



Modern Slavery Act 2015 Committee

Corrected oral evidence: The Modern Slavery Act 2015

Monday 18 March 2024

4.45 pm

Watch the meeting

Members present: Baroness O'Grady of Upper Holloway (The Chair); Baroness Barker; Baroness Butler-Sloss; Baroness Hamwee; Lord Hope of Craighead; Lord Randall of Uxbridge; Baroness Shephard of Northwold; Lord Smith of Hindhead; Lord Watson of Invergowrie; Lord Watts; Lord Whitty.

Evidence Session No. 7

Heard in Public

Questions 94 - 99

Witnesses

I: Ben Greensmith, Managing Director, Tony's Chocolonely; Peter McAllister, Executive Director, Ethical Trading Initiative; Hannah Newcomb, Co-CEO, Stronger Together.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Ben Greensmith, Peter McAllister and Hannah Newcomb.

The Chair: Good afternoon and welcome back. This is the Modern Slavery Act Committee of the House of Lords. My name is Frances O’Grady. For our second panel, we have Ben Greensmith, managing director at Tony’s Chocology; Peter McAllister, executive director at the Ethical Trading Initiative; and online we are joined by Hannah Newcomb, the co-CEO at Stronger Together. You are all very welcome and thank you for joining us today. I invite Baroness Barker to lead off.

Q94 **Baroness Barker:** The issue that the committee is looking at this afternoon is the application of the existing law to supply chains. We are grappling with two questions. First, is it possible to eradicate modern slavery from supply chains and, secondly, is it possible to ensure that ethical supply chains become the norm rather than the other way round against the background of competition, which is always inevitable in trade?

Ben Greensmith: I can talk about cocoa. I do not know how much you know about cocoa and where it comes from, but 60% of the world’s cocoa comes from two countries in west Africa—Côte d’Ivoire and Ghana. They have about 2.5 million farms producing most of the world’s cocoa, and they tend to be smallholder farms, family plantations handed down through generations. In the middle of the supply chain, there are eight to 10 big chocolate companies that have all the power and control the price that they pay for the cocoa. On the other side of the value chain are billions of consumers who love eating chocolate and do not really think about where the cocoa comes from. The challenge we have in cocoa is that the big chocolate companies keep the price of cocoa as low as possible, and that leads to big structural problems.

Today, in west Africa, the root cause of all the problems in cocoa comes down to poverty. There are 1.6 million children working illegally on cocoa farms today because their parents cannot afford to pay for labour, so they have to take them out of school. There are a minimum of 30,000 victims of modern slavery on cocoa farms in west Africa producing most of the world’s cocoa, and we do not think that is right.

At Tony’s, what we have been doing for nearly two decades is developing our five sourcing principles. The first of those is that we enable the farms that we work with to earn a living income, which is really important, because only then can they get out of poverty and feed their families. The second area is that we have full traceability. In all the farms that we work with—we do not own the farms; we work with co-operatives—the cocoa that we are sourcing is 100% traceable. All the farms on those co-ops have been GPS mapped as well.

The third area is that we have a five-year commitment with the co-operatives so that they can invest in their farms for the long term. We work only with co-ops, which is the fourth area—strong farmers—and we

help those farmers to diversify. We want to demonstrate that it is possible to make delicious-tasting chocolate and source cocoa ethically. We have never found an instance of forced labour in our value chain, but we actively look for them. Last year, we found over 1,072 instances of child labour on the farms that we source from. If 50%, or one in two, of the households in cocoa-growing communities where most of the world's cocoa comes from—those 2.5 million farms—have an instance of child labour, it is a problem that you actively need to go and look for. We know that by looking for and finding those problems, we can massively reduce them.

With the partners that we have been working with for more than three years, we have brought the level of child labour down from 50% to less than 5%. We want all cocoa companies and anyone sourcing chocolate to copy us. We say to those chocolate companies, "This is how you do it. We've been doing it for nearly two decades, and we will facilitate you to do exactly the same". We have never found an instance of forced labour, and cocoa is one of the highest-risk areas for that. That is not to say that we will not, but unless you are actively looking for the problems you will not find them.

Peter McAllister: Thank you for the question and the opportunity to share our experience. The answer to your first question is that we have to believe we can; we will not make progress on any of the big issues if we do not believe that we can eliminate it. Thinking back to the 1970s and 1980s when I was a young engineer, we used to laugh at people who were called tree huggers and environmentalists. We do not laugh any more. It is the fringe that considers that impossible. We should not even frame the question "Is it possible?" I certainly believe that we can do more than we are currently doing and that we can shine a light on some of the places where modern slavery still occurs, and I still think that we can harness Governments, NGOs, businesses and others to drive it further out. If we get to the point where we are arguing about the last few percentages, we have already made huge progress. I would argue that it is incumbent on all of us to believe that we can eliminate slavery and that we need to do more to get there.

On your second point, about supply chains, it is all about the incentives. At the moment, there are a number of companies, such as Tony's Chocolonely and those that work with the ETI, that for whatever reason act responsibly and are trying to do due diligence in their supply chain, typically because they have been exposed to campaigns, have had shareholders ask them or are exposed to consumers' demands; but there are still far too many companies that do the very minimum or nothing at all. As we know, many still do not report on their modern slavery commitments because the incentives are not there. We need to look at what incentivises businesses to tackle modern slavery, to understand what happens within their business operations and their supply chains, and at the very least to copy the best in class, preferably to go further and innovate and really shine a light on where these practices exist.

In 2015, we worked very hard to support the Modern Slavery Act but, sadly, voluntary reporting is not adequate. Many countries are now looking at mandatory human rights due diligence in line with the UN guiding principles. That is an international framework. The UK was the first to come up with a national action plan in line with the UN guiding principles. There are frameworks. This is an international commitment. There are tools, practices and guidance from the OECD. That is a framework that many leading companies are adopting, and it can both drive and encourage companies and, where they are not doing enough, hold them accountable in doing the sort of work that we believe is possible to shine a light on modern slavery in supply chains.

Baroness Barker: I listened to your description about cocoa, Mr Greensmith. I happen to know a little bit about tea and Sri Lanka. Tea is also a commodity in which there are traditional suppliers in particular areas. There is a lot of indentured labour on tea plantations, although not so much modern slavery. Is there a particular problem with international commodities where there are a very few brokers, as you described in chocolate?

Ben Greensmith: It is a good question. At the moment, the power sits with a handful of massive companies and they are not being forced to act in a different way. Two decades ago, in cocoa specifically, in the US a senator called Harkin and a congressman called Engel rightly reasoned that, if there is a handful of big chocolate companies that control all the power, they could get them all around a table, very much like this one, and get them to agree to clean up their acts and sign an agreement. That is exactly what they did in 2001, but sadly it was non-binding. Initially, the timeframe they put to eradicate the worst forms of exploitation was five years. That was in 2006, which quickly passed. Then it was pushed back a further five years, and then to 2020. Now it is 2030. The common phrase is that there is no initiative for them to want to do it and no one is forcing them. These voluntary agreements are not working.

Baroness Barker: Perhaps you could think some more about commodities in which there are a limited number of brokers and whether anybody has done any research on that issue in supply chains.

Hannah Newcomb: In response to the first question about whether it is possible, I agree with Peter that we certainly have to hope that it is. It is Stronger Together's vision to achieve a world where all workers are recruited responsibly and have fair work free from exploitation. In our work, we talk about a spectrum of practice, from the very worst forms of human trafficking and modern slavery through to broader unethical recruitment and labour exploitation, moving into legally compliant standards and up to the very best practices of responsible recruitment and fair work.

As an organisation, we make the business case for moving up that spectrum, implementing the best practices and seeking to go beyond compliance. We make a strong business case for that, but ultimately it will always be voluntary if there is not effective legislation, regulation,

enforcement and access to justice for those who do not receive what they are entitled to. The two have to come together, and that is very much, as Peter said, what the UN guiding principles say; both Governments and businesses have that responsibility. We just heard an example that it is possible, but it requires a co-ordinated and collaborative approach to become the norm across supply chains.

Baroness Barker: Would we be right in assuming that it is possible to tackle only one market at a time? How do you deal with the fact that in any market there will be competition and people whose profit derives from having a lower cost base than other people? Let me put it in a slightly different way. Your chocolate competes with other high-end brands of chocolate; it does not compete with cheaper chocolate.

Ben Greensmith: This links back to your previous question. If you look at what is happening to cocoa prices at the moment, the money is there. If you go online and look at the big chocolate companies and their P&Ls, they are among the richest companies in the world, with really high levels of operating margin. The money is there. It is just that there is a choice about where it goes.

We are more expensive. This year, we will maybe turn over €200 million. About 6% to 7% of our revenues will go on impact costs. Most of that goes directly back to the farmers we source from, and to run the programme. Cocoa and chocolate is a \$200 billion market. We pay 6% to 7%. It would cost the top five biggest companies less than 0.5% of their revenue to enable all the farmers in west Africa to earn a living income and effectively get out of poverty. It is a choice about where those companies are looking to spend that money. In their budgets and revenues, a massive element goes on marketing, which would dwarf a simple payment to enable those farmers to get out of poverty. It would solve the deepest root cause of all these problems, which is poverty. It is a choice.

Q95 **Baroness Butler-Sloss:** It is a profoundly depressing story that you are telling us—not surprising but very depressing. The Ethical Trading Initiative, many years ago and before the Modern Slavery Act, was talking about level playing fields, but some of the larger companies that are doing it feel that it is not fair, basically, because other companies are not. What is your view, all three of you, on how you create a level playing field?

Peter McAllister: There is a limited number of things that really drive business action: regulation, what shareholders are asking, reputational risk, P&L and money. Unless you are tapping into one or other of those drivers, you do not really get the business engaged. Many of the companies that are around the ETI table are consumer-facing brands and therefore have been in the consumer's eye, whether that is "Panorama" on tea recently or Primark in 2008. That not only affects the individual company but the sector because nobody wants to be caught out in the next exposé in the *Guardian* and so forth. That is one of the drivers and it keeps people on their toes. However, there are many companies, such as

those that supply into the public sector, that are not subjected to that level of scrutiny or pressure. That is one of the factors which means we are always dealing with probably a limited number of companies that for whatever reason have moved to act responsibly, rather than seeing the critical mass of companies recognise that in the long run it is good for business, it is good for people and it is good for the planet.

I have come to the conclusion over a number of years that therefore we need regulation to even that up. It is about relying not just on the few good ones or people who have been caught in the public eye but on carefully thought-out regulation that rewards and encourages good behaviour, and ultimately holds companies to account if they fail to demonstrate that they take these sorts of issues seriously.

The levelling of the playing field will come from well thought-out regulation. That will also inspire shareholders to ask the right sorts of questions and allow the media and NGOs to do their work of holding people to account. We can then point to the good practice that exists, through Tony's, Stronger Together and our own work, to say that there are ways forward, there are tools you can draw on and there are networks of people in NGOs and trade unions who can work with you and not require it to be a voluntary effort.

Baroness Butler-Sloss: To come back to the Ethical Trading Initiative, have you been able to increase your membership in compliance with the current rules, which are of course not mandatory?

Peter McAllister: We have. Unfortunately, it also dipped post Covid, and with the recent consumer crisis we have seen quite a few companies go under. It has been an up-and-down thing. Even in our best year, it is only the tip of the iceberg. We talk to too many companies for which being subjected to the sort of accountability that we bring and being in the room with trade unions and NGOs is still something for the bravehearted rather than for the many. What will encourage more people to say, "Actually, we need to be working with our peers, our critics and others so that we really understand business's role"? Typically, lead businesses are not driving modern slavery, but they are not doing enough to eradicate it either.

Baroness Butler-Sloss: How do you view the issue of due diligence, together with making some aspects of Section 54 mandatory? Due diligence across Europe and other parts of the world is becoming more and more important. I think in the EU due diligence is about to become effective.

Ben Greensmith: I agree. We would call for due diligence across every aspect of a company's supply chain, not just the owned part, to be mandatory and for penalties for directors and the company for failure to comply. That is the only way that we will level the playing field. In cocoa, over two decades of self-regulation have been totally ineffective. It will take a combination of the right company setting the right example, more

legislation and an increase in consumer and shopper awareness. A combination of those things will be needed to make progress in this area.

Baroness Butler-Sloss: What is Stronger Together's view?

Hannah Newcomb: We hear from many of the businesses that we work with that they would welcome mandatory human rights due diligence legislation to help level the playing field. Certainly, that would align with the guidance that we provide to businesses. Linking back to the earlier discussion about pricing and markets, something that a number of organisations have called for in enforceable due diligence requirements is around the purchasing practices within supply chains and the impact that those can have on suppliers' ability to meet the standards. Those two things need to come hand in hand. That means paying prices, as we have talked about, that sustainably cover the costs of responsibly recruiting and employing the workers in those supply chains. There are other responsible purchasing practices: long-term partnerships, as we heard; not using unfair penalties; good forecasting and avoiding last-minute changes. That needs to come hand in hand with the due diligence requirements.

The final part is being clear in the mandatory human rights due diligence about the responsibility for remediation of harm that might be uncovered, including where there might be financial implications for that remedy, where recruitment fees are uncovered or where workers have not received all the pay and benefits that they are entitled to. Where those things are uncovered in the supply chains of businesses, it is important that it is clear what businesses' responsibility is to remediate the harm that has been either directly or indirectly caused.

Baroness Butler-Sloss: In Section 54, only the larger companies with £36 million of turnover are affected. Would you want SMEs at any level to be involved in that?

Peter McAllister: If we got companies above £36 million doing the sorts of things we are now talking about, it would have a significant ripple effect. Often, a lot of the smaller companies supply or sell to larger companies, so there is an effect beyond that. The ability to police and administer in the first instance a lower threshold will be quite a challenge, yet in German law there are three cases to hand at the moment. The impact of having three live cases with significant companies is very important throughout the German market. There are a number of discussions about the threshold. Ideally, obviously, all companies should be concerned about this, but for practically driving behaviours and reactions and normalising good behaviour, as you said, that threshold is probably reasonable.

The other thing with due diligence is that if we limit it to modern slavery, we are missing an opportunity. With tea, there is considerable sexual harassment and sexual favours for work. There is wage theft. There is denial of trade union rights. There are so many other forms of exploitation that go on. Typically, modern slavery does not exist in a

vacuum. The best way to tackle it is to make sure that we are shining a light on all forms of abuses and removing the space for modern slavery to exist.

Ben Greensmith: We would like all companies to be covered regardless of turnover, and more focus on high-risk sectors such as tea and cocoa.

Hannah Newcomb: We have done some work on SME food brands in partnership with STOP THE TRAFFIK and the previous Independent Anti-Slavery Commissioner. It is possible for SME businesses to take responsible actions. I agree with what Peter said; many of them will be in the supply chains of larger companies in scope, but there is an important role there. We know that SMEs can represent a significant part of sectors, certainly the food and drink sector, and therefore have an important role to play.

Q96 **Baroness Hamwee:** I am sure that somebody has written the history of the manufacture of chocolate from its Quaker roots through to what you have been describing to us, but I had better not go there. I will ask a question that has only just occurred to me and is probably very naive and will show my ignorance about fair trade. I am asking about consumers and their impact or otherwise. How do the Fairtrade strand and products labelled Fairtrade relate to what we have been talking about, if at all?

Ben Greensmith: Fairtrade is a good start. If you look on the back of our products, you will see that we have the Fairtrade logo, but for us it is just a start. The great thing about Fairtrade is that it is the only accreditation that guarantees farmers a premium on top of the farm-gate price—typically about \$240 a tonne. That is great because it enables the farmers to earn more money, but in our view it does not go far enough. We then top up to a living income, which means that we are paying this year about 70% on top of the farm-gate price for the cocoa. The other element, which is where it becomes really important, is that Fairtrade cocoa is still mass balance. Even if it is traded from a big faceless pile, you do not take responsibility for what is happening on the other side of that faceless pile.

Baroness Hamwee: It is about pricing.

Ben Greensmith: The pricing is a good part. We would like it to go further in terms of traceability. Only if you are visiting those farms and taking responsibility for that aspect of your value chain can you remediate, find the problems, identify them and solve them. That is why we go further.

Baroness Hamwee: That has been very helpful; I wanted to understand where it sat in the whole landscape. When the Act was going through in 2014-15, there was quite a lot of discussion about consumer power. It was at a time when people were quite conscious of the environmental sustainability or otherwise of things such as washing-up liquids. You have touched on this, but do consumers have any real power in incentivising companies, or is that just wishful thinking?

Peter McAllister: There is no doubt that consumers matter, partly because companies, if they are consumer facing, care about what they think. Of course, a lot of companies are not consumer facing, and therefore that lever does not operate—for example, those selling into the public sector and those who are in the middle of the supply chain. In cocoa, you can talk about Cargill, ADM, Barry Callebaut—names that are not very familiar but are massive operators and interact with the farms.

Customer and consumer pressure and the ability for organisations such as Oxfam to leverage that and articulate it are important, but they are not sufficient. People talk about a smart mix of good regulation, harnessing consumers, incentives for doing the right thing and holding companies to account. That is probably a more powerful opportunity to get that mix of things working in tandem and in harmony to drive the right sorts of behaviour.

Baroness Hamwee: Did the publicity over Boohoo have any lasting effect?

Peter McAllister: I am fairly close to this. If you look at the scrutiny that Boohoo has been under for more than five years from the environmental committee, and the recent exposé that clearly did not deliver what we had hoped, it is impossible to imagine that level of scrutiny for every company in that sector alone, let alone everywhere else. I think it carries, and people are very conscious of these sorts of things when they get picked up in the public domain, but is it sufficient in and of itself? I am not convinced. Again, it is getting the right mix of exposés. The “Panorama” on tea a few months ago helped galvanise conversations that we have been trying to have for some months. That level of attention suddenly meant that boards, CEOs and shareholders were asking questions. It can play a useful role, but I am not convinced that it is sufficient for all companies on its own.

Hannah Newcomb: The media has, and always will have, an important role to play in highlighting unfair practices and bringing them to the attention of boardrooms. I agree that the other levers that we have talked about are required for sustaining that. An interesting parallel is the media attention in 2022 about the conditions faced by some seasonal workers in the UK horticultural sector that galvanised the momentum to bring together the seasonal workers scheme taskforce, for which Stronger Together is the secretariat. ETI is on the governance committee of that group. The media helped to galvanise the momentum for that to get going, but it is sustained by the active engagement of the organisations that are part of it. The taskforce is seeking regular engagement with government to discuss some of the structural issues that exacerbate risks in that scheme. The media helped to start it and to focus attention on bringing together collaborative action, but those other things are important to sustain the momentum.

Baroness Hamwee: Investors could have a lot of influence, in particular pension funds, schemes for ethical investment and so on. Are they helping to move things on at all?

Hannah Newcomb: I think they are. We have seen a lot of developments in investor-led initiatives in recent years. As we have heard, they are another important lever for driving business change. We have a good relationship with CCLA Investment Management. There are a number of different initiatives where it has convened investors in relation to the construction sector. It produced recent benchmarks looking at modern slavery implementation. Investors can play an important role and there is momentum in the right direction on investor-led initiatives.

Baroness Hamwee: It does not sound from the way you are putting it that there is much momentum.

Hannah Newcomb: There are investment groups taking a leading role. As we have heard today, in every sector there are organisations that are leading the way, but there is always a spectrum. As to whether it is consistent across the sector, I would not want to suggest that all investors are taking a leading approach, but there is some positive leading work being done. Again, as we have talked about, we cannot rely only on voluntary leading practice; we need other levers to level the playing field.

Peter McAllister: I am probably slightly more sceptical than Hannah. CCLA and Aviva are typically mentioned in this context. There are examples like that, but we are not seeing that sort of engagement across the spectrum. Part of the challenge in speaking to investors is to boil it down into something that is succinct and understandable. In climate change metrics, you have greenhouse gas emissions and carbon footprint. You can come up with numbers, and reducing those numbers is a good thing. It is quite easy to understand. The metrics around modern slavery and abuse are much more difficult to collect; they are much less robust and they do not lend themselves to going to the CEO and saying, "I think we've got 20% fewer slaves in our supply chain this month". There is difficulty around harnessing that conversation and providing data that is credible and robust, and then translating that into a shareholder conversation that drives change.

On the odd occasion when shareholders engage, we know that it makes a difference. It is definitely one of the things that the board and the CEO will listen to, but there is a long way to go to get that as far as we would like. In private equity, it is even further removed. Typically, when private equity takes over a company, sustainability issues and modern slavery become very much a tick-box compliance conversation and less a progressive conversation about the wider role of a company in society.

Ben Greensmith: To go back to your previous question on consumers, consumer investor power is important. A big part of the problem at the moment is that there is such a lack of transparency and of a level playing field that there is an awful lot of greenwashing out there. That is why stronger legislation is needed to level the playing field. You can pick up a bar of chocolate that says "100% sustainably sourced cocoa" on it, but there is nothing to define how that cocoa has been sourced or what has

been paid for it, which exacerbates the problem and causes more confusion in investors' eyes and consumers' eyes.

Baroness Hamwee: What does "sustainably sourced" mean? I think the consumer would immediately think about climate change and so on, rather than the people.

Ben Greensmith: Yes, and that a fair price has been paid for that cocoa, which will not have been the case.

Q97 **Baroness Hamwee:** I am asking questions because one of our members is not here, so I will keep going with a final one that is very specific. It is about electronics, where there is a high level of modern slavery risk. How can collaboration be improved in electronics supply chains?

Peter McAllister: I do not really have the competence to answer this as we are not involved in it very much. Electronics Watch is probably the organisation closest to this. Pre-competitive collaboration to do risk assessments and then address, as Hannah said, things such as mitigation or remediation are a good thing full stop. As to how that manifests itself in the electronics supply chain or industry, I have no experience to offer.

Baroness Hamwee: Ben, it is probably not your bag either.

Ben Greensmith: No. In the case of cocoa, we have an open sourcing policy. We say to companies, "This is how we do it. Please copy us and we'll help you to do it". Best practice can be shared no matter what the industry.

Lord Watts: We have heard today about European border controls for electronics and other things. I am interested in that because the suggestion is that the Chinese car market is using slave labour in its manufacturing. If its market is squeezed from Europe, it would mean fundamental change in the view of the Chinese if they could no longer sell to Europe. Do you know anything about that?

Peter McAllister: The more general conversation is about stop and release orders and their value if there is credible suspicion of forced labour of some form being used in product X, whatever that is. First, is that a driver of getting companies to be transparent about where they are sourcing from? Then the onus is on the company to demonstrate that the product is not, in fact, made with forced labour. Those are interesting tools. We have to be careful that we do not demonise parts of the world. West Africa has its problems. I have lived there and it is a noisy and wonderful part of the world. It would really worry me if we suddenly decided that cocoa was essentially a demonised product because there is some forced labour and plenty of child labour. How they are applied matters.

I am not competent to talk about the car supply chain in China. I think some work has been done by the Swedes on that. There is certainly considerable concern about some regions in China and certain products that come from those regions.

The Chair: Perhaps I could go back a step and follow up on the reporting issue, and to what extent companies have an incentive to report and how difficult it is, although we have also heard that, if you go out looking for it actively, you can find ways not just to record it but to tackle it.

In the area of labour rights, there is quite a lot of evidence that, as I think you described, you rarely get one sin alone; there are normally multiple areas of sin that act on each other. If you find that women are not getting equal pay or trade unions are not allowed access, very often you will find that there may be problems about health and safety and other issues too. To what extent does that apply to modern slavery? Given that so much of it seems at root to be about a massive inequality of power, not allowing trade unions on site might be a reason to worry.

Peter McAllister: It is certainly an indicator. One of the values of something like ETI, with all its limitations and scope, is that it is a relatively safe space. Many of the reports that we get of abuse, modern slavery and what have you come from companies—not just our NGO and trade union members—because they are committed to do that and they often are two, three, four tiers below in the supply chain and they need to collaborate with others within a safe space to tackle those things. We then normally draw in NGO experts—on flowers in Turkey at the moment, pineapples, which I think is in the public domain, and so on. Once we can normalise that and reporting is not a fear factor—whether they will get picked up by the *Daily Mail*, the *Guardian* or “Panorama”—we can normalise reporting and collaboration as a good thing rather than something that has to be done within a safe space because you are nervous about how these things will be picked up and where the campaigns might go.

It comes back to the original point about whether we can get to the point with regulation where good practice is to report things and demonstrate you have done it rather than to pretend that you are absent those risks in the first place. As you rightly say, there are a number of indicators—seasonal work, presence of trade unions, low wage rates—that are all indicative of requiring more in-depth due diligence than a typical compliance approach would lend you to.

Q98 **Baroness Shephard of Northwold:** We have heard from the Government about the measures that they introduced recently to improve public procurement processes. How effective do you think those have been? What has been the impact of the Procurement Act 2023, particularly its power to exclude suppliers where there is evidence of modern slavery in their supply chains? Public procurement may not be something you can cover, but do you have any general comments?

Peter McAllister: 2023 was not such a long time ago; for any regulation to land and drive change, we have to give it some space and time. This is not an area that we are very involved in, but I took a look at the Act’s provisions. What worries me is that the intent is to exclude suppliers. If you as a supplier said, “We found modern slavery in our security firms or in our warehousing”, the incentive would not be to report that, mitigate it

and deal with the victims; it would probably be to hide it because you would be worried about losing your contract.

Driving transparency, as others have said, and rewarding companies that take action to find these things and to work with Stronger Together or with us to resolve them is a better way forward than raising the risk of “If I admit to this or if I look too hard, I may lose my contract”. It is probably too early to tell how it is acted on in practice, but that is an observation from reading the Act.

Hannah Newcomb: Back in 2018, the UK Government, alongside the US, Canadian, New Zealand and Australian Governments, committed to a series of modern slavery principles in relation to public procurement and the role that Governments can take in tackling modern slavery. The impact of the principles that were committed to has not been clear. One example is that Governments should “advance responsible recruitment policies and practices”, including by supporting initiatives such as the employer pays principle. That is the internationally recognised principle that no worker should pay for a job; the costs of recruitment should be borne by the employer.

When we look at the implementation of that—this is just one example—the Government’s 2019-20 Modern Slavery Act statement mentioned the employer pays principle and the questions asked of suppliers in relation to recruitment fees. It also talked about remediation of recruitment fees, but in the two successive modern slavery statements, there is no mention of the employer pays principle or work on recruitment fees. How commitments made on public procurement are sustained is important.

We are talking to suppliers that might be affected by the Procurement Act in sectors that we work in, such as construction, and using it as a driver for them to be continuously improving. We have heard directly from organisations the point that Peter just made; there are concerns that it could lead to issues being hidden in relation to the debarment provision and concerns that, where they might not be directly complicit in the exploitation but they find it in an agency that they are working with or an infiltration model, they risk being debarred. There are some provisions in the Act about that, but it will be a crucial message that reporting instances and supporting potential victims to access remedy will not lead to debarment if a business or an organisation is proactive in finding the issue, responding to that issue and providing remedy.

The final point on public procurement is on the care sector, where we have seen significant escalation of issues and reports of modern slavery. That is a sector that is predominantly funded through public contracts. It is a critical sector to be considered in relation to the role of public procurement in responding to and remedying instances of modern slavery.

Baroness Shephard of Northwold: Public procurement metrics come into all of this. Have you seen any evidence of those not being used in practice? It is probably an unfair question given your earlier answers, but

do you want to have a bash?

Hannah Newcomb: Because we are not currently directly working on the implementation of public procurement and response to metrics, that is probably not something that I can respond to in detail. As I said, there is arguably more to do in relation to ensuring that the public procurement provisions are effective.

Peter McAllister: For my sins, I sit on a committee task force on the Parliamentary Estate to address exploitation and forced labour, so I have had some sight of this. The public sector is still largely stuck in compliance mode; I issue a contract, somewhere in the contract it says that you will abide by this or that code, I ask you to sign it, and I have done my job. That is a very passive approach to risk assessment, engagement, identification and so forth. Leading businesses have moved beyond that passive compliance approach and are taking more due diligence and collaboration, whereas it seems that much of the public sector is still stuck in the "Well, I signed the contract and the conditions were there, so why haven't you done anything about it?", which will not drive the sorts of behaviours and transparency we had hoped for.

Baroness Shephard of Northwold: No, but they are in a different position from private companies, clearly, and the compliance policy of their public procurement is part of their stock in trade. I am trying to get at how difficult this would be, given the different atmosphere and attitudes in the two sectors, although the principles are important to both.

Peter McAllister: I do not think it is either/or. Legal compliance and compliance with health and safety and so forth are still important, but that will not drive proactive engagement. Many of the companies that sell to the private sector are of significant size, so there is no reason why they would not have or could not devote the resources that other companies of a similar size could.

Q99 **Lord Smith of Hindhead:** Ms Newcomb, if I could grant you one wish and you were allowed one recommendation or amendment to be made to the Modern Slavery Act, what would it be?

Hannah Newcomb: There has been much discussion about the importance of the current regulations being enforced, and that the commitments that have already been made to strengthen the regulations previously should be delivered. My recommendation would be for the Government to engage with relevant businesses and worker representative groups to hear the case for mandatory human rights due diligence and to use that to inform their plans for the Modern Slavery Act, and within that to include clear expectations on responsibility for remediation of harm in businesses' supply chains so that there is clarity on responsibility both where harm is directly caused and where it is indirectly caused or contributed to through a lack of effective due diligence. We should strengthen provisions around remediation.

Lord Smith of Hindhead: That is very clear and concise, thank you. Mr McAllister, what would your one recommendation be?

Peter McAllister: You will hear some repeats. The Modern Slavery Act drew together a number of provisions to try to hold perpetrators to account, around assets, moneys and so forth. Section 54 focuses on business. I would argue that, as good as the Modern Slavery Act is, complementing it with a mandatory human rights due diligence law that incentivises and encourages and, where necessary, penalises would be the right complement to tackle not only modern slavery but the other forms of abuse that we see.

Lord Smith of Hindhead: Thank you. Without mentioning cocoa at all, Mr Greensmith, what would your recommendation be?

Ben Greensmith: To enforce penalties on companies for non-compliance. The only way we will get companies to play their part and up their game is through the threat of penalties.

Lord Watson of Invergowrie: Presumably, at a level such that they do not just price it into whatever their model is.

Ben Greensmith: Ideally. The money is there.

Baroness Butler-Sloss: Would you want to have any specific sanctions on directors as opposed to the companies?

Ben Greensmith: I think they can co-exist. There needs to be a level of accountability in the boardrooms with directors.

Lord Smith of Hindhead: Do you think it is fair that the public sector should make sure that its own procurement is absolutely spot-on before the private sector is expected to follow suit with sanctions such as that?

Peter McAllister: My opinion is that they intersect very quickly. A lot of public procurement is done through private sector companies, so I do not think it is an either/or. Both can learn from each other.

I offer a slightly different observation on liability. Holding people to account through the Modern Slavery Act just holds them to account for writing a report and sticking it on their website, and it can say as little as it wants to. The sanctions in the Modern Slavery Act are actually around reporting to be compliant with the Act. It does not drive the need to demonstrate that you are doing human rights due diligence and that you are taking action. There are limitations even with stronger compliance with the Modern Slavery Act.

It is about getting the balance right for good companies that have extended supply chains and will intersect with abuse and modern slavery and what have you. We want them to shine a light and take the appropriate action. Therefore, companies that do not demonstrate that should be held to account. The worry if we make directors personally liable is that you will just get lawyers in between them and any of these

sorts of good practice. The balance in driving the right sorts of business behaviours, disclosure and so forth, and holding people criminally liable when they are, needs to be thought through by cleverer people than me, I am afraid.

Lord Smith of Hindhead: That is not really what I asked.

Peter McAllister: No.

Baroness Butler-Sloss: I am afraid it is what I asked.

The Chair: Thank you all very much indeed for giving up your time and giving evidence to our committee today. We may well be back in touch. If you have notes or background information that would be helpful, please feel free to forward them. Thank you once again.