



Modern Slavery Act 2015 Committee

Corrected oral evidence: The Modern Slavery Act 2015

Monday 25 March 2024

4.40 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. 9

Heard in Public

Questions 108 - 114

Witnesses

I: Dr Caroline Emberson, Assistant Professor at Nottingham University Business School; Adis Sehic, Senior Policy and Research Officer, Work Rights Centre; Peter Wieltschnig, Senior Policy and Networks Officer, Focus on Labour Exploitation.

USE OF THE TRANSCRIPT

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

Examination of witnesses

Dr Caroline Emberson, Adis Sehic and Peter Wieltschnig.

The Chair: Good afternoon and welcome to our second session of the House of Lords Modern Slavery Act Committee. We are very pleased to welcome our second panel today. Dr Caroline Emberson is an Assistant Professor at Nottingham University Business School; Adis Sehic is the senior policy and research officer at the Work Rights Centre; and Peter Wieltschnig is the senior policy and networks officer at Focus on Labour Exploitation. You are all very welcome and thank you very much for joining us. Lord Watts has the first question.

Q108 **Lord Watts:** We know that modern slavery victims in the care sector are being charged up to £30,000 before entering the UK for visa applications and training. How can it be stopped? How severe is the problem of exit fees on visas? Does the Modern Slavery Act definition of offences adequately cover this form of exploitation? There is a mouthful there, but perhaps you could you address it.

Dr Caroline Emberson: Thank you for your question. There has been a very useful report from Citizens Advice, which you may be familiar with, published in the last couple of weeks, looking at how work visa design is driving exploitation of migrant care workers. It identifies multiple cases of exit visa problems. I asked the author, who has been a co-investigator with me on previous research, to give me some more detail. That identifies that exit penalties can be between £1,300 and £11,500, and that, of the 150 testimonials referred to in the report, in about 10% of cases there were explicit references made to exit penalties, and it is likely that there are implicit problems in other cases as well. The report author is very willing to share those details with the committee, if that would be of use.

What can be done to stop this? We found that voluntary codes of practice are ineffective for the regulation of criminal activities, such as organised migration crime, where organisations are exploiting individuals and getting large sums of money as a result. Where cases have been brought in this situation—for example, by unions such as UNISON—they have tended to use employment legislation related to unlawful deduction from wages rather than modern slavery legislation. As far as I am aware, it has not been tested as to whether the current definitions would provide legal protection.

Peter Wieltschnig: If I may, I will address the question of people being charged £30,000 and more before entering the UK. In order to address how to stop it, we need to first think about why it is happening. The health and care worker visa was set up with what seems to be a complete failure to put basic due diligence checks in place in relation to visa sponsors. Anecdotally, we have heard of care providers with annual turnovers of £50,000 being given sponsorship visas for almost 200 certificates of sponsorship. The former ICIBI reported to the press that 275 visas were issued to a care home that did not exist and 1,234 to a

care home with only four members of staff. We can say that the UK has very much created a Wild West situation in relation to exploitation in the adult social care sector, with the MAC saying that the Government have tacitly accepted this.

Once in the UK, a lack of regulation, market enforcement and oversight, and the conditions of dependency created by the visa, create a situation where people are desperate for income and the ability to stay in the country itself. Without a safety net, they cannot challenge their exploitation and they cannot come forward about their exploitation, particularly when they have accrued significant volumes of debt in doing so.

Workers need to know that raising issues will not result in adverse consequences for them, otherwise they will not risk coming forward. It is very clear that the Government have created a system where unscrupulous employers are able to make profits off these fees and off workers who are coming to the UK out of a genuine desire to contribute to the UK's adult social care sector. The dependency on the sponsor created by the visa and by this Government's hostile environment policies is, in practice, punishing those who speak out about their exploitation.

Adis Sehic: I will add to that but will be concise. On the point about fees being charged overseas, there are a couple of things that the UK could start doing a bit more. This committee has heard in previous evidence from the GLAA that it has signed MoUs with other countries. It would be positive if that could be built on. We would also like to see the UK starting to have more Government-to-Government agreements on safe migration pathways. There are some Government-to-Government agreements in relation to this sector with some countries, such as India and Nepal, but with others there are not.

We could look again at visa fees. A lot of the visa fees that are being charged now to applicants are three times, sometimes four times, the administrative processing costs for the Home Office, and you can very easily see how a recruiter overseas might use that to their gain by charging exorbitant fees.

It is important for the committee to consider the context in which these fees are paid. Whether they are illegal or not at local level, many workers will pay the fees because they see a visa to the UK as an opportunity for social mobility. If that is the case, and these fees will be paid, we need a much broader conversation about what the UK can do more directly to provide additional safeguards. We will get on to those later when we refer to our migration categories and our system of labour market enforcement.

Lord Watts: I want to be clear, because £30,000 is a lot for people in this sector. I gather, from what we understand, that it is not paid in the country of origin; it is deducted from wages when they are here. Do you think that all fees should be paid by the person recruiting the staff rather than by the individual, and that it should be illegal for anyone to charge

or enforce charges that relied on someone paying to come to the UK?

Adis Sehic: To take your first question, that is not necessarily the entire picture that we have seen with the clients we have advised. We have had situations where a worker has paid a work-finding fee locally—overseas—and when they came to the UK their employer tried to claw back other fees that are not permitted by the code of practice on international recruitment. That might involve the cost of the interview process or the cost of assigning a certificate of sponsorship, which is not allowed.

On the second point, we know that repayment clauses are not by definition exploitative because businesses can use the clauses to claw back legitimate costs, but we are seeing abuse of that, and the guidance in this area not being enforced for sponsors in the care sector. In previous sessions, there have been some discussions about internationally recognised principles, such as the employer pays principle, which focuses on recruitment costs being borne by, ultimately, employers rather than the worker themselves.

Q109 **Lord Whitty:** We have covered some of this, but is the problem the way the visa system works and the consequences of that? The fact is that a sponsor does not necessarily have to be the ultimate employer; a sponsor could be based anywhere, and the relationship with the incoming potential care worker may not be with the person who will employ them in the long run. Is it a problem with the visa system and, as we have discussed, the payments thereafter, or is it that the care system in this country is so atomised that it makes it easier to lead to a degree of exploitation, in some cases amounting to modern slavery? Are there other countries that have different structures for their care sector where the problem does not arise in the same way?

Dr Caroline Emberson: On clawback clauses, the atomised structure of the sector that you described is a problem. Where clawback clauses are conventionally used in the NHS, it is possible for the care worker to move quite easily within the organisation to a different role. That is not possible in social care without changing employer, and that is where the visa restriction rules about the need to have a single employer cause particular issues.

Adis Sehic: I would build on that by trying to expand the committee's thinking in this area. The notion of tied visas is not limited to health and care visas. The UK employs a system of sponsorship. Dependency on the employer regarding one's immigration status is fundamental to how our work migration system operates. From our perspective, we see a power imbalance between the sponsor and the employee. We have been trying to get policymakers to look at what additional safeguards we can build into our system of work migration that can help workers in these situations. We might get on to that later with some international examples, but that is really our focus.

Peter Wieltschnig: What is happening in the care sector is that workers are getting caught between the downward pressures in the adult care

social care sector on wages and conditions and the impacts of the hostile environment policy. This is creating the situation where we have a visa system that was set up for sectors that are more “white collar” being applied to the adult social care sector without the necessary due diligence beforehand. It seems to be the case that, without checks being in place and without an understanding of the dynamics of the sector, we are seeing a ballooning of exploitation. A lot of this is because of certain conditions of the visa. Although there are commendable aspects of it, such as the renewability of the visa and the route to settlement on the visa, other factors, such as the lack of labour market enforcement, the fragmentation of the sector and its privatisation, are creating the gaps that workers are falling through.

Lord Whitty: Are you aware of situations in other European countries where the care sector is not so fragmented but there is still a bit of a problem, with immigrants providing a significant proportion of the workforce, but it does not have quite such a disastrous effect on the potential of exploitation as we see here in the UK?

Dr Caroline Emberson: This is not quite answering your question, but there is an example in Canada, where the live-in care worker visa also relies heavily on migrant labour coming into the country. It has experience of a phenomenon called release on arrival, where people come into the country on a visa only to find that the work that they were intending to take on does not exist. That is a common problem in the sector that we have experienced here, and for which I think there are some techniques that other Governments have introduced that might be helpful to us.

Lord Whitty: The fact that we have a shortage of care workers and that, at the same time, we have changed the conditions and increased demand, is specific to the care sector, and probably specific to the UK. It means that we have a particular problem that needs addressing comprehensively. Would you agree with that?

Adis Sehic: It is a fair point. There are a number of smaller providers of care in the country. When you have a model that operates like that, it becomes very difficult to regulate all those providers, notwithstanding the fact that funding for our labour market enforcement bodies is perhaps not where it should be or not where we would want it to be. Yes, there is some credence to that argument.

Q110 **Baroness Barker:** The care sector relies on funding of two types. One is state funding that comes from local authority care packages, which may be care packages for individuals, and the second is self-funding. Am I right in assuming that where the modern slavery problem occurs is with self-funders rather than statutory funders, and that the key point of the problem is with care providers and whether those care providers are registered? Is there an overlap? Are care providers providing care both to the statutory sector and to individuals, and running a parallel system, where one bit might be regulated and one is not? That is what I am trying to argue.

Adis Sehic: I am afraid I do not have any evidence to answer the first limb of your question about state-funded providers versus self-funders. But on the point of registration—again, perhaps we will get to this when we discuss the CQC announcement—the providers we have seen that have demonstrated examples of exploitative practices have actually been registered with the CQC. It is just the case that they either have not been inspected at all, because they were recently incorporated, or they have not been inspected for quite a long time. This is a key aspect of the Government’s announcement, because they have said that only those carrying out regulated activities with the CQC will be eligible for a sponsor licence moving forward. Actually, most residential care providers, domiciliary care providers, will have already been registered with the CQC.

Baroness Barker: It is the time lag. That is the gap in which it is happening. Therefore, it is quite possible that state funding could be going to this, because it is going through providers that are—

Adis Sehic: I do not have any specific evidence for that, but, by definition, given how the sector is structured, it is a possibility.

Dr Caroline Emberson: Looking at it from the perspective of the care provider, if you are a residential care home, you may well be providing both for self-funders and publicly funded placements. There was a well-reported case in the media in north Wales, where a residential care and nursing home recruited a number of Indian nationals who were over here on a student visa. I do not know for a fact, but it is possible in that situation that those workers were delivering care to both publicly funded and self-funded individuals.

Baroness Barker: You may not know the answer to this, but I will ask you anyway. Are there recorded instances of UK nationals recruiting care workers directly from abroad and bringing them in, and that turning into modern slavery or trafficking? Is that widespread or not?

Adis Sehic: I can speak only to the cases that our organisation has dealt with. In the vast majority of those, an overseas recruitment agency has been involved. I know that the GLAA has previously said to this committee that some domestic charges are being applied, but I do not think we have necessarily seen that in our casework.

Q111 Baroness Shephard of Northwold: We have already touched on some of the issues that I want to ask questions further about. As you know, in December, the Government introduced changes to the Immigration Rules. One of them was a requirement for sponsors to be regulated by the Care Quality Commission. I think most people here—certainly Baroness Barker—understand how stretched the Care Quality Commission is, particularly following the challenges of the pandemic and the fact that its principal purpose is to look at care and levels of care.

I would like to ask, quite directly: could the Care Quality Commission, in your experience, actually cope with this extra regulation demand looking

at sponsors? It is an absolutely open question and I have no idea what the answer is, but I know that the CQC is very pressed at the moment.

There are a couple more questions. Does minimum pay need to be increased for issues in the sector to be resolved over the longer term? What about the national referral mechanism? How is it going to function under the changes introduced in December?

Peter Wieltschnig: The CQC has said that it does not have the authority or the remit to be able to do that, and nor does it have the expertise to do that.

Baroness Shephard of Northwold: Do you mind raising your voice a bit? I am wearing hearing aids.

Peter Wieltschnig: Of course.

The CQC has mentioned that it does not have the authority to investigate concerns relating to modern slavery and unethical international recruitment, as well as the fact that it does not have the authority to take enforcement action. It is evident that the Home Office announced the policy change in December with very little engagement with the CQC. As Adis mentioned, there are a number of care providers registered with the CQC about which these stories are emerging.

The CQC is currently working on its framework regarding registration, to be able to identify risks—for instance, where an overwhelming number of workers might be at risk if they were to lose their sponsorship, and the ability to identify phoenixing practices. This will never really be able to replace active and robust labour market enforcement from bodies with the remit, expertise and resources to be able to do it effectively. We need to ask why the UK labour enforcement system is not robust enough. The UK has just 0.29 labour market inspectors per 10,000 workers. The International Labour Organization recommends one per 10,000 workers. We are ranked 27th of 33 OECD countries in that respect. It was recently announced that the GLAA's budget for 2024-25 has been reduced by just under 20%, at a time when these ongoing concerns are pressing.

The Government are well aware of the crisis in the sector. The Government need to invest in the labour market enforcement system. They previously committed to establishing a single enforcement body. They announced in December 2022 that that was not going to be taken forward, and I think it was a real missed opportunity. We are seeing a concerning trend where the Government prioritise immigration enforcement over the well-being of these workers and are not putting tools in place to make sure that situations do not deteriorate.

That goes to the next question around whether the national referral mechanism is up to the task in addressing the issues that we see in the care sector. One of the things is the high threshold for modern slavery. A lot of workers will face labour abuses that might not necessarily constitute modern slavery, such as non-payment of the national minimum wage and working long hours without breaks, but nevertheless

there is a real need to take the preventive approach. It was good to hear from you that there is such an appetite for a preventive approach to modern slavery, making sure that workers are able to come forward to authorities and highlight labour market abuses or labour abuses, as opposed to having everything at the very high threshold of modern slavery, particularly at a time when the national referral mechanism is getting stripped back.

Baroness Shephard of Northwold: The statistic you gave about the percentage of regulation capacity and the number of people who the Care Quality Commission has to regulate is very helpful, because the committee is hoping to see the Care Quality Commission later in our programme, and we will be able to explore that. Thank you very much; what you said was very clear.

Adis Sehic: I will be brief. On the first point about CQC resources, the CQC gave evidence to the Committee on Health and Social Care before Christmas. It said that, if the announcement resulted in an increased number of registrations with the CQC, it might make representations about its capacity to deal with that inflow, notwithstanding what I said about pre-existing CQC registration.

On pay, Skills for Care has produced a lot of research and statistics on this point, particularly in England, which show that pay and pay progression in the care sector is lacking. That can exacerbate some of the structural vulnerabilities that we talked about previously.

There are three points to make on the NRM. A lot of the clients we see from the care sector will not enter the NRM because their cases would not meet the threshold. Even where they might meet the threshold, they are not incentivised to enter the NRM, primarily for two reasons: there is no guarantee of being provided with the right to work once you are in the NRM, and there is no guarantee that you will be granted leave even if you are confirmed as a victim of modern slavery. This committee has heard from previous witnesses from ATLEU who have talked about that dynamic. There is also a connection between those things and the fact that, by the end of 2023, we had the highest number of duty to notify cases under the NRM. Workers were simply not incentivised to enter that system.

Dr Caroline Emberson: Could I make a couple of points on the last two of your questions? On minimum pay, the Migration Advisory Committee highlights the problems with wage compression in the sector; as the minimum pay level goes up, unless other wages also rise, there is a problem with career development. It also highlights the need for improved working conditions related to the use of zero-hours contracts and excessive working hours as other issues that need to be resolved in the sector.

On the terms of the NRM, a number of different changes have come in as part of the Nationality and Borders Act. The recent public order disqualifications for identified trafficking victims is particularly

problematic. Evidence from one of my colleagues at the Rights Lab suggests that it is being applied for offences committed over a decade ago in the country of origin and where the relevant sentence has already been served. It is also not clear whether victims are being disqualified on the basis of criminal activity that they were forced into as part of their trafficking ordeal. The evidence seems to indicate that these PODs are disproportionately being applied to third-country nationals. Support under the modern slavery victim care contract is crucial to survivor recovery and to reduce the risks of re-trafficking among this group.

Lord Watson of Invergowrie: I think Mr Wieltschnig said that a single enforcement body would be an important step forward. You will be pleased to know that, when she gave evidence just prior to you, the Independent Anti-Slavery Commissioner said that she was very much in favour of that. Can you say something about what difference it would bring about and how it would help in some of the enforcement that is lacking at the moment?

Peter Wieltschnig: One thing to note at the moment is the fact that labour market enforcement in the UK is incredibly fragmented. There are seven different bodies with some role to play in relation to labour market enforcement in the UK. There is a real opportunity to make sure that there is end-to-end protection, and to address some of the threshold issues in relation to workers who may not necessarily experience exploitation that would be considered modern slavery but are nevertheless on a trajectory, or a deteriorating journey, to a situation that may amount to trafficking. Making sure that workers have the ability to highlight concerns beforehand would do a lot to make sure that they do not have to wait for a situation to get so bad before they are able to come forward for protection and support.

Lord Watson of Invergowrie: Do you think it would help workers who have been denied wages to recoup some of what was due to them?

Peter Wieltschnig: Certainly. HMRC's national minimum wage team could be incorporated in this body and built into the ability to join up conversations between units for national minimum wage payment with the functions of the Gangmasters and Labour Abuse Authority, to thread the line between the different forms of exploitation.

In FLEX, we take the approach of a continuum of exploitation, which views human trafficking as taking place at the severe end of the gradient. At one end, you have decent work with decent conditions and decent pay, and at the sharp end you have exploitation that would be considered modern slavery and human trafficking. Along the gradient, you have different labour abuses and worsening severity. We need to make sure that our understanding of modern slavery is tied to an understanding of the journey between the two and the need to push back at an earlier stage, before it amounts to a situation that is so severe that it would be modern slavery.

Baroness Butler-Sloss: Is the main reason for having a single

enforcement agency that the CQC has no teeth, and the whole purpose of an enforcement agency is that it would have teeth?

Adis Sehic: That is a very valid argument. To build on what Peter said, it is not so much about there being a single enforcement body on its own; it is about all the opportunities that that brings, such as an increase in enforcement capacity. What can we do about separating the notion of immigration enforcement from labour market inspection? How can we increase the penalties on employers for different labour market offences, which are currently at a really low level, to disincentivise those practices?

The point about having teeth is one of the points I was going to make earlier. The CQC has not been granted any new powers as part of this announcement. Its primary role is about the delivery of care, not primarily about the welfare of workers.

Baroness Barker: To follow on from Baroness Butler-Sloss's question, we have heard that a lot of modern slavery is hidden away, particularly in a field such as this. Would a single enforcement body have a better or worse chance of detecting modern slavery than a specialist like the CQC? I suspect the answer to that is no, but I would welcome your thoughts. Secondly, if for detection it is better that there are sector-specific regulators, how can their relationship with bodies that are expert in the field of modern slavery be strengthened, perhaps in legislation, to enable better detection and better enforcement of the law?

Dr Caroline Emberson: Perhaps one way of looking at it is to see the CQC's role as a quality assurance role. It is engaged in preventive activities to make sure that workers are recruited safely and properly and are able to provide the quality of care that the clients receive, whereas the single enforcement body's remit is in remediation of labour enforcement where things have gone wrong and there are problems.

The Rights Lab advocates a single enforcement body, which we see as a single point of contact for workers. Rather than having to try to work out which body to report your circumstances to, there is one clear body that you can go to. We think it will help to improve consistency in enforcement and compliance. Rather than taking a sector-restricted view, it has the ability to address labour market infringement and abuse wherever they occur and provide greater clarity over grey areas in employment law.

Peter Wieltschnig: There is one thing I would add, in relation to secure reporting, which was mentioned in the previous session as well. It very much depends on the design and funding of any single enforcement body, and the principles and priorities that underlie that. One thing that would be very helpful to improve our ability to identify potential victims of trafficking would be to embed secure reporting procedures and pathways.

In the adult social care sector, we see a lot of care workers being pushed into irregularity by the actions of an exploitative employer. A secure reporting pathway would prohibit labour market enforcement from

sharing migration status with immigration enforcement, and stop people being concerned about the harsh repercussions they would face in coming forward about their abuse. That is something that Article 3 of the ILO Labour Inspection Convention highlights as necessary, and which the former director for labour market enforcement, Matthew Taylor, had highlighted.

It is also necessary in order to shape how we approach inspections—for instance, prohibition of joint or simultaneous inspections, where labour market enforcement is accompanied by immigration enforcement. We know that that undermines trust and stops people coming forward. It makes people go underground, particularly in such a hostile political environment in relation to migration as we see at the moment.

It also dampens wages. In 2022, the Low Pay Commission found that joint inspection stopped workers reporting non-payment of wages. If we are to incorporate principles such as that in a single enforcement body, we can really boost our ability to identify and address a very hidden crime.

Baroness Hamwee: On the single enforcement body, am I right in thinking that, whatever the employment agency, this is another landscape that should come within a single enforcement body? Would that have an effect in the sector? It strikes me that it probably would, but I cannot put words into your mouth.

Adis Sehic: I think that is correct. Obviously, where there are cases that involve exploitative practices by an employment agency, in principle we can refer those cases to the Employment Agency Standards Inspectorate. Building on what Peter just mentioned, the fear that workers have of reporting is not just abstract; it is very real, and our caseworkers see it all the time.

Fundamentally, workers want two things when they come to us, beyond pursuing justice: to be able to remain in the country lawfully, and to be able to continue working. If they come to our advisers, we are not able to guarantee them that any information pertaining to their immigration status, particularly if they are undocumented, will not be reported to the Home Office. The takeaway from this exercise is realising that we need to be able to investigate instances of exploitation as a valuable activity in its own right, rather than it necessarily being subsidiary to policy goals around immigration enforcement.

Baroness Hamwee: Before I come to the questions I am supposed to be asking, I want to explore the continuum that you mentioned. Recently, there has been the announcement about workers not being able to bring dependants with them. I do not know whether there are a lot of people here on a visa who came before that and have dependants with them. It strikes me that, if there are, that is something that they could be exploited over. I wanted to pick that up. You are nodding.

Adis Sehic: We recently gave evidence to the Secondary Legislation Scrutiny Committee particularly on that issue. You are right. Of the approximately 255,000 visas that were granted to main applicants by the end of 2023, there were about 316,000 dependants accompanying those individuals. Why we think that is important from an exploitation perspective is that many main applicants rely not only on their ability to work but the ability of their partners to work, just to meet the cost of living. We have discussed issues of low pay.

Putting aside the compassionate or moral arguments that one may submit about whether you allow dependants to come in, we feel that this will make it harder for workers to report exploitation where it happens, because the financial odds are, effectively, stacked against them.

Baroness Hamwee: Is it another area an employer could take advantage of, saying that you should not have your dependants with you? Even though someone is here on a visa now, the employer could give them wrong information—it has been known to happen after all. Is it something that you have come across?

Adis Sehic: Not recently. I believe the position is that, if you are already in the UK on this visa and you have brought dependants over, that remains fine, but new applications are not.

Baroness Hamwee: That is exactly my point. People do not necessarily understand the detail of the rules. If people are told that they have the wrong visa or whatever, they can be exploited, because they are being given the wrong information by their employer. But you say that it is not something that has surfaced.

Adis Sehic: I do not think it has on the dependant issue. We have seen in some cases the point about being able to switch jobs being used to exploit workers. Under the visa, you are able to submit an application to move to another employer, but some workers were not aware of that right, and the employer is able to abuse that.

Peter Wieltschnig: The issues of power and information asymmetry are very significant on this route. The other thing to mention on dependants is that forcing those who have dedicated themselves to contributing to the UK's care sector—who have developed their skills and their lives in communities in the UK—to give up that life in order to maintain a family life is deeply unconscionable, particularly when there is a 152,000-person vacancy in the adult social care sector. There is a real need for this, for the integrity of our care system in the UK.

There is an approach in the UK that seems to view labour migration as a tap that we turn off and on, without a real consideration of people's lives—for instance, the short-term visas in the agricultural seasonal worker scheme. We need to move away from that and have a very person-centred approach.

Q112 **Baroness Hamwee:** I understand that completely.

Going back to regulation, we have heard about the limitations of the CQC. Can the regulatory environment be simplified to give more clarity over responsibility for the welfare of workers?

Adis Sehic: All the conversations and remarks about the single enforcement body are very relevant, and I will not repeat those. It is very clear that the Home Office's activities regarding sponsor compliance need to be improved. Remarks made by the outgoing Independent Chief Inspector of Borders and Immigration, David Neal, highlight that. He released some information that suggested that the Home Office has one person dealing with every 1,600 of these sponsors. There are about 85,000 now that are registered with the Home Office to do these activities. We would like the Home Office to step up its activities as well. Certainly, simplification via a single enforcement body would be preferable.

Dr Caroline Emberson: I agree.

Peter Wieltschnig: I agree, and I highlight the need to take real ownership of this issue. This is something that we see in the agricultural seasonal worker scheme, which seems very similar to the situation here, with a failure to take ownership. Adis mentioned the independent chief inspector, David Neal. He mentioned departments giving conflicting information in relation to responsibilities on the seasonal worker scheme, and we see that replicated across the health and care worker visa as well.

Baroness Hamwee: One of the suggested points to put to you is about how labour market and immigration enforcement can be separated. It may be that you have said what you want to say about that, but is there anything else?

Peter Wieltschnig: The only thing I would add is the fact that this is something that can be done within the current system. There is discretion. It can be implemented now and should be implemented now. It has been done by a number of different countries. In the USA, Brazil and Belgium, we see secure reporting pathways being embedded into legislation and into practices, and the prohibition on joint and simultaneous inspections. I would be happy to send further information in relation to that.

Baroness Hamwee: Please do, because we want international comparisons.

Finally, I saw that ethical social care recruitment was among the priorities in the letter that various organisations wrote in December to the Home Secretary about this area. I suppose it is part of regulation, but how can it be done?

Dr Caroline Emberson: The current system uses a voluntary code of practice, which has proved ineffectual for the regulation of criminal activity. There are large numbers of reported cases of modern slavery coming from care workers from India, Nigeria and Zimbabwe, and those

are in the Unseen report. There have been round tables in this sector looking at how the Gangmasters (Licensing) Act might be extended, potentially for WHO green list countries. There is a potential conflict between a licensing approach and the policy not to actively recruit in the case of red and amber list countries such as Nigeria and Zimbabwe, and so new forms of regulation might be needed. There is also the opportunity to leverage local authority buying power. An organisation called Partners in Care and Health is due to publish guidelines related to ethical recruitment for local authorities. That is coming up in the next couple of weeks.

The Lord Bishop of Bristol: To pick up on that, we have talked a lot about organisational focus and the role of regulation. I suspect this is a vain hope, but have you come across really good examples of organisations that enable their workers to become empowered so that they can do the best possible job and so that they are at much less risk of exploitation?

Dr Caroline Emberson: Worker voices are a really important tool in the armoury for addressing regulation in the sector. I know there is research going on looking at Leicester garment workers, a largely female workforce. It will be interesting to see what lessons can be learned from that and translated potentially into care.

Q113 **Baroness Barker:** We have a care sector in this country, the economics of which are very well understood. There is a reason why private equity firms have invested over the last decade in the British care sector: it is profitable to do so. It seems to me that the prevention of modern slavery has to understand the economics of the care sector in order to begin to get to a workable means of prevention. For the elucidation of the committee, can you explain how perpetrators profit from exploitation in the care sector? I can have a guess, but please put it from your experience.

Adis Sehic: We have talked about how recruitment agencies overseas charge exorbitant fees. It is obviously incredibly detrimental to workers if they are coming in, effectively, bonded already. When they are in the UK, we see breaches such as national minimum wage underpayment, longer working hours than permitted, and squeezing the ends from workers and taking the profit like that. Repayment clauses are another area.

One area that has been less spoken about but is prevalent in the care sector, as it is in others, is the notion of phoenixing—the idea that a company can dissolve itself very quickly, basically denying workers practical access to justice. I do not think we have come up with a real answer to that question. Companies House was granted greater powers recently under the Economic Crime and Corporate Transparency Act, but for our caseworkers there is still an issue about how you actually hold the individuals who are running these companies liable in individual cases.

Dr Caroline Emberson: To pick up that point from Adis, there is perhaps the opportunity to adopt a similar approach to that taken in

Brazil, where there is a list that sanctions individuals who are engaged, rather than companies. If you target the directors, you can make sure that those people do not just reintroduce a new business and perpetuate the same problematic practices.

Baroness Barker: From what you say, presumably if a company is engaged in those practices it can submit tenders that are much cheaper than other people's. Have you come across evidence of that?

Adis Sehic: I do not have any specific evidence on that point, I am afraid.

Baroness Barker: It stands to reason that they must be making a significant amount of profit, such that they are willing to run some of the risks that they are running. In particular, there is some public funding going to these companies via contracts, so somehow we need to put together the entire economic picture. It must be possible, at some stage, to work out that a company must be carrying out these practices, because they could not otherwise be getting the business that they are getting. That is the point that I am trying to make. Have any of you been able to find that out in your research? Perhaps not yet.

Adis Sehic: Not from our organisation. We are still piecing things together and learning as these cases come to us, but I recognise that possibility.

Baroness Barker: To be clear, phoenixing would be closing a company deliberately to avoid contractual obligations, but it would not mean starting up another company that would then take on a contract.

Adis Sehic: In some cases, yes.

Baroness Barker: It has.

Adis Sehic: Yes.

Baroness Barker: Would that contract would be with individual purchasers of care rather than local authorities?

Adis Sehic: We have not necessarily encountered an example where we have got to that stage. We have had the dissolution; we have had the point of the company going away. We have not been able to link that or tie it back to another company that started. But it is a well-known phenomenon in the labour market, across a number of sectors.

Baroness Barker: I understand that, but I am trying to work it out in this sector. It seems to me that there are a number of things that happen in the sector that have not yet been tied together sufficiently to understand the full picture, but they could be quite easily if the proper analysis was to be done. You would think, would you not, that, given that local authorities have to go through fairly elaborate public procurement exercises, those procurement exercises would uncover that, but apparently there are gaps through which companies can go to get

business? Is that right?

Adis Sehic: Our caseworkers have seen phoenixing in a number of sectors. I do not have specific evidence, as I said before, where we have got to the stage of tying it to a newly formed company. As I say, it is a well-known phenomenon, and I am sure that the care sector could be affected, just as many others have been.

Baroness Barker: I have a final question, and I appreciate that you may not have an answer to it, but it is one that I think I should ask. This is an international phenomenon, is it not? It happens in other European countries. We are not the only one. Are the same perpetrators in different countries? You mentioned India, Nigeria and Zimbabwe as source countries for us, presumably because they are largely English-speaking. Are there other countries where the same phenomenon happens but with francophone countries or whatever? Is there a body of research that has uncovered whether this is in fact part of a larger international business model carried out by the same people?

Dr Caroline Emberson: I conducted some research looking at the domestic care sector and live-in care workers across Europe, and in Australia and Canada. There was definitely evidence of organised migration crime: the exploitation of individuals by recruiting them and charging them fees, potentially for work that did not exist. That study was not of residential care and nursing home providers that were publicly funded through large framework contracts, which I think is the point that you are trying to get at.

Baroness Barker: That is one of my points, but on the international thing I was not specifically asking about public contracts.

Q114 **The Chair:** My final question to you is this. If you were granted a wish, and you had one recommendation that you could make to government about modern slavery and the content of the Act—improving it or around enforcement—what would it be?

Peter Wieltschnig: One thing that I would mention is in relation to the point about how an immigration enforcement-centred approach seems to have subordinated all concerns for workers' welfare in this issue. There is a real need to separate those two. Part of that means incorporating some of our international obligations, whether that is ECAT, Article 4 of the ECHR or the anti-trafficking directive.

There needs to be some consideration as to whether responsibility for human trafficking needs to be removed from the Home Office in relation to this and placed in another department, such as a cross-departmental body or the Ministry of Justice. As part of doing that, there would need to be a review of the Modern Slavery Act to see how we can adopt a preventive approach or something that is a bit less after the fact and less reactive, and that can build the concerns into how we develop labour migration and how we approach potential victims of trafficking or workers as a whole.

Dr Caroline Emberson: For me, the formal extension of the transparency in supply chains duty to public authorities would start to draw public spending on care into the TISC folder. One of the particular issues we have talked about for the care sector is structural fragmentation. At present, a large number of care providers fall below the £36 million threshold. The private providers that make up 80% of the market are not caught through TISC, and the public authorities that contract through those providers are not caught. There is a huge regulatory gap in care.

In extending the TISC duty, it would be good if the duty had greater teeth. I was encouraged to hear the Independent Anti-Slavery Commissioner in the earlier panel say that she felt that too.

In an ideal world, we would be looking to reduce the threshold from £36 million to capture more companies and make it less about the fact that modern slavery compliance is optional, depending on your company's size, and to see it more as an absolute that modern slavery is unacceptable, whatever size company you run.

Adis Sehic: I preface my answer by saying that reform suggestions such as a single enforcement body and additional safeguards to our immigration system would likely come via other legislation and instruments.

Regarding the Modern Slavery Act specifically, we would like to see better victim support. That also encompasses the points about grants for leave to remain and practical access to working opportunities.

The Chair: Fantastic, thank you. I think we have finished. On behalf of the committee, thank you all very much for your evidence. Thank you for the promise of supplementary notes, as and when you are able to compile them; that would be great. Thank you all for the hard work and commitment that you show.