



ANGLO-NORTH IRISH FISH PRODUCERS ORGANISATION STATEMENT ON

Human Rights at Sea International Business & Human Rights Audit

May 2019

Introduction

The Anglo-North Irish Fish Producers Organisation (ANIFPO) is a membership body based at the harbour in Kilkeel, County Down, Northern Ireland. In December 2016 the ANIFPO commissioned Human Rights at Sea (HRAS) to complete and publish our first audit of non-



EEA crew welfare. This was a first amongst UK fishing organisations. The decision to commission this work stemmed from the ANIFPO's approach to enhanced Corporate Social Responsibility (CSR) and is in line with our organisation's ethos and values.

In July 2018 HRAS completed their second audit and during March 2019 they completed their third audit of non-EEA crew working on board our member vessels. These audits comprised of crew questionnaires and personal interviews conducted by the HRAS personnel.

The latest audit has produced a number of positive findings, as well as highlighting areas where clarification is needed and where there is room for continued improvement. We

acknowledge that if it was not for this audit then many of these issues would not have been identified, thus preventing remedial actions.

Regarding the issues

- **Work Agreements:** All crew have work agreements in place with the vessel owners. A minority (14%) suggested these agreements were not in a language they understood. Likewise the same minority said they had insufficient time to read the terms and conditions.
- **Crewing Agency:** The overwhelming majority of crew stated they used the services of a crewing agency in their home country to work in UK fisheries. A minority (14%) claimed they had paid this agent a fee for the opportunity to work in UK fisheries and were in debt as a result.
- **Salary:** All crew confirmed they were paid the correct wages on a regular basis. A small number (13%) suggested they were not being provided with a pay slip.
- **Salary Transfer:** An overwhelming majority of crew stated they transferred money home and were charged for this service.
- **Deductions:** A small number of crew suggest they have had money deducted from their wages to pay for a bank transfer fee.
- **Provisions:** All crew confirmed they were not charged for food and water on board fishing vessel.
- **Documentation:** They were all in possession of their personal documents (e.g. ID cards and passports).
- **Nature of Work:** All those who responded confirmed they were working in UK fisheries voluntarily and were performing the duties they had expected to perform at the start of their contracts.

Turning to their overall experience working in UK fisheries on ANIFPO member vessels, the crews recorded very positive feedback (90% plus) in respect of;

- working conditions
- the provision of personal protective equipment
- working and rest periods

- the provision and standard of food and drinking water
- on board facilities such as heating, cooling and lighting
- on board medical facilities
- the provision of care in the event of illness or injury
- freedom of movement when ashore, including access to recreational facilities
- relations with their employers, as well as the local community.

Whilst there is room for improvement, standards remained very high in respect of;

- on board accommodation (87%)
- on board sanitary facilities (77%)
- on board telephone and internet access (84%)
- relations with fellow crew (87%)

The most negative area of concern was with noise and vibration on board, where 37% of crew recorded a negative comment.

To repeat what we have said in response to earlier audits; the ANIFPO welcomes these findings which are an independent endorsement of the responsible, ethical and diligent approach to the engagement of non-EEA crew which we have sought to foster in our members.

Nevertheless, the report also highlights some areas of concern, and as part of our desire to transparently foster positive change, we set out below our proposed strategy of establishing the ramifications of the report's findings and how we intend to tackle the issues.

Actions

1. One crewman has stated they do not have a work agreement in place. Of course without having a name it is impossible to investigate this with precision, but ALL owners are adamant that all crew members have work agreements in place. We believe there is a mis-understanding on behalf of the crewman, but cannot be 100% sure without further detail.

2. A minority of crew, who are recent arrivals report language difficulties. Working with owners and educational providers we intend to resolve this as quickly as possible by establishing English language courses for non-EEA crew already here, as well as new crew joining our member vessels where language is an issue. One challenge is with the variety of native languages that are spoken, reflecting the different parts of the world non-EEA crew are recruited from.

Owners observe that when they provide the agreements to their crews they encourage them to take the agreements away, read, if appropriate ask questions and fully understand, especially where there is a language issue before signing. However, they have also observed that on occasion a minority of crew are overly eager to sign the agreements as quickly as possible, despite the protestations of owners. There is work to be done on this issue.

3. Issues around crewing agencies present a significant challenge. We propose to co-ordinate with other parts of the UK fishing industry to identify and audit crewing agencies across the world who can be independently accredited to provide crew against ILO standards.

4. Suggestions by a minority of crew that they have paid a crewing agent to work in the UK and as a result are in debt, are of serious concern. With the owners we have taken steps to contact this agent to i.) seek clarification around the purpose of the fee and ii) provide clear guidance as to what is acceptable under UK Law. It will be made clear to all concerns that such behaviour is unacceptable, as well as being against the law.

Owners will be advised to clarify with all agents if crew are required to pay the agent a fee and where this practice exists these agents must be avoided.

5. All owners will be reminded of the requirement to provide crew with pay slips.

6. An issue around compensation for injury has been highlighted. We are aware of this incident, which occurred within the past two months. In this case it should be noted that as soon as their vessel returned to port the owners drove the crewman to the hospital outside Belfast that specialises in this kind of injury. The crew are fully insured. The matter has been brought to the attention of the insurance company and the claim process has been commenced. Given the timeframe involved it would be surprising to have the compensation resolved so quickly.

7. All owners will be reminded there should be no charge for the bank-to-bank transfer of wages. It is acknowledged that where bonuses are paid to crew, that on occasion crew will transfer money home independent of owners and they will incur charges for the same. This is beyond the control of ANIFPO member vessel's owners.

8. All owners will be reminded that no deductions should be made from crew wages without a clear explanation being provided.
9. ANIFPO member fishing vessels undergo regular maintenance programmes. Where improvements can be made to onboard conditions, including issues around noise and vibration these will be actioned. Improvements are being regularly made to on board facilities for all crew, including sanitary facilities.
10. Communication and internet access can be affected by the location of fishing operations, as well as usage. Owners are encouraged to provide adequate internet access and crew will continue to be briefed in respect of how data allowances can be used.

Other issues



A). The Immigration status of non-EEA crew members.

The ANIFPO has long recognised this area of concern and for the last 6 years has engaged specialist legal support to attempt to ensure non-EEA nationals are engaged lawfully and that the requirements of UK immigration law are adhered to.

The ANIFPO remains at the forefront of work by the fishing industry to lobby central Government to reform the current system of engagement of non-EEA crew.

We have engaged with the UK Border Force and have fostered a better understanding of the challenges faced by all involved; the crew, fishing vessel owners and Border Force officers. It is recalled that when necessary the ANIFPO has been prepared to defend crew members subject to immigration action, including raising judicial review proceedings in response to Border Force operations against non-EEA crew. On this occasion the ANIFPO, in conjunction with the other major Northern Irish FPO, successfully challenged the UK Border Force resulting in the reversal of adverse decisions against non-EEA crew. Our wish is to avoid these actions

During August 2018 the ANIFPO hosted the current UK Immigration Minister Caroline Nokes MP in Kilkeel and has met the Minister in London on several occasions.

Working with other UK fishing organisations that ANIFPO has made submissions to the UK's Migration Advisory Committee, who provide advice to the UK Government on immigration issues.

ANIFPO has been a founder member (and Chairs) the Fishermen's Welfare Alliance, which brings together fishermen's organisations, seafood processors and buyers and maritime charities to promote the welfare of all crew. The resolution of the immigration status of non-EEA crew is a critical part of the Alliance's work.

With the Immigration White Paper, published by the Home Office on 19th December 2018, the UK Government has set out the foundation for a single immigration system, where it is workers skills that matter and not where they come from. The Home Office has embarked on a 12-month consultation to shape the development of the future skills-based immigration system.

All of this this work is intended to simplify and reform the current system, which should provide clarity and support to non-EEA crew subject to immigration control. The ANIFPO's approach has been to seek collaboration with policy makers to work on a clearer system, however a robust approach has been taken when justified to protect crew members and operators.

In terms of ongoing work in this regard the ANIFPO intends to:

- Continue engagement with central government to refine and clarify the current policy and law.
- Continue the education of members and crew on the legal background to ensure their compliance with current immigration control requirements.
- Resolve through legal counsel and engagement with the Home Office currently ambiguous aspects of the policy, such as shore leave for crews and residence in on shore accommodation.
- We will continue to seek to develop a collaborative approach with policy makers.

Clearly in seeking to engage with central government, the ANIFPO's own credible approach to CSR will enhance our credibility and influence.

B). The Terms and Conditions of the engagement of non –EEA crew

HRAS's first report raised concerns in relation to the contractual terms by which the crew are engaged. This was on two main bases, firstly that work must be carried out to ensure that the crew's engagement was compliant with domestic National Living Wage (NLW) law and secondly that auditing of the arrangements between the manning agent and crew member in relation to security payments and total remuneration (amongst other matters).

During the past 12 months ANIFPO, working in collaboration with other UK fishing organisations has obtained legal opinion on the application of the NLW to non-EEA fishing crew. This opinion has suggested that because our non-EEA crew work predominantly outside the UK's territorial waters that the NLW is not applicable.

The ANIFPO recognises the importance of compliance with applicable legal requirements in relation to the NLW. It is also important to highlight however that the terms of engagement of non-EEA crew working in Kilkeel are understood to be no different to the terms of crew working in other UK regions and across the fishing fleet. Therefore, whilst the ANIFPO recognises this work will undoubtedly present challenges, we take pride in seeking to lead by example on this important issue, both in legal and reputational terms.

As regards the second matter, namely an audit of the precise arrangements with manning agents and terms of the crew's contracts, the ANIFPO intends to enhance its role in this area during the coming months. Working with HRAS we will explore the feasibility of visiting the location of the primary manning agencies in order that detailed discussions can take place, and evidence recorded, to ensure that all necessary steps are taken to ensure the terms and conditions of crew are fair and transparent, not just within the UK, but within the crew member's own home jurisdiction. The ANIFPO as part of this process will seek to ensure that arrangements are transparent and there is no undercutting or circumvention of stipulated contractual terms.

C) Concerns in respect of other ports and regions

Our initial work with HRAS raised anecdotal evidence of issues in other ports. The ANIFPO hopes to lead by example and to encourage other bodies and organisations to engage with the framework of international Human Rights law and domestic legislation to ensure non-EEA crew, and indeed crew of all nationalities, are engaged lawfully and responsibly. We are encouraged that since 2016 two other UK fishing industry organisations have followed our lead and embarked on a similar process to us with HRAS.

There are limits to the ANIFPO's power to influence other regions outside its purview of Kilkeel and it's membership, however there are close relationships within the fishing industry and across stakeholder groups, and the ANIFPO continues to hope that by engaging with these issues, providing the benefit of our growing experience in compliance and spreading the message, we can encourage the industry as a whole to grapple with the important issues raised in the report.

4). Suggested actions within the report

In addition to the specific issues noted above, HRAS has previously recommended improved communication across the board by a variety of means, including plenary sessions with crew, members, principals and skippers. In addition, HRAS recommended engagement with non-EEA crew and continued education as to their status and responsibilities, along with a defined whistleblowing policy to report infractions.

Working with the Fishermen's Mission the ANIFPO has organised plenary sessions with crew members to provide them with an update on the ongoing work to resolve immigration issues. During these meetings ANIFPO has made it abundantly clear to crew that instances of mistreatment will not be tolerated. ANIFPO has encouraged crew to work with the Fishermen's Mission, who are well regarded by non-EEA crew, to record any complaints. The

Fishermen's Mission will bring any such matters to the attention of the ANIFPO's Executive, if they deem further action is appropriate. Further meetings are planned.

HRAS International offer a series of recommendations at the end of their 2019 report. We accept these recommendations and have commenced discussions to implement the same.

The implementation of the new ILO C188 / WIFC Regulations is an important mile stone and we believe our member vessels are already well placed to meet the new obligations this places upon them. Nevertheless, we are not complacent and through our continuing work with groups such as the Fishermen's Welfare Alliance we will continue to strive to ensure we meet with current Regulations.

Conclusions

There is no doubt that the HRAS report continues to provide a clear endorsement of the ANIFPO's work to date to ensure that crew of all nationalities serving on its member's vessels work in a safe environment, are treated fairly, and are engaged responsibly. We are delighted with the report's findings and hope that the predominately positive responses speak to our organisation's ethos and values.

We recognise however the report has raised a number of issues which, in our experience, are not unique to ANIFPO members. There is a heavy reliance on non-EEA crew. The terms and conditions of engagement vary little across the fleet. Over the past 18 months we have witnessed one major manning agency in the Philippines that supplied circa 400 crew to the UK having its POEA (Philippines Overseas Employment Agency) licence withdrawn. This created a great deal of anxiety for crew, as well as uncertainty for vessel owners. We liaised with the Filipino authorities and appropriate bodies to identify other POEA approved agencies. This presented an initial challenge, but one that has now been resolved. Clearly the ANIFPO's proportion of non-EEA crew continues to be extremely limited on the national level. Nevertheless, we believe that it is of vital importance that the fleet maintains improvements on a number of key areas, and we hope that by leading on the issues identified in the report, despite our comparatively small footprint, we can set an example of best practice to be followed by others.

We have never been under the illusion that this would be an easy path, but the ANIFPO is clear that the work is of vital importance and entirely in line with our desire to attain the highest levels of Corporate Social Responsibility.



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