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**POLICY
BLUEPRINT**

**COMBATTING LABOUR EXPLOITATION
THROUGH LABOUR INSPECTION**

**October 2015
FLEX**

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Focus on Labour Exploitation (FLEX) is a registered charity based in the UK. FLEX works to end trafficking for labour exploitation worldwide. FLEX research and advocacy promotes rights-based responses to human trafficking for labour exploitation centred on prevention. For more information on our work see our website, www.labourexploitation.org.

Summary

This Policy Blueprint sets out a framework for labour inspection to combat trafficking for labour exploitation in the UK. It highlights ways in which labour inspection can succeed in preventing modern slavery from taking place as well as how it can help victims of severe exploitation to exit such situations.

Whilst the Government suggests up to 13,000 people could be trapped in modern slavery in the UK,¹ little is done to prevent people from becoming victims. Modern slavery involves the coercion of people for profit with perpetrators using threats and abuse to keep victims under their control. Experts, including Focus on Labour Exploitation (FLEX), the Migration Advisory Committee, and the US Department of State have highlighted the importance of labour inspection in the UK as a means of preventing labour abuses from developing in to severe labour exploitation.

In 2015 the UK Modern Slavery Act came into force, imposing tough new penalties on perpetrators of modern slavery offences. When first introducing the Modern Slavery Bill in 2013 the Home Secretary made strong commitments to end modern slavery promising to ‘stop it at source’.² Section 55 of the Modern Slavery Act, which undertakes to review the role of the Gangmasters Licensing Authority (GLA), is a first step towards meeting this promise and preventing modern slavery from thriving in the UK.

Last year, the UK Government voted for the adoption of a new Protocol to the Forced Labour Convention at the International Labour Organisation (ILO). This treaty taken together with the UN Human Trafficking Protocol (2000)³ and the European Trafficking Convention (2009)⁴ set a clear framework for preventing modern slavery and a detailed international understanding of what it means to ‘stop it at source’. Only with victim-centred labour inspection and enforcement will the UK stand a chance of meeting its international commitments to prevent modern slavery.

‘Only with victim-centred labour inspection and enforcement will the UK stand a chance of meeting its international commitments to prevent modern slavery.’

¹ Home Office, 2014, Modern Slavery: An application of multiple systems estimation.

² Home Office, 2013, Draft Modern Slavery Bill

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁴ Council of Europe Convention on Action Against Trafficking in Human Beings.

Recommendations

Labour inspection to combat labour exploitation should:

1 Maintain a firewall between immigration control and labour inspection

Confusion between immigration control and labour inspection is one of the biggest barriers to the identification of trafficking for labour exploitation. Not only are potential victims fearful of coming forward but inspectors fail to spot indicators of modern slavery. In order to ensure the UK meets its international obligations to identify trafficking there must be a strict firewall between immigration control and labour inspection.

2 Ensure labour market-wide oversight of labour laws

Labour inspection that covers all labour sectors prevents unscrupulous businesses from shifting to sectors with the lightest regulations. The UK should have a fully funded resourced labour market-wide inspectorate that draws on worker-led intelligence and expertise to understand drivers of exploitation.

3 Enforce labour laws and provide workers with remedies

Labour inspectors should ensure labour abuses are punished and should be provided with powers to issue repayment orders that provide a link between offences, penalties and remedies.

4 Create a level playing field through licensing and pro-active inspections

A licencing and inspection framework that links to forced labour indicators is key to ensuring that there is a level playing field for business operating in the UK. This prevents rogue operators from undercutting those who play by the rules.

5 Monitor supply chains to help businesses fulfil modern slavery reporting duties

To enable business to prevent and detect labour exploitation and fulfil their reporting duties under the Modern Slavery Act 2015, labour inspectors should monitor sub-contractors throughout the supply chain and inform companies where malpractice is found.

Migration Advisory Committee

‘Compliance with and enforcement of labour regulation are vital to protect vulnerable British workers and migrant workers. Such enforcement lowers any incentive employers have to use migrants to undercut British workers’⁵

⁵ Migration Advisory Committee, 2014, Migrants in Low Skilled Work, p.4.

Labour Inspection: At a glance⁶

Inspectors per 100,000 workers Excluding health & safety inspectors

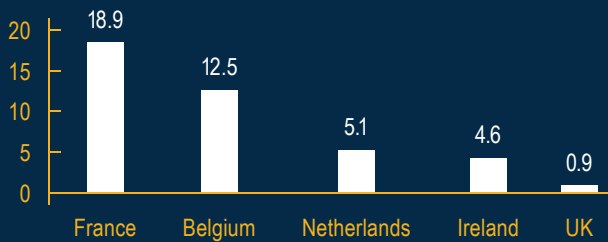


Figure 1⁷

Inspectors per 100,000 workers Including health & safety inspectors

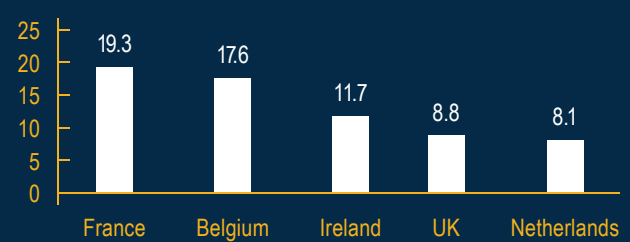


Figure 2⁸

Key UK Labour Inspection Agencies⁹

Employment Agency Standards Inspectorate (EAS) 9 frontline staff, 1 administrative officer, part of the Department for Business, Innovation and Skills. The EAS enforces the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003. In 2013-14 the EAS budget was £532,032.

The Gangmasters Licensing Authority (GLA) 69 staff, a non-departmental public body sponsored by the Home Office. The GLA licenses and regulates gangmasters in the farming, food processing and shellfish gathering sectors. Its eight licensing standards reflect key forced labour indicators. In 2014-15 the GLA budget was £4,447,000.

National Minimum Wage (NMW) 232 staff, based in Her Majesty's Revenue and Customs (HMRC) at the Treasury. Teams of compliance officers respond to complaints, inspect and enforce the NMW. In 2014-15 NMW enforcement budget was £9,200,000.

The Health and Safety Executive (HSE) a non-departmental public body sponsored by the Department for Work and Pensions. HSE has 1047 staff of which 972 are frontline inspectors. HSE regulates health and safety across a range of labour sectors through inspection, advice, support, awareness-raising and enforcement. In 2014-15 the HSE budget was £80,928,000.

6 Notes: Values per total workforce. Source: World Bank, 2015, World Development Indicators: Labor Force Structure.

7 Fig. 1 sources: France: Ministère du Travail, 2013, L'inspection du travail en France en 2013, p. 7; Belgium: Federale Overheidsdienst Werkgelegenheid (FOD), 2013, FOD Werkgelegenheid Arbeid en Sociaal Overleg Toezicht op de Sociale Wetten, Activiteitsverslag, p.9 & Interview with Labour Inspector; Netherlands: Ministerie van Sociale Zaken en Werkgelegenheid (SZW), 2014, SZW Annual Report 2014, p. 7; Ireland: National Employment Rights Authority (NERA), 2014, NERA Review 2014, p. 14. UK: Gangmasters Licensing Authority (GLA), 2015, GLA Annual Report and Accounts 1 April 2014 to 31 March 2015; National Minimum Wage Inspectors see Parliamentary answer, HC Deb. 21 September 2015 to Question 10050 & Employment Agency Standards Inspectorate see Parliamentary Answer, HC deb. 26 March 2015, to Question 228738.

8 Fig. 2 sources: France: *ibid*; Belgium: *ibid* & Service public fédéral Emploi Travail et Concertation Sociale, 2012, Rapport Annuel 2012: Direction Générale Contrôle du Bien-être au Travail, p. 9; Ireland, *ibid* & Health and Safety Authority (HAS), 2014, Annual Report, p.8; UK: *ibid* & Health and Safety Executive (HSE), 2015, The Health and Safety Executive Annual Report and Accounts 2014/15, p. 46; Netherlands: *ibid*.

9 Source, EAS: Parliamentary Answer, HC Deb., 11 November 2014 to question 213790 and Parliamentary Answer, HC Deb, 16 July 2015 to question 6247; GLA: GLA, 2015, GLA Annual Report and Accounts 1 April 2014 to 31 March 2015; NMW: Parliamentary Answer, HC Deb, 21 Sept 2015, to question 10050 and BIS press release, 15 Jan. 2015, 'Government names and shames 37 National Minimum Wage offenders'; HSE: HSE, 2015, HSE Annual Reports and Accounts 2014/15.

FOCUS ON LABOUR EXPLOITATION



Maintain a firewall between immigration control and labour inspection

The ILO makes clear that the role of labour inspectors is to ensure workers' rights are upheld and protected, not to combat undocumented working.¹¹ ILO Convention 81, the Labour Inspection Convention 1947, states that the scope of duties of labour inspectors should be focussed on enforcement and compliance with labour law and notification of abuses of such law. Convention 81, which the United Kingdom has ratified, expressly prohibits labour inspectors from carrying out duties beyond this scope where they interfere with the inspectors' impartial workplace inspection activity. The ability of labour inspectors to gain trust and uncover severe exploitation is critically undermined if their role is extended to include immigration enforcement or conducted in co-operation with immigration officials.

The ILO on labour inspection

'The primary duty of labour inspectors is to protect workers and not to enforce immigration law'¹⁰

OECD: Immigration enforcement threatens success of labour inspection

'A rising challenge to effective labour inspection is the increasingly widespread imposition of measures that compel labour inspectors to conduct immigration enforcement activity as part of their workplace inspection agenda'¹²

*Organisation for Economic Co-operation and Development

Labour inspectors that have a dual immigration control and labour inspection function are hampered in their efforts to identify cases of modern slavery. For example, in the Netherlands, where at least 50 percent of inspections are conducted in conjunction with the 'Aliens Police', workers often feel too scared to speak up about exploitation because of fear of deportation.¹³ Labour inspectors tasked with checking the legal status of workers are prevented from gaining the trust of workers that is essential to uncovering exploitation.

Netherlands: Overlap in immigration control and labour inspection prevents identification

Research carried out in the Netherlands as part of an EU-wide project on the identification of labour exploitation, the Pro-Act project,¹⁴ shows that dual labour inspection priorities to identify: a) undocumented workers; and b) victims of trafficking, has a negative impact on trafficking cases uncovered. Not only are trafficked persons scared to come forward for fear of immigration repercussions, but labour inspectors are failing to identify trafficking because of a focus on immigration status and not working conditions:

Riyad¹⁵ was trafficked into commercial cleaning in the Netherlands. Whilst labour inspectors visited his place of work on many occasions he did not come forward, claiming not to work at the establishment when asked. Riyad was fearful of authorities because of his undocumented status, he said 'they did not explain to me that exploitation exists [...] maybe if they told me about my rights, I would have told them.'

10 ILO, 2006, International Labour Conference 95th Session, 2006 Report III (Part 1B). p.25

11 Ibid.

12 OECD, 2011, An Agenda for Prevention: Trafficking for Labour Exploitation. p.12

13 The Pro-Act Project, 2015, Pro-Active Identification and Support in the Netherlands, the UK and Romania

14 The Pro-Act Project includes FLEX in the UK, FairWork in the Netherlands and ADPARE in Romania and is co-funded by the Prevention of and Fight against Crime Programme of the European Union. The Pro-act project has been funded with support from the European Commission. This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

15 Riyad's name has been changed to protect his identity.

USA: MoU prevents overlap between immigration control and labour inspection

In the USA there is a Memorandum of Understanding (MoU) between the Department of Labor and the Department of Homeland Security. The purpose of this MoU is to ensure that immigration control does not interfere with the protection of workers' rights. For example, when the Wages and Hours Directorate investigates cases of unpaid wages they must not ask for immigration documents. The clear separation of roles, and the fact that workers' rights are protected in the USA regardless of immigration status, prevents retaliation and intimidation by employers who threaten to report undocumented workers when exercising their labour rights.¹⁶

In the UK the majority of potential victims of modern slavery have the right to work here as European Economic Area (EEA) nationals. The National Crime Agency reported for 2013 that 'where the nationality is known, 78 percent of potential victims exploited for labour are EEA nationals who are legally working in the UK'.¹⁷ Whilst people may have the right to work on paper, in practice all migrants, documented and undocumented, face obstacles to accessing their labour rights. Migrants can be marginalised, stigmatised and made to think that they are not entitled to the same rights as British citizens. In many cases this serves to increase vulnerability to threats, coercion and abuse, to dampen dissent and to empower unscrupulous employers.

Identification takes trust, support and the availability and offer of a positive alternative. Immigration control breaks trust, is not victim centred, and risks returning victims to countries where they will be re-trafficked. In addition, traffickers often use fear of immigration controls to hold people in situations of extreme cruelty.

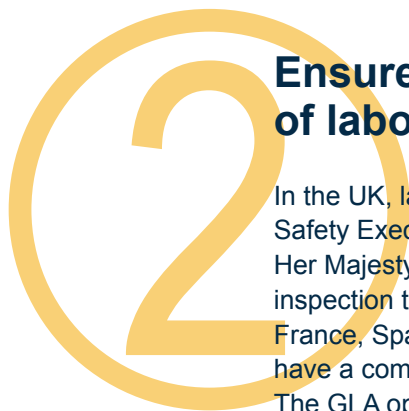
RECOMMENDATION

Confusion between immigration control and trafficking for labour inspection is one of the biggest barriers to the identification of labour exploitation. Not only are potential victims fearful of coming forward but inspectors fail to spot indicators of modern slavery. **In order to ensure the UK meets its international obligations to identify trafficking there must be a strict firewall between immigration control and labour inspection.**

¹⁶ National Employment Law Project and National Immigration Law Center, 2011, Immigration and Labor Enforcement in The Workplace: The Revised DOL-DHS Memorandum of Understanding (2011).

¹⁷ National Crime Agency, 2014, NCA Strategic Assessment: The Nature and Scale of Human Trafficking in 2013.

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Ensure labour market-wide oversight of labour laws

In the UK, labour inspection is largely divided between the Health and Safety Executive, the Employment Agency Standards Inspectorate, Her Majesty's Revenue and Customs (HMRC) National Minimum Wage inspection teams and the GLA. Unlike most European States, including France, Spain, Belgium, Poland, Germany and Denmark, the UK does not have a comprehensive labour inspection system across the labour market. The GLA operates in a limited number of labour sectors spanning farming and food processing. The GLA,¹⁸ National Farmers Union,¹⁹ Oxfam²⁰ and others highlight evidence of temporary labour suppliers deliberately shifting from regulated sectors to those that are not well regulated, including construction, hospitality and care.

Experts call for extension of the GLA's remit and resources

Centre for Social Justice: 'The remit of the Gangmasters' Licensing Authority should be extended to include additional sectors where high volume cheap labour is employed, such as non-food manufacturing, the hospitality industry and construction work'²¹

Trafficking in Persons Report 2015: 'Recommendations for the United Kingdom [...] increase investigations in high-risk labor sectors, including by expanding the jurisdiction of and increasing funds for the Gangmasters Licensing Authority'²²

Migration Advisory Committee: 'There is a strong case for extending the work of the GLA into other sectors such as construction, cleaning, care and hospitality. This would require extra resources. Likewise, the penalties for breaching the labour standards should be toughened up.'²³

18 See Supply Management.com, 23 August 2007, Gangmasters Move to Unregulated Sectors.

19 The Telegraph, 3 October 2014, Modern Slavery Dark Secrets of Rural Britain.

20 Oxfam, 2009, Turning the Tide: How best to protect workers employed by gangmasters, five years after Morecambe Bay.

21 Centre for Social Justice, 2013, It Happens Here. p.139

22 US Department of State, 2015, Trafficking in Persons Report. p.350

23 Migration Advisory Committee, 2014, Migrants in Low Skilled Work. p.5

Austria: Labour market-wide Inspection

In Austria the labour inspectorate is able to cover the whole labour market through the use of field offices. Comprised of five central offices and 19 field offices, the inspectorate is able to gain specific technical knowledge and specialise across different industries and geographical areas.

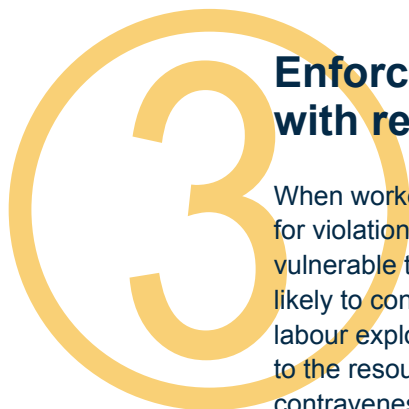
Experts in the field of modern slavery have urged the Government to extend the remit of the GLA to all UK labour sectors. Such expansion is viewed as necessary to ensure that labour abuses are not allowed to develop in to situations of severe exploitation that amounts to modern slavery.

Any extension of the sectors covered by the GLA should not be at the cost of sector-specific knowledge and intelligence. Multi-stakeholder engagement with migrant support, migrant rights and labour rights organisations as well as trade unions and anti-trafficking organisations would enable labour inspectors to identify high-risk areas to target, gain trust with workers and develop sector-specific knowledge. Such expertise would ensure operations remain intelligence led and help build strong relationships between inspectors and workers to facilitate understanding of the drivers of exploitation. Without the necessary labour inspection resources, staffing, remit and pro-active inspections the UK trails behind many other European countries in preventing modern slavery.

RECOMMENDATION

Labour inspection that covers all labour sectors prevents unscrupulous businesses from shifting to sectors with the lightest regulations. **The UK should have a fully funded resourced labour market-wide inspectorate that draws on worker-led intelligence and expertise to understand drivers of exploitation.**

FOCUS ON LABOUR EXPLOITATION



Enforce labour laws and provide workers with remedies

When workers have access to labour rights and receive remedies for violations committed against them, they are less likely to become vulnerable to modern slavery. Unscrupulous businesses are also less likely to continue to abuse workers' labour rights to the point of severe labour exploitation as penalties act as a strong disincentive. Reductions to the resources and remit of labour inspection agencies in the UK directly contravenes the intentions of the Modern Slavery Act. Reduced labour inspection, intelligence gathering and enforcement capacity undermines prevention efforts as well as protection for victims and prosecution of perpetrators.

LAW/REGULATION	MODERN SLAVERY INDICATORS ²⁴
National Minimum Wage Act 1998; National Minimum Wage Regulations 2015	Low or no salary; wage manipulation; withholding of wages.
Gangmasters (Licensing) Act 2004; Gangmasters (Licensing Conditions) Rules 2009	Threat to impose worse working conditions; confiscation of documents; violence on victims; withholding of wages; isolation; bad living conditions.
Employment Rights Act 1996	No respect of labour laws or contract signed; No social protection; very bad working conditions.
Equality Act 2010	Violence on victims; Abuse of lack of education/information; Abuse of undocumented status; Threat of denunciation to authorities; confiscation of documents.
Employment Agencies Act 1973; The Conduct of Employment Agencies and Employment Businesses Regulations 2003	Debt Bondage; withholding of wages.
Health and Safety at Work etc. Act 1974; Management of Health and Safety at Work Regulations 1999	Hazardous work; very bad working conditions.
Working Time Regulations 1998; Maternity and Parental Leave Regulations 1999; Statutory Sick Pay Regulations 1982	Excessive working days or hours; withholding of wages.

²⁴ International Labour Organisation, 2009, Operational Indicators of Trafficking in Human Beings, Indicators of trafficking of adults for labour exploitation.

Despite the wide range of laws and regulations in place to protect workers' rights in the UK, vulnerable workers continue to face abuse. FLEX hears of cases in the UK where workers are not paid for weeks at a time, forced to work long unsociable hours without corresponding remuneration, made to work without a contract, and of widespread abuse due to migrant status.²⁵ The enforcement of labour laws would prevent such cases from developing in to severe exploitation, and yet in the UK pro-active inspections have been reduced, meaning protections for workers are limited.

Inspections and enforcement actions taken by the GLA have decreased dramatically. Home Office data setting out the number of investigations and prosecutions initiated by the GLA, shows that investigations into illegal activities of gangmasters, dropped from 134 in 2011 to 68 in 2014 and prosecutions were down from 19 in 2010 to three in 2014.²⁶ With funding cuts of 40 percent from 2011/12 to 2014/15 the Health and Safety Executive has reduced its proactive inspections by one third.²⁷ The Employment Agencies Standards Inspectorate has just six staff²⁸ and therefore little power to investigate. While recent moves to increase the HMRC National Minimum Wage staff by 61 since the start of 2014/15 to 232²⁹ are welcome, numbers of national minimum wage investigations completed have fallen annually over the past four years: from 2,904 in 2010-11 down to 1,455 in 2013-14.³⁰

Migration Advisory Committee (MAC) - inspections once every 250 years

'The MAC is seriously concerned that the two major enforcement bodies are under-resourced and that the penalties for non-compliance are too weak. [...] on average, a firm can expect a visit from HMRC inspectors once in every 250 years and expect to be prosecuted once in a million years.'³¹

Article 15 of the European Trafficking Convention requires national governments to guarantee compensation for victims and to provide free legal aid to ensure access to justice. However, existing penalties and compensation avenues for victims are not working to ensure all victims of labour exploitation receive remedies for harms against them.

25 FLEX correspondence with potential victims of trafficking for labour exploitation and focus groups with organisations working with potential and actual victims of trafficking for labour exploitation between February-November 2014.

26 The Guardian, 14 November 2014, Gangmaster Prosecutions Decline to Four-Year Low Reports Home Office.

27 See Health and Safety Executive, 2015, HSE Annual Report and Accounts 2014/15, p.64 and Department for Work and Pensions, 2011, Good Health and Safety, Good for Everyone and APPG on Occupational Safety and Health, 2011, Health and Safety and the Health and Safety Executive.

28 See Parliamentary Answer, HC Deb., 26 March 2015, to Question 228738.

29 See Parliamentary Answer, HC Deb., 21 September 2015, to Question 10050.

30 See Parliamentary Answer, HL Deb., 6 January 2015, C177W

31 Migration Advisory Committee, 2014, Migrants in Low Skilled Work. p. 4

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Section 8 of the Modern Slavery Act 2015 encourages the courts to make reparation orders in modern slavery cases. This provides an avenue to compensation but relies on a successful criminal prosecution of which there were 27 for trafficking for non-sexual exploitation in 2014 and just seven in 2013.³² The Criminal Injuries Compensation Authority (CICA) provides an alternative means of compensation for those trafficked for labour exploitation, however, victims can only receive compensation for physical or mental injuries, not for unpaid wages or deprivation of liberty.³³ Additionally, there is no free legal aid provided for trafficked persons to access CICA, which presents a major obstacle. Employment tribunal claims have been made difficult for all workers by the introduction of fees, are not available to those without the right to work in the UK and even if awarded are hard to enforce meaning many victims do not receive a penny. Finally civil claims can be taken in the County Court but are costly, lengthy and complex as it is not possible to take a single simple claim on the basis that a harm of trafficking has been committed.

UK: Compensation for victims of modern slavery not a priority

Whilst the UK Government collects data on numbers of trafficking referrals, positive trafficking decisions and prosecutions of trafficking cases, no data is collected on compensation for victims. Parliamentary questions requesting data from the Government on numbers of victims of trafficking for labour exploitation that have a) made successful CICA claims; b) made civil claims for damages; c) received criminal compensation; d) received repayments for breaches of the National Minimum Wage,³⁵ have all been returned with the answer that no such data is available. Without these figures it is impossible for the Government to know how it is meeting its obligations under the UN Human Trafficking Protocol and the European Trafficking Convention.

At present the GLA can only advise an employer to repay unpaid workers. The GLA cannot directly recover pay for workers.³⁴ Instead the GLA must seek a compensation order through the courts which is difficult, costly and subsequently avoided - just one compensation order has been sought by the GLA since 2010. Cases of non-payment of wages are referred to the HMRC National Minimum Wage enforcement to seek compensation for workers, yet there remains no guarantee that payments will be received by workers. FLEX has called for the GLA to have the power to issue 'repayment orders' direct to the abuser that would ensure a link between offences, penalties and remedies to exploited workers.

RECOMMENDATION

Labour inspectors should ensure labour abuses are punished and should be provided with powers to issue repayment orders that provide a link between offences, penalties and remedies

³² See Ministry of Justice, 2014, Criminal Justice Statistics Quarterly.

³³ FLEX, 2015, Working Paper 02: Access to Justice for Victims of Trafficking.

³⁴ See Parliamentary Answer, HC Deb., 6th January 2014, c157W.

³⁵ See Parliamentary Answers, HC Deb. 9 January 2014, c277W; 6 February 2014, c340W; 17 January 2014, c729W



Create a level playing field through licensing and pro-active inspections

The licensing model operated by the GLA was introduced in order to ensure a level playing field between labour providers. This system and the monitoring of gangmaster compliance with the GLA's eight licensing standards ensures parity between providers and reduces the risk of exploitation of workers. The Gangmasters (Licensing) Act 2004 also introduced the offence of operating without a licence and the offence of using workers supplied by an unlicensed labour provider. The GLA's work to monitor some 1,000 license holders in the UK enables it to identify individuals in serious danger of exploitation. The GLA helped to identify 38 victims of trafficking in 2014-15 and removed 779 individuals from danger of exploitation,³⁶ truly fulfilling their role to prevent cases of modern slavery.

ILO Convention 81, Article 16

'Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.'

Mark Simmonds, former Conservative MP for Boston and Skegness³⁹

'I am generally hesitant about introducing licensing schemes and regulations per se, not least when legislation is already in place, but I sincerely believe that a licensing scheme for gangmasters will make the existing legislation easier to enforce. If a gangmaster fails to obtain a licence, the conditions of which will include satisfying the requirements of the existing legislation, he could be subject to prosecution and, ultimately, a custodial sentence.'

The Gangmasters (Licensing) Private Members Bill was introduced to the Houses of Parliament by Jim Sheridan MP in 2003. However, the Labour Government at the time was resistant to establishing statutory licensing, favouring an industry-led accreditation scheme. At Third Reading of the Bill the Minister, Alun Michael MP noted that:

'Licensing will oblige gangmasters to operate their businesses ethically. It will create a clear distinction between legal and illegal operators and strengthen the ability to enforce the law in a variety of ways. It provides the ability to ensure that those gangmasters who operate without a licence are prevented from doing so and that legitimate labour providers know that those who are willing to use any means to undercut them will be put out of business in short order. That will strengthen the legitimate part of the business. There can be no place for unlicensed gangmasters in future.'³⁷

The Ethical Trading Initiative also supported licensing as a means of helping companies to meet their responsibilities and to promote compliance with the law.³⁸

³⁶ GLA, 2015, Gangmasters Licensing Authority Annual Report and Accounts: 1 April 2014 to 31 March 2015. p.4.

³⁷ House of Commons Hansard, 21 May 2004, Gangmasters (Licensing) Bill, Third Reading Debate.

³⁸ House of Commons Library, 2004, Research Paper 04/17 – The Gangmasters (Licensing) Bill Bill 17 2003-04

³⁹ House of Commons Hansard, 2004, Gangmasters (Licensing) Bill, Third Reading, 21 May 2004

Association of Labour Providers supports ‘level playing field’

‘Legitimate labour providers want, and have a right to expect, a “level playing field” in order to compete fairly within the law. To enable this it is essential that action is taken to prevent rogue businesses from undercutting legitimate labour providers, either through tax evasion, worker exploitation or both.’⁴⁰

Proactive inspection of workplaces is viewed by experts, including the ILO, as labour inspectorates’ core prevention activity. A recent Fundamental Rights Agency report on severe labour exploitation called upon European states to ‘proactively carry out more workplace inspections’⁴¹ in order to prevent severe labour exploitation. However, the UK government Migration Advisory Committee reports that the UK is ‘light touch’ in its enforcement of employment rights, particularly compared to ‘the majority of developed countries’ that have specialist labour inspectors conducting pro-active site visits.⁴² Pro-active inspection is particularly important when individuals are held in conditions of control and therefore may not be able to leave their

Trafficked person seeks help in the workplace

‘I would like people to talk to my employer about how much they pay, how much holiday they’re giving, how much time we’re working for them [...] Because otherwise we don’t tell anyone, we are scared because we are foreign [...] I wish someone talks to them who has a responsibility’ - Trafficked person’s testimony⁴³

employer to seek help. In interviews with trafficked persons conducted by FLEX they have shared a strong desire for official intervention in workplaces to offer guidance, assistance and support. However proactive inspection is only effective when labour inspectors first work to build trust with workers and create an environment that facilitates good intelligence gathering and opportunities to report, regardless of immigration status.

Through its own workplace inspections the GLA has been able to identify labour abuses and severe labour exploitation. Inspections to ensure that license terms are met not only flag abuses to the GLA before conditions deteriorate but also serve to ensure that trust is built between GLA officials and workers.

RECOMMENDATION

A licencing and inspection framework that links to forced labour indicators is key to ensuring that there is a level playing field for business operating in the UK. This prevents rogue operators from undercutting those who play by the rules.

40 Association of Labour Providers, 2013, GLA Application and Inspections Consultation Response by the Association of Labour Providers.

41 Fundamental Rights Agency, 2015, Severe labour exploitation: workers moving within or into the European Union. p.17.

42 Migration Advisory Committee, 2014, Migrants in Low-Skilled Work. p.179.

43 Interview in December 2014 for Pro-Act Project, 2015, Pro-Active Identification and Support in the Netherlands, the UK and Romania.



Monitor supply chains to help businesses fulfil modern slavery reporting duties

Section 54 of the Modern Slavery Act requires companies to produce a slavery and human trafficking statement setting out their actions to address modern slavery in their supply chains. In bringing forward this legislation the UK took an important step on the road to making UK companies exploitation-free. However in private during the Modern Slavery Bill negotiations businesses acknowledged that it would be difficult for them to effectively monitor their supply chains for modern slavery without labour inspection and enforcement in the sectors in which they operate. Indeed, in 2013 when business transparency measures were first discussed in the UK, the Chief Executive of Sainsburys, Justin King, noted that it is not possible for business to ‘perform the role of the GLA in policing labour abuses right through the entire supply chain’ and admitted that ‘without the intelligence received by the GLA a number of supply chain issues would go undiscovered.’⁴⁴

Through the implementation of Section 54 of the Modern Slavery Act companies will be encouraged to analyse risk along their supply chains and to take steps to mitigate such risk. Whilst such steps are welcomed by FLEX, there is a strong role for labour inspectors in assisting with such activities. If Section 54 is truly to be world leading, as the Home Secretary has stated is her intention, then the UK Government must play its role in enforcing labour laws to ensure businesses are able to meet voluntary reporting measures. The examples of Brazil and Belgium provide interesting case studies to consider as the UK embarks upon a journey towards eradicating modern slavery from company supply chains.

Belgium: Labour inspection helps business to monitor supply chains

Labour inspectors play a key role in monitoring company supply chains and informing and holding to account lead contractors where abuses are identified. Where labour inspectors find labour abuses, such as non-payment of wages, perpetrated by subcontractors they inform the lead contractor of their presence in the supply chain. If the lead contractor fails to take action they can be held jointly liable with their subcontractors for paying wages to workers. This creates a chain of successive responsibility, linking subcontractors and contractors within a production chain, all the way up to the main contractor or lead organisation placing the order.⁴⁵

⁴⁴ The Guardian, 11 March 2013, Sainsbury’s warning on gangmaster licensing rule change.

⁴⁵ Source, FLEX Labour Exploitation Accountability Hub, Belgium Country Summary.

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Brazil: Labour inspection helps business to monitor supply chains

The so called 'dirty list' contains the names of employers caught exploiting individuals in slavery-like conditions. In order to assess business activities and add to the dirty list the official labour inspectorate, the Special Mobile Inspection Group (GEFM) responds to complaints raised by visiting the workplace to investigate and at that point produces a 'terms of adjustment of conduct' setting out steps to remedy workers for violations and prevent further abuses. If slavery is found then a prosecution is carried out by GEFM and a penalty applied. Those who are found guilty are added to the published 'dirty list', whose members face serious banking restrictions, rendering operations extremely difficult. In addition to the 'dirty list', members of the Brazilian National Pact for the Eradication of Slave Labour, a collaboration between non-governmental organisations and the ILO, call on companies to pledge to prevent and eradicate slave labour from their supply chains. The Pact uses the names on the 'dirty list' to identify slave labour in the supply chains of companies that have signed up to the Pact. By early 2014, over 400 companies had subscribed to the Pact.

The UK Government has a commendable ambition to be a world leader in efforts to eradicate modern slavery from company supply chains. To achieve this aim labour inspection throughout the supply chain is key to ensuring that companies are able to operate due diligence. The UK should provide support to companies in the form of labour inspection and enforcement throughout supply chains to help companies to identify any risks of exploitation.

RECOMMENDATION

To enable business to prevent and detect labour exploitation and fulfil their reporting duties under the Modern Slavery Act 2015, labour inspectors should monitor sub-contractors throughout the supply chain and inform companies where malpractice is found.

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