

# Trade unions must fight for agency workers' rights

There could be as many as 1.3 million agency workers in Britain supplied by 17,000 agencies in the almost £20 billion a year 'recruitment industry'. Unite the Union activist KEVIN PARSLOW (in a personal capacity) looks at the state of agency workers' rights and conditions.

**W**HEN 850 agency workers were dismissed with one hour's notice by BMW at its Cowley Mini car manufacturing plant in February 2009, their anger was brought to the attention of millions through a YouTube film. Their disgust was magnified because the message from management was passed on by the then union convenor!

The incident brought to attention the lack of rights faced by agency workers in Britain.

John Cunningham, an agency worker who had worked at the factory for more than two years, told the Independent newspaper: "I feel betrayed. They've planned this for months and we've only just been told - one hour's notice. We've been given a week's pay for an enforced week off, which I suppose is a week's notice. I don't know what's going to happen to me and my family. It's very scary."

Employers love hiring agency workers because they are 'flexible'. They supply a varied range of work skills in both the private and public sectors. In the private sector, agency staff can be used to supplement permanent staff when demand is high and shed when demand falls, as was the case in the motor industry during the recent recession.

## Seasonal employers

SEASONAL EMPLOYERS, such as in agriculture or tourism, are also heavy users of agency labour. For some workers, agency working is ideal as they can take jobs as and when they want to, for example around school holidays.

However, in the agency work sector many migrant workers experience exploitation and abuse because they are not confident of their rights, fear dismissal or have concerns about their work status.

The UK Border Agency now has the power to raid workplaces where agency or any other workers are suspected of working 'illegally'. Last year the site of refuse contractor Verdant in Waltham Forest, east London, was raided and this could happen anywhere where agencies employ migrant workers.

In the public sector, agency workers can be used to cover for holidays,

to make up targets but also to reduce labour costs. Such workers will not receive pensions or other benefits deemed too 'costly' by the employers. Contractors in the public sector rely heavily on agency staff.

## Pay scales

WHERE TRANSFER of Undertakings (Protection of Employment) - TUPE - has taken place, there can be two, three or more pay scales in the same workforce doing the same jobs: one scale for those workers TUPE'd directly from the public sector, where trade unionists have collectively negotiated pay rates, one for those employed permanently by contractors after TUPE had taken place, and another for agency workers on the lowest rates of pay.

There are a few exceptions to the rule that agency workers have low pay. Where skilled or highly qualified workers are in short supply, these agency workers can, in some cases, demand higher wages than permanently employed staff, such as management-level social workers. Newspapers such as the Daily Mail and Daily Telegraph ran articles in 2009 on how some agency nurses were earning sums of up to £128 an hour.

But the reality for most nurses was explained at the Royal College of Nursing (RCN) conference. In its debate on agency workers, "Geoff Earl, of the RCN's Lothian Branch, reflected on how shocked he was as a student when he saw that temporary staff received lower pay and had worse conditions than their colleagues. He said: 'These staff are part of our team, and as such deserve to be treated the same.'" (RCN website) Generally, the employment of agency staff is used to keep down wage costs. Schools now also turn to agencies, as well as to supply teachers.

## No notice

THE RIGHTS of agency workers, though, are always much less than those of permanent employees of companies or public bodies. Agency staff can be sacked with no notice or redundancy pay, like the Cowley workers, with no reason required for doing so. Trade unions describe



A migrant workers demonstration in London. Employment agencies rely heavily on migrant labour.

photo Paul Mattsson

Britain's workforce as among 'the cheapest to sack in Europe', partly because of this lack of redundancy and other rights. Even some permanent employees do not have much better terms but would be entitled to some redundancy pay.

However, agency workers are covered by working time regulations, including entitlement to rest breaks and minimum paid holiday. But the previous New Labour government only agreed to implement the European Union's Agency Workers Directive after securing an opt-out, prompted by the British bosses, to give agency workers equal rights with permanent employees only after 12 weeks' employment in the same post. This will leave agency workers open to abuse from employers who could hire staff for less than 12 weeks before laying them off or employ them in 'different' jobs. Agency workers in the rest of the EU will get the same rights as permanent employees from day one.

Because some employers are not happy with even these relatively modest new provisions, they are pressurising the Con-Dem government to repeal sections of the directive in Britain before it becomes law in October 2011.

## Division

AGENCY WORKERS have the effect, used consciously by the employers, of dividing workforces. In an industrial dispute, because agency workers are on different terms and conditions, and technically have a different employer, ie the agency, even if they are in a union they may not be balloted to take part in industrial action as their terms and conditions are not covered by the dispute. Then agency staff can be used to break strikes and divide workforces.

It is illegal for employers to take on agency labour specifically to do work normally carried out by strikers. However, this did not stop Leeds city council using agency labour during 2008 strikes by GMB members working primarily in street cleansing and refuse collection.

Regulation 7, of the Conduct of Employment Agencies and Employment Businesses Regulations 2003, states that 'an employment business may not supply a temporary worker to a hirer to replace an individual

taking part in an official strike or any other official industrial dispute'.

The fine for agencies breaking this law is limited to £5,000, but the Department for Business, Enterprise and Regulatory Reform (now Business, Innovation and Skills) said that there was not enough evidence to prove 'beyond all reasonable doubt' that any law had been broken by Leeds council or the employment agencies it used.

So even the then New Labour government collaborated in undermining the very laws it had introduced! But now the Con-Dem government is looking at removing these laws. The GMB further claimed that agency staff were used in the eleven-week strike in 2009 that eventually led to a settlement of the dispute.

## Trade unions

THE EMPLOYMENT of agency staff is also used to break down trade union organisation. When the numbers of agency staff first grew substantially, some trade unionists did oppose recruiting them into the unions, because they were seen as breaking the hard-won terms and conditions of permanent staff. But agency staff are consciously used by employers in the 'race to the bottom' and the refusal to recruit into the unions excluded those workers who needed protection most while also weakening the workers' organisation. Now, trade unions try to organise agency workers but must step up their campaigns.

The TUC and its major unions have had a position of supporting the Agency Workers Directive from the beginning but disgracefully they agreed the 12-week compromise with the bosses. Their official position is to end casualisation in the workplace, bargain for equal pay and permanency for agency workers, ensure agency workers get better holiday entitlements, use new information rights to map where agency workers work and negotiate for equal treatment, and win real changes in workplace conditions for agency workers and vulnerable workers.

While these demands should be supported, we must fight for employee rights from day one, equal pay for equal work and no situation where redundancy pay is refused.

But trade unions must also fight every redundancy, including agency staff. Trade unionists and socialists must fight for the incorporation into the permanent workforce of all 'temporary' staff, including casual and agency workers, a 35-hour week and a living minimum wage.

Hiring and firing of workers should be in the hands of the trade unions, as it was in some industries in the past, but these rights have been lost in the neoliberal onslaught of the last 25 years. With a socialist plan of production based on the nationalisation of the major companies and workers' control and management, we will need all the labour possible to produce the things people need rather than profit for the bosses.

**Have you worked for an employment agency, or been affected by agencies being used in your workplace? Email editors@socialistparty.org.uk**



Leeds council has used agency workers during strikes by street cleaning and refuse workers.

photo Leeds Socialist Party

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