the EHRC in Scotland wanted to take a look at the wider food processing and fish processing industry to explore any indications of similarities in employment and systemic practices.

*Table 1. Summary of areas of concerns and examples of good practice arising from the EHRC research (published 2010) into the meat and poultry processing industry in England and Wales.*

<b>Areas for concern</b>
Widespread mistreatment and exploitation of migrant and agency workers
Physical and verbal abuse, lack of proper health and safety protection, poor treatment of pregnant workers
Workers with little knowledge of their rights and fear that raising concerns would lead to dismissal
Recruitment practices indirectly blocked British workers from getting jobs in the industry
Breaches of the law and licensing standards and poor conditions

<b>Examples of good practice</b>
Firms treating permanent and agency workers of all nationalities with respect which as a result attracted and retained well motivated, loyal and increasingly skilled workers
Workers welcomed increased enforcement by regulators to create a level playing field
In a further review published in 2011 progress and improvements had been made in treatment of pregnant workers and workers not being segregated by nationality

The issues from the 2010 report provided a guide for the questions that were explored in this 2015 study in Scotland where the objective was to obtain a 'snapshot' of how the food and fish processing sectors operate and manage a multi-ethnic workforce.

Food Processing is the largest industry in Scotland's manufacturing sector by output. It accounts for 19% of all manufacturing in the country. Around 35,000 people are employed in the sector and, increasingly, this workforce is becoming more diverse. Overwhelmingly, the industry is made up of micro and small to medium-sized businesses (97%). (Scottish Food and Drink Federation 2015).

Migrant workers, particularly from Central and Eastern Europe, represent a significant share of the workforce. In 2012 it is estimated that 6.3% of all people of working age in Scotland were non-UK born – a total of 228,000 which was an increase of 22,000 (8%) compared with 4 years previously (Oxford University Migration Observatory 2015). Many non-UK nationals find their first employment in Scotland within the food and fish processing industries. This can largely be attributed to the low levels of English language skills that are necessary to work in the sector.

The snapshot and fact-finding detailed in this report, rooted in the real experiences of migrant workers, provides a human story for some of the statistical information available from the 2011 Census for Scotland. Given the scale of these studies this report is not an authoritative analysis of the industry, but it does provide an initial picture, in two parts of Scotland, of what is the largest manufacturing and export industry.

The findings are presented under 10 headings using an analysis of the factual information as reported by participants in the study. In addition, to

the extent that participants commented, the report includes information on the more subjective elements relating to feelings about their employment. In this way the report provides various perspectives through the eyes of workers from several national backgrounds, including Scottish, EU countries, and those from further afield.

Most participants expressed some apprehension about making comments that could be attributed to them. All were reassured about confidentiality both in holding the data received and in the reporting of data. To ensure nothing can be attributed to the individuals, where necessary, the quotes have been anonymised (e.g. to avoid reference to specific nationalities).

## **2. Executive Summary**

Generally speaking, the research found that most people were satisfied with their employment and their companies. The terms and conditions under which they are/were employed complied with the law at the time, although the question of holiday pay being based on average rather than basic hours needs to be clarified. Also, to a greater or lesser extent, their employers were mindful and accommodating of their needs.

In the Central Scotland food processing factories we found that there were no real areas of concern, and that the employees of the two companies reported them to be good and fair employers.

In the North East of Scotland fish processing sector the study found no pattern which would point to systemic mal-practice, and the companies were considered by the participants to be fair employers. Nevertheless there were examples of reported poor practice and a pattern whereby this related to the individual supervisor having a latitude which could push the boundaries beyond what might be deemed acceptable.

When examining the more subjective aspects of the information gathered from the reporting by participants, and in particular the dynamics of the workplaces in question, we can distil from an inevitably complex and variable picture a couple of themes that relate to both the food and fish processing sectors:

1. A tendency for a hierarchy of nationalities based primarily on the size of a nationality's contingent within the overall workforce of a factory: the larger a nationality's contingent, the greater its status.
2. Management that perhaps takes the path of least resistance, with an impression of turning a blind eye (either to inter- group tensions or else the discretion exercised by individual supervisors) in favour of maintaining levels of production.

We have sought throughout to differentiate between personality clashes and 'routine', systematic practices which provoke tensions among colleagues, excluding the former from the report's findings. That said, to a certain degree, when dealing with subjective evidence feelings that exists are instrumental in setting the atmosphere and dynamic of the workplace.

*Table 2. Summary of main findings under the 10 headings for the study.*

<b>Focus</b>	<b>Main finding</b>
i. Recruitment process	Variable degree of formality or structure. Overall applied in a satisfactory way and even handed across different migrant worker nationalities. But word of mouth recruitment can have unintended consequences in reinforcing existing groupings of workers.
ii. Contracts	Whilst terms and conditions are at or close to the minimum requirements (e.g. pay rates and use of zero hours contracts) the overall use of contracts is satisfactory, being applied evenly across migrant employees and nationalities.
iii. Training	The study suggests that the training on the production line is basic but sufficient for the roles. Reporting suggests little additional training being offered but there are some examples of good practice in this regard.
iv. Overtime	Whilst there is no evidence of systematic discrimination one-off examples in different factories highlight a concern about how some supervisors operate. So too there is a concern that where management are seen to 'turn a blind eye' the potential exists for this to become more widespread. It suggests a need for training of supervisors and also a need for structured opportunities for employees to raise concerns without fear of harassment.
v. Annual leave	The findings indicate that all employers are providing the appropriate annual leave allowances and have a fair system for allocating leave, largely 'first come first served'. However, the study suggests it is necessary for arrangements to be clarified: <ul style="list-style-type: none"> <li>- To ensure that holiday pay arrangements align with the legal position</li> <li>- To assist all employees to be clear about their contractual terms and conditions</li> </ul>
vi. Breaks	It appears that the overall provision and application of breaks in the shifts is satisfactory and applied evenly across employees and nationalities.

	However there appears to be a scope for individual supervisors to apply their own rules and it is uncertain as to the scrutiny of this by the higher management.
vii. Health and safety	From the studies it appears that overall health and safety is satisfactory and applied evenly across employees and nationalities. But there are exceptions that warrant follow up with employers.
viii. Agency workers	The study provides limited findings in relation to agency workers because of the few participants with direct experience. For workers in fish processing sector there appears to be a clear preference to be directly employed, but for some individual employees the flexibility in the hours of agency working can be an attraction.
ix. Workplace atmosphere and dynamics	<p>The study does not indicate any areas of concern in relation to systemic discrimination in the way that employers operate. However there is an indication of employers turning something of a blind eye to tensions that can arise, particularly in the way individual supervisors can operate. And there is a concern that this leads to one-off examples of poor practice and could, if not checked, become more widespread. The study highlights how a number of factors contribute to better or worse perceptions about the workplace, perceptions that do impact on retaining workers.</p> <p>There was no indication of employers taking any steps to segregate nationalities.</p>
x. Pregnancy	In the food factories the experience of workers was reported as positive. In the fish processing sector whilst the two negative examples that were reported does not lead to any clear conclusion, it does warrant clarifying arrangements with the employers.

### **3. Method**

#### **Research questions and semi-structured questionnaire:**

Drawing on the areas of potential concern as highlighted in the earlier EHRC report in 2010 (see previous section), CSREC and GREC liaised on the development of a common semi-structured questionnaire so that the main areas of focus would be covered; this questionnaire was agreed with the EHRC before proceeding to the field work (a copy of the questionnaire used in the interviews is available on request).

CSREC and GREC engaged with employers and workers in Central Scotland and in North East Scotland in the respective sectors – food processing and fish processing.

#### **Participation of employees:**

A total of 42 employees took part by providing detailed feedback and case studies. This comprised 10 participants from the food processing sector, who also took part in group discussions, and 32 from the fish processing industries.

In Central Scotland almost all of the 10 employees who participated were employed in two factories one large multi-national company; and one medium-sized, family-run company (referred to in this report as the ‘larger company’ and ‘smaller company’ respectively). From these 10 employees group discussions were also held to give a second level of case study material. The group work enabled the study to drill down from the questionnaire and qualify, develop and corroborate some of the individual statements.

Where any points of interest arose outside the group interviews, steps were taken to return to previous participants or ask subsequent participants of their knowledge and experience of those matters, ensuring the veracity of the claim and checking it against various perspectives.

In North East Scotland GREC advertised the study among employees through notices in the community in Fraserburgh and Peterhead, and through word of mouth in the places of employment. Using existing contacts in the community to identify 5 individuals of differing nationalities working in the sector and having them encourage people to come forward for interview proved an effective way of identifying

participants for the study, whilst reassuring them about confidentiality, and also acting as an interpreter where this was needed. In this way 32 employees participated in the study – it was decided to incorporate a higher number of individual voices to inform the findings although this reduced the capacity to undertake group sessions. The profile of the participants from the north east is as follows:

32 employees with experience of 8 different employers in Fraserburgh, Peterhead and Mintlaw.
22 female and 10 male
12 aged 25-40 and 16 aged 41-55
5 non-Scottish countries of birth in order of frequency (Poland, Latvia, Lithuania, Portugal plus some South American)
24 currently employed and 8 previously employed (7 of these within the past 24 months), 4 with experience of more than one employer in the sector
28 directly employed, 6 agency or previously agency

### **Participation of employers and other agencies:**

A number of employers were invited to share their experiences and perspectives with the research. In the Central Scotland study the information we collected shed a good light on the employers who were approached, with a view to collect information on the challenges of managing a diverse workforce and the way in which they developed their good practice. Contact was made by phone and in writing but no one from the employers was able to speak to us. In the North East Scotland study one employer provided information.

In addition a number of agencies (including Trade Unions, Citizens Advice Bureaux, public authorities, adult education providers) were also invited to share perspectives. Two Trade Unions responded.

## **4. Findings**

The findings are presented under each of 10 headings. Within each heading we present the findings and then offer a comment on the findings.

To indicate the source of reporting, where applicable, this is signified as follows:

- a. CSFoP – Central Scotland food processing study
- b. NESFiP – North East Scotland fish processing study

### **i. Recruitment Process**

Word-of-mouth functioned as the most common medium through which participants found out about employment opportunities. The few exceptions to this were Scottish workers and the workers from outside the EU.

Overwhelmingly, the migrant workers from the EU reported following friends and family over to Scotland because they knew there were job opportunities and they were almost certain to secure employment.

The participants in CSFoP reported that the two companies took different approaches to their recruitment processes:

1. The large company had a far more formal process, involving: an application stage; an interview stage; an aptitude test (basic maths and language comprehension).
2. The medium-sized family business was far less formal and often only involved the applicant submitting a CV which would be followed by a brief conversation, during which time the interviewer would gauge the person's grasp of English and their suitability for the role.

None of the applicants were put off by these processes; even those who faced the more in-depth scrutiny by the larger company knew that they would be supported through the tests in particular. Everyone who participated felt that the process was quite fair and nobody knew of anyone not being offered a job.

Of the participants in the NESFiP study:

- 26 of the 32 participants reported word of mouth through family or friends as the method of finding out about the job. Local Scottish workers approached the employers directly, migrant workers would do likewise but with reference to their family or friends.
- 24 reported use of an application form, 4 others a CV and 4 stated “nothing”
- 21 reported a formal interview, 6 an informal interview and 7 no interview (“I was just asked to turn up and start”). Only one of those reporting no application form or CV reported no interview.
- Nearly all the participants reported that there was no aptitude test or English language test as part of the interview (27 and 28 respectively).
- Half of the participants considered their English language skills to be poor at the point of interview but only 1 considered this to be a problem in doing the work and only 1 other considered it to be “sometimes” a problem.
- Allowing for scope of interpretation by employees between what is an application form and what is a CV and between a “formal” and “informal” interview the practice as reported was largely structured. The few cases of no structured application or interview did not correlate with a particular employer.

**Comment:**

From the studies it appears that overall the recruitment processes for migrant workers are satisfactory and open to all. Although different factories had varying levels of formality in their recruitment practices no employees had complaints nor did any feel for any deliberately different practices between different migrant nationalities.

It was also indicated that the application and interview process is applied equally across both Scottish and migrant workers. However, the practice of word of mouth recruitment can have the effect of reinforcing particular groupings (nationalities) of workers which whilst pragmatic rather than deliberate could nevertheless foster resentments if other nationalities (including Scottish) feel excluded.

**ii. Contracts**

Participants in CSFoP reported that when applicants were offered employment they were given a contract to sign and a copy to keep. There were no irregularities that the study uncovered and both

companies offered contracts that were above the minimum required by law. All the participants in the research were satisfied with their terms and conditions.

The contracts stated clearly the shift pattern the employees would be on, giving them defined shifts on set days of the week. The two companies offered pay rates slightly above the minimum wage. The language of the contract was accessible to non-native English speakers and all participants felt they were able to understand them easily.

Everyone spoken to started on a temporary basis and then transitioned to permanent contracts over time; this transition ranged from three to six months.

The contracts for agency workers were by their nature slightly more vague. However, the terms and conditions under which they worked were identical. The rate of pay was the same and they were entitled to *pro rata* holiday pay.

Participants in NESFiP reported receiving contracts as follows: 24 of the 32 participants are on full-time contracts and 28 on permanent contracts. 30 received contracts although 8 required a partner or friend to interpret it for them. Of the 2 receiving no contract 1 is an agency worker and 1 started 8 years ago with a different employer who no longer operates.

The pattern is one of employees taken on directly on permanent contracts and being able to move between part-time and full-time as suits their circumstances.

There were no problems reported with contracts and terms. For the most part participants reporting as production line operatives indicated a pay rate as the national minimum wage (23 of 29). In addition the common expectation of participants on the production line was that if they were sent home early from a shift or it was cancelled at short notice then they would receive no pay for the time that was lost.

**Comment:**

From the studies it appears that whilst terms and conditions are at or close to the minimum requirements (e.g. pay rates and use of zero hours contracts) the overall use of contracts is satisfactory, being applied evenly across migrant employees and nationalities.

### iii. Training

Generally, the participants felt they received minimal but sufficient training for their roles although a few participants strongly disagreed with this in the fish processing sector.

In the CSFoP study the view was that in the larger company the training took place over three days, during which time workers: watched videos; were introduced to the line; taught about food hygiene as well as health and safety in the work place. In the smaller factory the training was less extensive and some staff felt that the training in food hygiene could be improved.

Many of the participants in the research felt that because of the 'monotonous and repetitive' nature of the role, there was no real need for extensive training and some felt it to be 'quite patronising'.

However, for those moving up through the large company's hierarchy, the training was considered to be less than sufficient. The large company had several stop-gap roles, or relief roles which some line operatives would cover when the permanent line charge-hand was on their days off. Those workers taking on the relief roles reported feeling under-supported and under-trained. The stress of the role caused many to return to the line operative level and forego the additional income for a less stressful role.

They reported that in order to do the job properly, they often missed breaks and stayed on to fill out the requisite paperwork to accompany the package food. They said that there was no real help or training because they were not permanently employed in the role of charge-hand.

None of the participants felt that their employers developed them as workers and while the training was there for their roles, there was no continual development. They reported that this reinforced a feeling that there were not very many options to progress within the companies.

They also reported that the employers did not support migrant workers in improving their English. Many of the people we spoke to attended or had attended English language classes, but heard of them through their employers. There were notice boards in both companies advertising both internal and some external jobs and other opportunities, however,

nobody really paid attention to them: some saying that it was all in English, others that it was not for them so they did not bother.

In the NESFiP study less than half of the 32 participants reported receiving training before they commenced work, although once 'on the job' training was factored in the majority felt it was adequate for the work. All but 4 felt it "enough to be safe". Of those reporting 'inadequate' or 'not enough' training there were others with the same employers who thought it was adequate and "enough to be safe".

In terms of supporting employees to develop 'additional skills' the participants were evenly split between agreement and disagreement. A similar split was reported in relation to the employer supporting them in improving their English, although 3 participants (from 3 different employers) mentioned that their employer provided support for English language classes – a point of good practice on the part of the particular employer.

**Comment:**

The study suggests that the training on the production line is basic but sufficient for the roles. In the fish processing sector it appears to be less structured compared to the food processing factories. The more informal approach to training may reflect the nature of the work or the scale of the companies and hence the capacity to offer a more formal induction.

Whilst there is no obligation to offer extra training and overall the picture is one that this does not happen, there are some examples of good practice whereby employers have done so. It is also unclear whether the low reporting of this relates to only a lack of offers of extra training or perhaps a reluctance for some employees to make use of such training given that it is not felt necessary for the immediate work. There was an impression that migrant workers are understandably highly focussed on maximising income from current work and also somewhat resigned to a lack of opportunity for progression. GREC will further explore this aspect in a separate study looking at the wider economic experiences including integration into communities and development of future employment opportunities.

**iv. Overtime**

In the CSFoP study only the larger company operated overtime shifts; the smaller company instead utilised temporary workers on a back-shift

to meet its orders. As such, the workers in the smaller firm were not doing overtime.

The employees of the larger company report that their access to overtime shifts was equal to that of all their colleagues. The constant need on the part of the employer for people to do overtime meant that there was no short supply of opportunities. The participants reported that the managers went down the production line asking workers if they wanted to do overtime until they met the need. In this regard, the process was considered to be random by the participants in that workers did not seem to be in a fixed position on the line every day and therefore, whereas one day you might lose out on the opportunity because you were “far away from the manager’s starting position, the next day you might be closer” and be offered overtime.

Nonetheless, despite not always being asked to do overtime, some participants reported a sense of pressure to do overtime, albeit not an overt or direct pressure. One participant described the overtime situation as “a matter of you scratch my back, I’ll scratch yours”. The consequences of not doing overtime were not immediate, nor did they put the individual’s employment in jeopardy; it was more the case that the individual might not be helped out by their manager if the individual later needed it.

In the NESFiP study 28 out of 32 participants work overtime and 28 out of 29 production line operatives work overtime. 4 of the 28 have a view that they “must” work overtime, however the 4 all work at different factories and there are fellow employees in those factories who have a contrary view. Hence we can assume that this reporting of ‘compulsion’ to work overtime is linked to differing practices at different work stations and/or with different supervisors. Everyone else (24 of the 28) views overtime as voluntary although the majority of participants did want to work overtime.

With regard to how overtime is allocated 8 participants reported it being a ‘preferential’ system, with 2 of the 8 reporting preference being given to full-time employees. However others pointedly remarked that it depends on the supervisor (again there is not a pattern with a specific factory).

Whilst the supervisor has the essential job of arranging for shifts to be filled so that the factory can meet production requirements, there is the impression that supervisors are left to do this in whatever way they

consider is best. In a minority of cases some of those methods may cross a line of acceptable treatment (see table 3 on page 20).

**Comment:**

There is certainly no evidence of systemic discrimination and the one-off examples in different factories highlight ways in which some individual supervisors operate. The supervisor clearly represents the employer and it is a point of concern that examples of poor behaviour are reported, but also that where management are seen to 'turn a blind eye' the potential exists for this to become more widespread. It suggests a need for training of supervisors but also opportunities for employees to raise concerns without fear of harassment.

**v. Annual Leave**

Overall the participants expressed no concerns with their annual leave entitlement nor their ability to take holidays. All stated that there did not seem to be any unfair allocation of holiday and that the system of 'first come, first served' seemed to be the main process by which annual leave was issued.

In the CSFoP study those who worked overtime found that their hourly rate of pay during their holiday time was increased in line with the recent court rulings on holiday pay, which stated that workers were to be paid their average hours worked as opposed to basic contracted hours, so as to avoid the situation wherein workers would be financially worse off on holiday and thus would not take their rest time.

Permanent workers in the smaller business experienced the situation described above, however, the company operated a different system for those on temporary contracts. The participants explained that because their employment did not have a concrete end date, they were only entitled to 5 days paid leave for the duration of their contract. If the duration of their temporary employment exceeded the 2 months that would acquire 5 days annual leave, they would then receive payment for those additional holidays at the end of their contract, effectively buying them out of their holidays. The workers we spoke to were not particularly bothered by the situation because they were able to take unpaid leave as and when required and so did not think it a bad deal.

What that situation demonstrated was the participants' lack of awareness of what their annual leave entitlements were and nobody was able to explain why their annual leave rate of pay was higher than their normal rate of pay.

As for agency workers, as far as we were able to determine, the terms and conditions of their employment was similar to those of the permanent, directly employed staff. Nobody knew exactly how annual leave worked for agency staff.

In the NESFiP study the participants overall reported no problems with receiving their annual leave entitlement.

In terms of ease of taking holidays one factory closes and so employees have fixed holidays in the summer and winter. For others the system is understood as 'first come first served'. However, 4 recent recruits all stated that they did not know how much holiday entitlement they would receive nor how it would be allocated – "I'll find out in due course".

In terms of payment for holidays only 10 reported that this was the average hours worked, 16 reported it was calculated on the basic hours of the contract and 6 did not know. Even factoring in an allowance for some confusion around this it highlights a point that should be followed up with Trade Unions and employers to ascertain the current practice in light of the recent court ruling on holiday payments.

26 of the 32 participants reported never having worked in excess of 60 hours in a single week and the majority had never worked more than 10 days in a row with just 7 reporting working on 20 or more days continuously.

In all cases employees are entitled to and receiving days off each week without any expectation to work beyond the working time directive.

**Comment:**

The findings indicate that all employers are providing the appropriate annual leave allowances and have a fair system for allocating leave, largely 'first come first served'. However, the study suggests it is necessary for arrangements to be clarified for two reasons. First, to ensure that holiday pay arrangements align with the legal position. Second, to assist all employees to be clear about their contractual terms and conditions.

## **vi. Breaks**

This was explored in relation to employees receiving shift breaks and also whether they receive payment for the duration of the breaks.

In the CSFoP study the reports indicate that at the large company all breaks were paid and nobody reported any issues with being able to take them. However, those moving up the company's hierarchy found that taking breaks was not always possible due to the need to complete documentation to accompany orders. To a certain extent this was seen as being the price of promotion and the workers stated that because the breaks were paid, they did not feel too exploited by having to work through them. For the same reason, charge hands almost never finished their shifts on time and this was seen as being worse.

At the smaller factory, only half of the break period was paid. There were allegations of tension arising around getting access to breaks. Some workers allegedly became verbally aggressive towards managers when they were not able to take their breaks when they wanted them. This could not be corroborated. In the medium-sized business, workers placed far more of an emphasis on getting breaks at specific times. There were two reasons for this: the heat in the factory; and the physical toll of repeating the same movements over and over. This is what seemed to have provoked the altercations between the managers and the workers.

In the NESFiP study participants reported that the employees are receiving breaks and these are paid as part of the shift (it excludes the main meal break). A few suggest they do not get paid but others at the same factory report being paid so the discrepancy is assumed to be based on a misunderstanding of the position.

All but 4 participants reported being able to go to the toilet when needed and these instances seem to relate to particular supervisors – of concern is that one reported instance related to a pregnant worker.

### **Comment:**

From the studies it appears that the overall provision and application of breaks in the shifts is satisfactory and applied evenly across employees and nationalities by the employers. However, there appears to be a scope for individual supervisors to apply their own rules and it is uncertain as to the scrutiny of this by the higher management.

## **vii. Health and Safety**

In the CSFoP study all the interviewees from both factories felt that they received sufficient training to do their work safely. Where issues may have existed in the past concerning Personal Protective Equipment (PPE), they have since been rectified. Everyone reported that the PPE was clean, dry and suitable at the start of every shift and nobody had any concerns about health and safety.

At the large company, workers were issued with a fleece, which they took home with them and kept. At the beginning of every shift, workers were issued with clean welly boots, a hair net, a snood (for those with facial hair), a white over-coat, and latex gloves.

At the medium-sized company, workers were issued with a hair net, a snood (for those with facial hair), and an over-coat.

In the larger company, it was also reported that management, at least on the face of it, were interested in any suggestions workers might have for improving processes and practices in the factory and have in the past acted on those suggestions.

In the NESFiP study as reported earlier all but 4 participants felt the training, albeit largely 'on-the-job' was "enough to be safe".

In terms of the provision of PPE all participants on the production line receive this, do not have to pay for it and have their own items.

Some participants choose to buy their own gloves and for some they provide extras at their own cost because "I can't work in one overall and gloves all day". Two people did report a charge made on them of 50p if an extra pair of gloves were used in a shift.

Of those using PPE the vast majority consider it to always be dry, well-fitting and suitable for the work. The exceptions to this, as reported, are of concern and would require further investigation to provide more comment.

### **Comment:**

From the studies it appears that overall the health and safety is satisfactory and applied evenly across employees and nationalities. But there are exceptions that warrant follow up with employers.

### **viii. Agency Workers**

The information gathered on agency workers was limited and patchy given that few of the participants had direct experience of this.

In the CSFoP study the smaller company does not employ agency workers. Instead, it employs temporary workers on a back shift, starting when the permanent workers finish, to cover the additional needs of the company. This allows them to fulfil their orders, however, it often means that the temporary staff are uncertain as to how long they will be employed for. Because the temporary employees worked later into the evening, they are paid at a higher rate to compensate for the unsociable hours they work.

The larger company, on the other hand, employs many workers through an agency. Most people we spoke to had limited knowledge of the terms and conditions under which agency staff were employed, however, everyone mentioned that they were the same conditions now as the permanent staff; this was second hand reporting. The suggestion, however, was that in the past agency staff had different conditions, less than those of the permanent staff. We are unsure what brought about the change.

A number of the participants were considering moving to the agency's books instead of working as direct employees because they liked the flexibility on offer with them.

In the NESFiP study the 6 participants who had direct experience of agency work and those that offered comment about others experiences in agency work all reported on this negatively. Pay rates and holiday terms and conditions appeared similar but preference for overtime could go to direct employees.

#### **Comment:**

The study provides limited findings in relation to agency workers because of the few participants with direct experience. For workers in fish processing sector there appears to be a clear preference to be directly employed, but for some individual employees the flexibility in the hours of agency working can be an attraction.

## ix. Workplace Atmosphere and Dynamic

The workplace atmosphere and dynamic was explored with participants from four angles, all with a potential impact to bring tensions into the workplace. The four angles are: differing educational backgrounds; ability to use English language; how people of different nationalities relate; and how workers and management relate.

Educational background – in particular the interest was to explore any potential tensions in the work place between migrant and local workers.

In the CSFoP study it was found that migrant workers tended to have completed some level of tertiary education, while those from Scotland tended not to have done so. While this in itself did not cause any great tensions, its implications for the varying motivations for working in the food processing industry did.

By contrast in the NESFiP study the majority of the participants had completed a school level of education – 23 compared to 9 who had some form of higher education.

We were not able to collect enough information to make meaningful assertions about education and its impact on relations; however, this indirect effect described was evident from everyone we spoke to.

Ability to use English language – here the interest was to explore whether this was a basis for any perceived tensions by participant employees.

In the CSFoP study many of the migrant workers stated that they worked in the food processing sector because they did not have the requisite level of English to work in the field they were trained in. This led many to look for employment in low-skilled, low-paid work because it provided a means of earning money while improving their English. Almost all of the participants (other than the Scottish workers) described their own level of English when they started working as *poor*; whereas at the time we spoke to them, they described their level of English as good to excellent.

As the migrant workers' level of English improved they became more conscious of the way their basic level of English was equated by others with lower intellect and that frustrated them. It caused a tension between the native English-speakers and non-native speakers.

A slight majority considered their English language skills to be poor at the outset but at the time of interview all but 2 had improved and 26 reported good skills. A few had taken up English language courses offered by the employer.

Only 2 participants reported their English language skills as causing any difficulty at work, with 3 stating it could cause difficulty 'sometimes'.

#### How people get on with each other across nationalities

In the CSFoP study generally speaking the interviewees from Polish and Scottish backgrounds stated that the atmosphere at work was friendly and that the team got on well.

Those from other backgrounds found that while the issues were not systemic per se, i.e. stemming from management and instigated by the companies, there were issues with their colleagues from the larger nationality groups. Those participants from smaller nationality groups reported feeling that there was a hierarchy of nationalities and that the bigger your national group, the higher up the hierarchy it would find itself.

How this hierarchy manifests itself in the workplace is complicated and not always necessarily within the management's control, or ability to effect. On occasion the 'tensions' arose from workplace politics, in which management cannot always interfere without being seen to take sides. However, on other occasions, the hierarchy was reported to be reinforced by how the management purportedly accommodates some nationalities' cultural traditions and not those of others.

For example one participant reported that very often Polish workers were happier working Christmas Day because Christmas Eve is more important in Polish culture, this suited the Scottish workers who would work Christmas Eve to have Christmas Day off. Other workers, however, reported that there is no such accommodation of their customs and traditions, particularly for those whose cultural backgrounds are further removed from Scotland's.

In the CSFoP study some Central and Eastern European workers, whose native language was not Polish, reported feeling distrustful of their native Polish-speaking colleagues because of how they allegedly spoke about them in Polish. Many workers from other Central and Eastern European countries were able to understand Polish because of

its similarity to their own native language and thus when their Polish colleagues complained among themselves about other colleagues they believed were unable to understand them, they were routinely overheard and understood. The tension arose from the feeling that there was no one to turn to address the 'bullying', as one participant put it, that was reportedly occurring because the smaller nationality groups were not represented within the management structure.

Furthermore, one participant alleged that the aptitude test the larger company used to screen prospective employees could be taken in only English or Polish which left all other migrant workers at a significant disadvantage. This however was not corroborated but it speaks to the feeling of isolation and indirect discrimination that workers from outside the EU felt.

Ultimately, as one participant put it, there was a feeling of "a hierarchy of nationalities not equality of nationalities".

In the NESFiP study there was a theme whereby majority migrant groupings could make things difficult for other nationalities e.g. one nationality feeling that another treated them as second class. Interestingly the nationality that felt particularly disadvantaged in the North East study was the one that was thought to dominate others in the central Scotland study.

Also of interest is that only in one case was any tensions reported as evident between migrant and native Scottish workforces.

#### How workers and managers get on with each other.

In the CSFoP study the reported view about worker and manager relations was that managers are fair and they would like to continue working there if no other opportunities presented themselves.

In the large business, there was an opaque hierarchy of management and nobody was clear as to who their line manager was exactly. This sometimes made it difficult to know who to approach if difficulties arose and there was need for time off or a shift change. However, others felt that this made things easier because you were able to approach anyone above you with issues and this could be with someone you had a better relationship with.

In the smaller company, the workers felt that there were inconsistencies between managers and this led to frustrations between different teams as some seemed to get an easier time than others. The altercations mentioned above were reported as indicative of the different management styles on display.

Many people reported that the managers took the path of least resistance when it came to managing diverse teams and tended not to interfere in the 'office politics' so long as production was not interrupted. This caused frustration as in difficult situations the managers could not be relied upon.

Of the 32 participants in the NESFiP study slightly more than half (18) disagreed that "all workers of all nationalities are treated equally at work".

The majority (19) considered their employer to be "a fair employer" and 6 others were neutral on this leaving a distinct minority (7) disagreeing and the same number (7) who would prefer to not work for this employer.

The reported pattern was overwhelmingly one of mixed nationalities in the workplace and people not working mainly with people from their own country of birth.

In the majority of cases (22) colleagues were considered friendly and where they were not a typical response is captured in this example quote: "some co-workers may be rude to you, immigrants sometimes worse than local people...it creates an environment where it is difficult to work".

In the majority of cases participants felt that "managers get on well with staff" where they disagreed with this the examples cited were not insignificant (see Table 3 below).

**Comment:**

The picture that arose from the study does not indicate any areas of concern in relation to discrimination in the way that employers operate. However it does point to factors that will be relevant to future employment for migrant workforces with a number of what can be called 'push' and 'pull' factors. Hence as English language skills are developed will this act as a push as employees seek to move on to new employment opportunities. A pull factor is the way that families and

friends arrive by word of mouth, although again as families settle in Scotland, rather than being economic migrant workers, they may have a push to better their employment opportunities. Such factors are relevant for employers in how they may seek to develop best practices to retain their best workers. In the north east study participants pointed to a “locally understood hierarchy of the best employers” ...”the ones most people want to work for” based on “how they treat us”. “For years people have consider ...as the best due to having a permanent employment, good pay and good relationships...(and even here) it is worth mentioning that over the years (they) have lowered their standards. There are interpersonal conflicts, issues with supervisors. Sadly the management have systematically ignored those problems which did not help at all. In one case, the conflict increased to such a degree that a male employee hit a female employee on the factory floor... (but) I have heard that with the latest managerial changes things seem to be turning for better in that area”.

*Table 3. A selection of quotes from participants in the NESFiP study to evidence the examples of poor practice and why there is concern about one-off aspects of discretion exercised by individual supervisors*

“If the charge-hands were more consistent it would be better”  
“Supervisors on many occasions quarrel and have different opinions”  
“For years I was treated well then the supervisor changed and he picked on me, when he left it was fine again”  
“The supervisor was vindictive and people were afraid, people were treated differently and a pregnant woman was not supported”  
“Supervisors manipulate people – managers seem to rely on supervisors”  
“I was harassed if I said no and given worse jobs to do – I felt discriminated against” (on grounds of nationality).  
“I worked extra to appease senior staff - to secure my job”  
“When I needed doctors’ appointments I had to leave my job permanently”  
“Was allowed to go to the toilet only in break times”  
“Workers were sent to another, more intense department if denied working overtime”.  
Nationality “supervisors treat (their own nationality) better than other employees from different nationalities”  
“People liked by supervisor get overtime...I go to manager to get overtime”  
“My colleagues wish I was not working there because I am ...nationality”  
“Managers ...ignore when supervisors discriminate (against other nationalities)...among those ‘allowed’ practices were shouting...verbally offending them. A new manager put an end to this and now complaints against other workers are confidential and dealt with.  
“As a salaried worker I am expected to work through my breaks. I do not get overtime but could take time off but it would not be approved by other co-workers”  
Nationality “were favoured, but (nationality) were underclass workers - verbal abuse and a ban on speaking (their language), abuse ,insults and so stressed and intimidated...”  
“If people said no to overtime they would be harassed and forced or moved to worst jobs or even lose their job”  
“Managers stayed in their office and were unaware of what was going on at the factory floor”  
“English should be the official language. My boss doesn’t speak English and doesn’t speak my language – how come?”

“I can see the way Scottish and migrant are being treated and I see it is different. We are all hard working!”

“When there isn’t a full amount of hours worked the managers would take off the overtime pay. Once I went to the office and received some of the money back. Local people (start their shift earlier) and receive the full 8 hours”

“The supervisor was bullying me and others. She shouted, swore at employees which caused health problems to me...I believed that bullying was on racial grounds...there have been other people who have left the department because of the supervisor”

“I had a supervisor problem then supervisor left and no problems...”

“She should not (be a manager) she looks for trouble, talks behind backs, people are afraid of her”

A charge hand has a problem when Polish go to toilet, but not when (their nationality) go...also happens to ...pregnant woman. I happens for years...he acts as it was his company and can do anything”

There were compliments for management and supervisors, as in the following quotes:

“Managers will listen”.

“I like working here”.

“They (employer) agreed to an arrangement for me to vary my hours”.

“Used to offer overtime to certain people, now everyone gets an offer, including agencies”

“...was best boss at everything”

“If I needed to talk about something the management would listen and help me”

“...stayed in this job 9 years because I love it”

“A works council (exists) to represent the department and raise issues”.

There was no indication of employers taking any steps to segregate nationalities. However, there is an indication of employers turning something of a blind eye to tensions that can arise. Although somewhat anecdotal and based on a small sample of employees there is a belief that more could be done by employers to assist supervisors in their role. Whilst acknowledging that the supervisor role exists to maintain production levels and fill shifts etc., as the face of management to the production staff it appears that in some cases they should apply their role more consistently, indeed could do so with an eye to supporting integration of employees. In the most serious cases, if this were addressed positively through training and clear statements of expectations it would negate any potential for discriminatory practices,

wittingly or unwittingly. And even in the less serious cases there is potential value in retaining employees – being one of the perceived ‘better’ employers.

#### **x. Pregnancy**

In the CSFoP study nobody we spoke to had direct experience of being a pregnant worker and so they were not able to give any information beyond what they had heard and observed.

From what we were told, pregnant workers were treated well by both the larger and smaller businesses. Everybody felt that pregnant workers were well looked after. In both companies, pregnant workers were immediately moved on to lighter roles, in some instances ‘sitting roles’. In the large business where more ingredients were handled, pregnant workers were not allowed to come into contact with prawns.

In the smaller business, there was mention of one woman, who upon returning to work, was allowed to go home at regular intervals to breastfeed. She was allowed to do this because she lived nearby.

None of the participants in the CSFoP study had direct experience so no one was able to give detail about maternity leave and pay during that time. However, everyone stated that they foresaw no issues if a worker did become pregnant.

In the NESFiP study participants were aware of a woman who had direct experience of being pregnant while working in the sector. This had not been a good experience. Another participant commented that she would also not be confident of how a pregnant woman would fare. No one else offered comment, positive or negative.

#### **Comment:**

In the Central Scotland food factories the experience of workers appeared to be positive. In the fish processing sector the only experiences offered were negative. Whilst the participant sample size and the level of response on this was too small to conclude anything systemic it warrants clarifying arrangements with the employers.

## **5. Conclusions**

The origin of this study was in the similarity of the Scottish food and fish processing sectors to the meat and poultry industries in England and Wales. In particular, the purpose was to explore if areas of concern found in the meat and poultry sectors (in EHRC research reported in 2010) were to be found in the current food and fish processing sectors in Scotland.

Based on a small scale fact finding study the current report did not replicate the earlier research, rather sought to explore the situation for any similarities. The table below provides a comparison.

*Table 4. Contrasting the findings of the current small scale study into the food and fish processing sectors in Scotland with the earlier (reported in 2010) full-scale research into the meat and poultry sectors in England and Wales.*

<b>2010 finding in meat and poultry industries in England and wales</b>	<b>2015 indication in food and processing industries in Scotland</b>
Widespread mistreatment and exploitation of migrant and agency workers	This was not reported to be the case. No segregation of workers by nationality was found, indeed a mix was the picture reported.
Physical and verbal abuse, lack of proper health and safety protection, poor treatment of pregnancy workers	Health and Safety was found to be on the whole satisfactory. No systemic physical and verbal abuse was found but isolated examples were reported. Good expectations for pregnant workers were reported in the food processing study and some isolated concerns identified in fish processing factories. Isolated examples of poor practice (breaks and toilet breaks, shouting and ‘punishments’) seem attributable to latitude exercised by individual supervisors.
Workers with little knowledge of their rights and fear that raising concerns would lead to dismissal	The knowledge of workers of their terms and conditions as reported was considered to be inadequate and employers should take steps to address this. Workers were fearful of being identified for speaking out.
Recruitment practices indirectly blocked British workers from getting jobs in the industry	Recruitment practices were considered to be open to all with no deliberate different practice for different migrant nationalities. However, the predominant method of ‘word of mouth’ recruitment can have the effect of reinforcing particular groupings (nationalities) of workers which whilst pragmatic rather than deliberate could nevertheless foster resentments if other nationalities (including Scottish) feel excluded.
Breaches of the law and licensing standards and poor conditions	There is a concern relating to the application of holiday pay by some employers.

Overall the treatment of migrant workers complies with requirements but reports of one-off examples point to supervisors having too much discretion to follow poor practices and management perhaps turning a 'blind eye'.

The summary of findings under the 10 areas explored is summarised in table 2 on pages 4 and 5.

We found that most participants were satisfied with their employment and their companies. The terms and conditions under which they are/were employed are at the minimal end of the spectrum but complied with the law at the time (although the point about holiday pay being set at average pay rather than basic pay needs to be clarified with employers).

For the most part, too, employers were mindful and accommodating of their employees needs in relation to breaks, annual leave, health and safety.

In the Central Scotland food processing employees that were studied reported that there were no real areas of concern and that the two companies were good and fair employers and examples of good practices in the industry.

In the North East of Scotland fish processing sector no pattern was found which would point to systemic mal-practice and the companies were considered by the participants to be fair employers. Nevertheless we found examples of reported poor practice and a pattern whereby this related to the individual supervisor having a latitude which could push the boundaries beyond what might be deemed acceptable.

When examining the factual and the more subjective aspects of the information gathered from the reports of participants, and in particular the dynamics of the workplaces in question, we can distil from an inevitably complex and variable picture a couple of themes that relate to both the food and fish processing sectors:

1. A tendency for a hierarchy of nationalities based primarily on the size of a nationality's contingent within the overall workforce: the larger a nationality's contingent, the greater its status.
2. Management that perhaps takes the path of least resistance, with an impression of turning a blind eye (either to inter- group tensions

or else the discretion exercised by individual supervisors) in favour of maintaining levels of production.

We have sought throughout to differentiate between personality clashes and 'routine', systematic practices which provoke tensions among colleagues, excluding the former from the report's findings. That said, to a certain degree, when dealing with subjective evidence, feelings that exist are instrumental in setting the atmosphere and dynamic of the workplace.

There is an indication that that the size of a business can make a difference with larger businesses having the capacity for more developed HR systems and consistent policies for managing and supporting staff. Smaller businesses are less well-resourced and perhaps less concerned with these matters. For example in the two central Scotland factories we found more inconsistencies, more tensions and more irregularities with the practices explored in the smaller firm than the larger one. That said, the employees in the smaller factory were still generally satisfied that their employer was overall fair.

It is possible to argue that the businesses we explored have a vested interest in treating their workers fairly. They are at the end of the supply chain and effectively are one step away from bringing the product to market. Their brand or the brand of those who bring their products to market could well be influenced were it to be found that they did not comply with the minimum employment rights required by law. As such employers may want to consider the report as generally providing a satisfactory picture of compliance but also providing points for clarification to ensure that they are compliant and do not allow undue discretion among supervisors which can lead to isolated poor practice to become more widespread.

From the perspective of employees the report offers one means whereby best practices may be more widely promoted across the sectors.

Finally, an acknowledgement that this report has been dependent on the contributions of the participants who have made it possible to offer this snap shot into the sectors being studied.

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# Equality and Human Rights Commission

## Research Report

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