

Manchester Joint Hospitals Project

The job of representing agency workers in an environment like the construction industry with its many contractors, sub-contractors and gangmasters is not easy: But at the huge Bovis joint hospitals site near central Manchester, an inclusive approach insists that contractors abide by nationally negotiated collective agreements for all workers. This helps root out abuse as well as contributing to a safer working environment.

Employer

The Manchester Joint Hospitals construction project run by Bovis Lend Lease (BLL) is a Private Finance Initiative (PFI) scheme. One of the largest new hospital developments in Europe, it is due to open this summer (2009), bringing together services currently provided by five hospitals in the Central Manchester and Manchester Children's University Hospitals NHS Trust. Catalyst, a consortium involving BLL has been engaged on the project since 2004.

Unions

Construction union UCATT is the biggest union on site with a full-time convenor dividing his time between this and another BLL project (Media City). Unite is also represented. With a "hands on" approach, and a welfare and health and safety role, the UCATT convenor is well placed to speak up for agency workers, even if they are not union members.

Workforce

BLL itself only directly employs around 90 staff, mainly those involved in managing the site. The bulk of the workforce is recruited by contractors who have successfully bid for packages of work on the project (such as concreting, steel work, dry lining or plastering). They in turn subcontract work to smaller contractors and – according to UCATT - sometimes gangmasters too, making both the management and representation of the workforce a complex business.

At its peak the site workforce numbered around 1,300 and, by the end of 2008, the project was still providing work for over a thousand construction workers. However, over the course of the project the total numbers that have been inducted is much higher, at around 12,000. This throughput of labour is partly due to the successive phases of the construction process itself, but also reflects the involvement of temporary, self-employed and agency workers (accounting for approximately 30% of the workforce).

Agency workers

Agency working is seen as endemic in the construction industry, especially in certain areas like mechanical and engineering (M&E) while what UCATT

describes as bogus self-employment also dominates dry-lining work. The sub-contracting process can also see the involvement of gangmasters who are most likely to be involved in providing labouring staff (often migrant or minority ethnic workers).

Agency workers are most likely to be on site for three to six months, UCATT estimates, and the convenor's approach is to encourage them to apply for direct employment with a contractor after three months. But longer periods of agency engagement (12 or even 18 months) can arise and the union might intervene after an extended period to encourage the contractor to offer direct employment (with some success).

The inclusive approach

Although maintaining standards within such a fragmented workforce is not easy, unions are assisted by the inclusive approach taken by BLL management, who are seen as playing a supportive role. If there is a labour relations problem (even one involving a small sub-contractor using agency workers) the unions can take it up with the main contractor and, if necessary, with BLL managers (who may have alerted union reps to the problem in the first place).

Problems involving gangmasters would be dealt with in the same way. Where there is evidence of abuse (eg wage slips) gangmasters can be called to a meeting with the contractor to discuss the situation, with the ultimate sanction of removal from the project. In the rare event that this might happen, unions are well placed to secure employment with an alternative contractor for the workers involved.

Industrial relations provisions

The inclusive approach is formalised at BLL through an *Industrial Relations Provisions* document (the IR Provisions) which is issued to every contractor. It has an all-inclusive scope, stating from the outset that the term "contractor" applies also to tenderers, works contractors, subcontractors and trade contractors. As UCATT puts it: "You're all covered". Policing its provisions in the context of what is often a two-tier workforce isn't easy and UCATT doesn't pretend that it is "all singing all dancing" but the approach taken at the site is "massively helpful".

Contractors must ensure that they maintain good industrial relations, and that means complying with the terms of any procedural code of practice recognised by BLL and the trade unions. Specifically, contractors in the building trades must abide by the terms of the *National Working Rule* agreement negotiated through the Construction Industry Joint Council (CJIC) which is the main national collective agreement in the industry. Contractors outside the building trades must abide by "their appropriate National Agreement".

Disciplinary procedure: The CJIC agreement's disciplinary procedure provides an informal stage (for cases of minor misconduct or unsatisfactory performance), a written warning stage and a final written warning stage before dismissal. There is also a three-step grievance procedure.

UCATT describes a case in which a migrant agency worker was about to be summarily dismissed from the site after getting back late from a break. Alerted to this by a BLL manager, UCATT was able to get the dismissal halted. The contractor was told: "You've engaged these people, you've brought them on site, they're under your responsibility and control and you have to follow the working rule agreement".

Pay: The CJIC agreement provides minimum rates of pay, nationally negotiated increases, and premium rates. The current agreement, effective until the end of June, provides weekly rates based on a 39-hour week equivalent to £7.75 per hour for a general operative, between £8.35 and £9.82 for skilled workers, and £10.30 for craft workers. UCATT points out that while actual craft earnings levels tend to be higher than this (eg £13 to £14 per hour) these minimum rates compare favourably with the adult National Minimum Wage rate of £5.73. Premia and shift rates also apply on top of basic rates.

Rest/Meal Breaks: The CJIC agreement provides for a break or breaks for rest and/or refreshment at times fixed by the employer. These "shall not exceed one hour" including a meal break of not less than half an hour. UCATT explains that it is common in the industry to take a 30-minute morning break. In one case a contractor told workers that, due to the current climate, breaks would be reduced from 30 minutes to 15. Using the national agreement, UCATT was able to argue that this would require the re-introduction of a 15-minute afternoon break. The contractor decided to leave things as they were.

Notice: The CJIC agreement provides for minimum periods of notice of termination of employment. During the first four weeks of employment this amounts to one day but after that it is one week's notice, rising to one week for each full year of employment after two years' continuous employment (12 weeks being the maximum). UCATT says: "No longer can contractors dismiss them at the drop of a hat".

Employment status

The status of agency workers is closely connected with the way that they are paid. BLL IR Provisions insist that evidence of the contractor's method of payment must be provided on request, adding: "The Contractor must ensure that only those entitled to be considered self-employed under the rules of the Inland Revenue and Contributions Agency are employed and paid as such".

Working time regulations and statutory holiday entitlement

The contractor must satisfy himself that: "All workers under his responsibility comply in all respects with the requirements of the Working Time Regulations 1998". That includes the legal minimum entitlement to paid holiday, and while contractors may claim that agency workers are self-employed (excluded from the regulations) unions have a great opportunity to argue the point (drawing attention, if necessary, to HMRC criteria for self-employed working). Having worked hard in the construction industry to ensure workers get their holiday entitlement, UCATT points out that there have not been many tribunal cases at BLL sites because problems with the application of the regulations can normally be resolved.

Union facilities

Contractors must provide reasonable facilities for relevant trade union officials to meet with operatives and will, when requested, deduct trade union subscriptions at source. Sub contractors are specifically required to provide facilities for relevant union officials to achieve union membership among operatives, while BLL must be informed of any disputes that might threaten the project and progress of work. These provisions, together with the statutory right to representation, give unions an opportunity to connect with agency and other workers on site.

Equal opportunities and training

Contractors are specifically required to adopt a positive approach to the employment and training of ethnic minority groups, whilst also setting out a number of general requirements on training and how this should be overseen.

Getting the message across

UCATT makes sure that every worker, agency included, is aware of the minimum employment standards on the site. These are summed up in a widely-circulated poster as:

- Guaranteed minimum rates of pay as per Working Rule Agreement £7.75 per hr
- 24 days annual paid holidays (including bank holidays) for directly employed and C.I.S. registered workers*
- Guaranteed at least one week's notice
- Access to full disciplinary and grievance procedures
- Right to be accompanied by trade union official
- Protection for raising health and safety matters
- The right not to be unfairly dismissed
- Legal recognition for safety representatives
- Free access to PPE (personal protective equipment) from your contractor
- Paid minimum break times

* The UCATT poster reflects the union's belief that construction workers registered under the Revenue and Customs *Construction Industry Scheme* (CIS) are "workers", rather than what it describes as "bogus" self-employed.

Health and safety

The Manchester joint hospitals project has been highlighted in a worker-engagement case study produced by the Health and Safety Executive (HSE) and a joint approach to health and safety continues to benefit all workers on site, including agency staff. The 2006 HSE report highlighted BLL's Incident and Injury Free (IIF) programme. This requires "a commitment from everybody involved – clients, designers, contractors, subcontractors and suppliers – to create an environment that is incident and injury free". The Safety Committee and the presence of safety representatives and the full-time union convenor on site were valued "very highly".

The IIF approach, which is still in use, gives agency workers the opportunity to get directly involved as trained safety reps and/or participants in the IIF Workforce Safety Committee. The committee involves recognised union safety reps from each contractor on site. It meets formally once a month, with the site nurse and a BLL manager in attendance.

The UCATT convenor explains the inclusive approach: "We had an agency guy recently who said he wouldn't mind coming on the committee. I rang and told the contractor that I had identified one of the guys who had an interest. I knew he was agency but that was the very reason why I wanted him on the committee: There's no point sending a directly-employed guy who has got no interest when you've got an agency guy who's clearly showing an interest".

The policy framework at the BLL site includes a procedure for stopping work due to imminent danger. It applies equally to agency workers and is included in a partnership statement issued in the names of BLL and UCATT. The statement highlights the role of safety reps and the safety committee on site, while its Respect for People principles directly counter racist abuse and language.

Other inclusion measures

BLL extends an inclusive approach in other areas too, and has included agency workers in its English language classes scheme and sporting activities.

LRD 30/01/2009