



Modern Slavery Act 2015 Committee

Corrected oral evidence: The Modern Slavery Act 2015

Monday 13 May 2024

3.30 pm

Watch the meeting

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

Evidence Session No. 16

Heard in Public

Questions 180 - 192

Witness

I: James Bullion, Interim Chief Inspector for Adult Social Care, Care Quality Commission.

USE OF THE TRANSCRIPT

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

Examination of witness

James Bullion.

Q180 **The Chair:** Good afternoon. Welcome to the Modern Slavery Act 2015 Committee in the House of Lords. My name is Frances O'Grady and I am chairing the committee. I welcome to this evidence session James Bullion, the interim chief inspector for adult social care at the Care Quality Commission. Thank you for joining us. I will kick off with the first question.

We are very conscious that the commission's terms of reference acknowledge that the workforce have a role in the quality standards of care that are given, but there is also quite a collection of different regulatory bodies involved in the sector. It would be useful to understand your role and how it relates to others and to get a feel for the kind of work that you do currently with the Employment Agency Standards Inspectorate and your views on the role of the Gangmasters and Labour Abuse Authority. Perhaps you could give us a bit of a sense of where the commission lies in all of this.

James Bullion: I am delighted to be here for the commission. To begin with the basics, the CQC's role is to ensure that safe, effective and high-quality care is available to people who need to be in receipt of it. Our role primarily is to work to assess whether the regulations for the provision of social care are being adhered to. Of course, we have a role across social care and health. Indeed, the issue of modern slavery, and the international recruitment that sits behind it, is one for both health and social care.

Our role is to work with care providers and commissioners. The committee probably already knows that there are about 18,000 social care providers in England, of which 15,000 are registered with the commission because they undertake regulated activity. Whether we work with people is defined by whether the provider undertakes regulated activity, which, as you might imagine, is home care, residential care, support for mental health and so on.

Our role primarily is to look at the whole journey that might be undertaken with a care provider or a health provider and to register them if they are undertaking regulated activity. It is an offence to undertake any regulated activity that is not registered with us. There is a requirement to register with the CQC. Our job is to register the care and subsequently to assess it, sometimes by way of inspection, sometimes looking at individual aspects of a service, and then in most cases to rate it. There are some services where we do not provide a rating, but mostly we do. That is the cycle of work that we undertake in social care. As part of that work, we may come across breaches of the regulations, or enforcement that needs to take place, and we have a range of powers that allow us to enforce.

The first and most obvious point is that, under the legislation, we do not have any legislative remit for modern slavery. We are not able to use the

powers of the Act. We can only use the legislation that underpins the provision of care. Necessarily, we have to play a role with other agencies to share intelligence or to collaborate on a piece of joint work together, and that is where we interface with the Employment Agency Standards Inspectorate—EASI—to let it know what our requirements would be for registration for people who are interested in that, and to share and receive information about risk. It is similar with the Gangmasters and Labour Abuse Authority, in the sense that often that organisation is working in an individual circumstance that relates to something that is happening, and we receive a notification from it or give it a notification where we have identified in the course of our work a risk or an issue.

As you can imagine, as part of our work we come across information while we are looking at organisations to do with care. Primarily, we are looking at that, but in the course of doing that we look at the actions of the workforce in health and care settings, and we can spot the signs of exploitation or modern slavery, or indeed the leadership of international recruitment more generally. Although we cannot regulate it, we can observe it, observe the risk and observe the impact on care, and, if it has an impact, enforce against our regulations. As a minimum, we would be constantly vigilant about potential breaches of our regulations and potential slavery or exploitation activity for us to refer to others.

It is a complex area and no one agency has an overview of all of it. Part of the challenge for all of us is how we align with one another to make sure that we work well together and co-ordinate well together. That is the general picture.

The Chair: Thank you. When changes were introduced to the visa system, the worker shortage system, were you concerned that that might lead to an increase in modern slavery or extreme exploitation?

James Bullion: We had a couple of concerns at the time. The first is the notion that, if legitimate routes of international recruitment are constrained, it potentially pushes exploitation to areas other than social care. A general concern we might have is that if, as has happened with the rules change, you can no longer recruit unless you are providing regulated services, it means that the exploitation that goes on in the recruitment agencies is exported to the side, perhaps overseas or to a different sector. That could concentrate and increase the instance of modern slavery generally.

On the impacts on the care sector, the values in CQC are such that we want to expose modern slavery and exploitation. We welcome the clarity that the changes gave about the fact that only regulated activity could be provided and that licences and visas for international recruitment could only be given to those who undertake regulated activity.

Finally, we always have to point out that, of the 18,000 care situations, only 15,000 are regulated by the CQC, so there are 3,000 outside that, and predominantly it is the personal assistance market for disabled and

older people who employ their own carers, and day care and day opportunities, that are not regulated by the CQC.

The Chair: We have heard reports that there could be 800-plus cases of modern slavery in the care sector. Is your view or experience that that is more likely to be associated with the personal care bit that is not regulated?

James Bullion: Given that the changes in the legislation were very recent—they have only been brought in since March—some of those numbers will be associated with the situation prior to the change. They are probably, or possibly, likely to have occurred within the traditional social care sector, not just in the personal assistance area. They are historical numbers that will be impacted by the change.

The numbers have grown. Our own referral numbers have gone from eight referrals that we made in 2021-22, to 37 in 2022-23, and 113 in 2023-24. You can see the graph of growth. It is a low number compared to all the breaches and issues that we come across in the commission, but steep none the less. We have potentially 17,000 issues being looked at more generally for modern slavery, so I can believe that the number you have given is realistic.

Baroness Butler-Sloss: You said 3,000. Are they organisations that are unregulated? Should they be unregulated?

James Bullion: That is a good question. Yes, it is organisations that are not required to be registered with us because they are not regulated in the same way. Should they be? I do not think it is the position of the CQC that we are calling for regulation in that area. It would be a matter for policy and government, and we would respond to that. We certainly see the potential for those areas gaining from the oversight of the CQC in the annual inspection and assurance process that we undertake.

Baroness Butler-Sloss: That is a very diplomatic response.

James Bullion: Thank you.

The Chair: Given the huge intelligence that you have from the work that you do, is it your role to offer advice to government, or do you only offer it if asked?

James Bullion: We offer advice. It is important for the CQC that our independent voice on what we find about what is happening goes into our annual state of care report. In that report, we often offer advice for free, but at other times we work on behalf of the Government, who have asked us to look at an issue, and then we give advice on that basis as well.

Q181 **Lord Watson of Invergowrie:** This is an extrapolation of Baroness Butler-Sloss's point. I was struck by the figure of 3,000 of the 18,000 not being registered. That is getting on for 20% and is a fair chunk. When you answered that it was largely personal assistance, I assumed that was one to one and that, if it was, one person could have a one-to-one

relationship with a number of patients. That still leaves quite a bit of slack in the system. I understand your answer that you have not asked the Government to increase the level of registration, but, frankly, is there any reason why those 3,000 should not be registered?

James Bullion: As the regulations currently stand, the activity in those situations is not regulated activity. If I paint a broad picture—there will be exceptions—of day activity or activity for people in day centres, often it is not personal care that is being provided. It is supervision or activity, and it needs to be safeguarded and all the rest of the things you might expect, but it is perhaps qualitatively different from a home carer who goes into a private situation or a group of situations where they provide personal care for somebody. That may explain some of the rationale. It is a question of policy about whether collectively it is thought to be good for that activity to be subject to regulation.

Lord Watson of Invergowrie: I understand that. It is a fair point. Are the sorts of people who deliver care in those 3,000 organisations different in their qualifications and experience from those you would find in the 15,000 that you regulate?

James Bullion: They are very similar in the sense that they are often PAs or home care workers who are doing some home care for an employer and some personal work. In day centres and day opportunities it is skilled care activity, often working with people with dementia or other physical or mental health issues. They would be subject to the same need for training and development of skills that other care workers would be.

Lord Watson of Invergowrie: Thank you.

Baroness Barker: I note that you quoted the small but increasing numbers of cases that you have referred. From those small numbers, can you tell if it is people from the unregulated personal assistance part of the sector or are they people who are in the regulated part of the sector that you have come across? How are they recruited?

James Bullion: I might need to do some further checking of the proportion because I do not have that in front of me. I am happy to write to the committee with that proportionate breakdown.

Chair: That would be really helpful.

James Bullion: My sense is that it is mainly in the 15,000 rather than in the 3,000.

Baroness Barker: Even though you have a small database, is it possible to track from that the recruitment paths and who the ultimate purchasers of the care are?

James Bullion: Yes. In the work that we do with the Gangmasters and Labour Abuse Authority and particularly with UKVI, where we have made a referral or where we have received a notification of a risk, it is because,

between us, we have shared intelligence about a particular care agency and a particular staff member. In that circumstance, we know the source of the recruitment and whether it was international. However it was done, we know the individual circumstances.

Baroness Barker: Forgive me, I have one final point. Who is responsible for accruing over time and holding on to that data so that lessons and patterns can be drawn from it and found out?

James Bullion: One of the questions for the committee is whether there is a sufficiently strong and overarching view of all the data and intelligence. We work with UKVI, the Gangmasters and Labour Abuse Authority and EASI to share information. Between us, we make up a whole picture, but there is no single agency that has an overview other than the department itself, which would gather together that data.

Baroness Butler-Sloss: Do you have any overview of the 3,000 organisations that are not regulated? Listening to what Baroness Barker asked, I wondered whether you had any control at all over them.

James Bullion: No, not as a regulator. It would not be our role to undertake that. Local authorities are in a different position; they locally have an overview of those situations. Of course, all care situations are subject to the same safeguarding laws. If there is an issue, local authority safeguarding teams will intervene.

Q182 **Baroness Shephard of Northwold:** The Government recently announced that care agencies will only be able to sponsor workers if they are registered with the CQC. You have already explained very clearly in answer to the questions that you have been asked so far the limitations of your role and the reasons for those limitations. Can you tell us a little bit about the impact on your work of the recent announcement from the Government? I speak for myself, but I think other members feel overwhelmed by the size of the task. Alongside that, it would be additional registration. If you were to take on the extra work, what extra capacity would you need? You may have to write to us about it, but how possible or impossible a task are you apparently being set?

James Bullion: At one level, the impact on the CQC has been fairly limited, because the change has been that the visa is only obtainable for someone who is currently regulated. The question then becomes in some ways about how many of those that are not regulated will apply for regulation. Many of the visas were obtained by employment agencies. An employment agency is not a regulated activity that can be registered. In some ways, it limits the number of people who could switch to becoming a regulated agency. Having said that, the requirement now on care employers directly applying for the visa rather than relying on an employment agency to have applied on their behalf is where the pressure is currently rising.

In 2021-22, we registered about 53,000 per year. To clarify, registration means completely new business, but it also means a change of ownership

and a variation of some aspect of the care, thus expanding the type of care. That is why it is a high number. Remember, there are many thousands of agencies. There were 53,000 registrations in 2021-22. That rose to 59,700 in 2022-23. Last year, it rose to 63,500. You can see a trend of increase that was already under way.

We cannot yet tell the impact this year of the pressure of more agencies becoming care agencies and applying for the licences. The inference would be that it would put additional pressure on the commission that we have not budgeted for. In addition to the burden of the increase in number, there is the thickness of the task. Now, we have to undertake more checks and work in partnership with UKVI and the Gangmasters and Labour Abuse Authority to make sure that we swap intelligence about whether it is an organisation that has applied for a licence or had a problem with a licence. We have more work to do, as well as potentially more times to do the work.

Baroness Shephard of Northwold: That is very helpful. It is a situation to watch or, from the point of view of the committee, perhaps to warn about the implications of the announcement. What happens if an agency goes out of business and just vanishes? How equipped are you to look at some of the implications of that? It must have happened in your experience. Perhaps agencies that were not satisfactory might have known that they were being examined and inspected, or were going to be inspected, and then suddenly they evaporated. Would you talk a little bit about that?

James Bullion: Yes. There may be a later question on the notion of phoenixing, as it has become called, of businesses arising and suddenly going and then new ones arising with either the same people or in the same area. We recognise that as a particular feature of modern slavery and exploitation. Of course, in the background for the commission, and indeed for the social care market, there are many changes of organisation; some take others over and organisations merge for business purposes. Among the 15,000 that are regulated with us, 30% of the social care market, if I can call it that, is 60 organisations. The remainder are thousands of organisations and it is quite common to see changes and mergers within that group already.

Specifically on the question of whether organisations are created for the purpose of doing international recruitment that then does not transpire to be real work, we see that and we have picked up evidence of it, and have been sharing intelligence with the other statutory agencies about it. The CQC needs to stay on top of the issue of dormant companies that register with us but do not go into business or companies that change with the same nominated individuals in them. We keep an eye on that. It is quite early in the history of this for us to get a strong picture of phoenixing.

Baroness Shephard of Northwold: Right. That might be something for the committee to issue a warning about.

James Bullion: Indeed.

Baroness Shephard of Northwold: Thank you.

Q183 **Lord Watts:** We know that there is a shortage of labour in this area. Do you make any allowances for that in your assessments?

James Bullion: The core task of the CQC is to check that the potential care agency meets the regulations and is at the standard of "Good". The committee might be aware that we badge in four categories, with a one-word rating of "Outstanding", "Good", "Requires improvement" or "Inadequate". You have to be "Good" to be registered for the first time with the CQC. It is a form of inspection when you first get registered with us and then we assess as time goes on.

We do not take into account the state of the market, but we have mechanisms that can speed up our processes where we know there is scarcity or when we know that somebody has set up a business to take advantage of a contract being let by a local authority, or in particular in the winter when additional money goes into the health and care system for the provision of additional capacity. We have a system prioritising registration and prioritising rerating people if they are not at "Good" level so that we can try to respond to that scarcity. You are quite right to say that there is a vacancy level of at least 160,000 of the 1.6 million. It is a difficult issue.

The Chair: In making those inspections, do you ask questions about the employment conditions of the workforce?

James Bullion: We do not, strictly speaking, regulate the terms and conditions of the staff, but we look at the ethical leadership for its impact on care. If we spot exploitation or poor employment practice, that becomes a risk that we take into account as we assess for registration or assess for a rating. Technically speaking, it is not within our regulations for us to deregister somebody because they do not pay travel or because they exploit their workforce. The legislation does not allow us to make a regulatory decision on that basis.

One of my recommendations to the committee is the distinction between—I will phrase my language carefully—general poorer practice, such as where staff are made to pay for their own travel and petrol, their uniforms and, in some cases, their training, which can sometimes mask the exploitation associated with international recruitment, where people often pay thousands of pounds to get the visa and then pay most of their wages on accommodation, petrol, uniform and generally existing, meaning that very little of their wage is left. The two situations are different. One is a particular form of exploitation. Were the general terms and conditions for social care to be improved, it would throw the international exploitation into stark contrast and make it easier to see.

Q184 **Lord Watson of Invergowrie:** I was not aware until you gave your answer to Lord Watts a few moments ago that the inspection process that you operate issues identical gradings to those of Ofsted for schools. At the moment, Ofsted is coming under considerable criticism because these

are one-word assessments. Do you believe that one-word assessments are adequate for describing what you have found in care homes?

James Bullion: We work to the policy of the department in its requirement to us for the system that we operate.

Lord Watson of Invergowrie: I understand that, but Ofsted comments on question of whether it should be one word or not. Are you satisfied with one word achieving what you would hope to achieve with your inspections?

James Bullion: In addition to my policy point, the commission has looked at this in relation to the recent work by Ofsted and we have satisfied ourselves that with our inspectors and assessors we train our staff to spot the potential outcomes of a scenario where you are getting a one-word rating and the impact on the individuals supplying that service, or indeed the business impact of a one-word rating. Thirdly, we and Ofsted work in a slightly different way.

Lord Watson of Invergowrie: There is no straight read-across. I accept that.

James Bullion: We do not have the limiters that Ofsted works with that can send an organisation from "Outstanding" to "Inadequate". We are more judgment-based in the view of the inspectors.

Q185 **Lord Watson of Invergowrie:** Thanks. We understand that you are developing your inspection framework to try to make it better able to identify modern slavery risks. Can you say something about the current position regarding the changes that are being planned or are in development?

James Bullion: The CQC operates using a single-assessment framework across health and social care. It was implemented and launched last November, so we are in the relatively early stages of the changeover to our new way of working. The framework has a series of quality statements in it—34 of them. We do not always assess all 34 quality statements against a provider. We might make a selection of those we need to look at in relation to what we know about the organisation, because of its risks or where it is in its regulatory journey with us.

Within the framework itself, we have specific quality statements that relate to safety, safeguarding and ethical leadership. It is against those statements that we can look for issues of exploitation or modern slavery. Not only do we receive notifications from others who spot that risk, we have a mechanism for looking at risk ourselves when we are out and about regulating. Thirdly, we have a "Give feedback on care" number, which anybody can use to give us consumer feedback and to whistleblow and speak up. It is incumbent on us, in partnership with others, to foster a culture where people feel that they can speak up. The core issue with modern slavery is that people are in a very vulnerable situation where often their passport and their means of living, as you know well, are subject to coercion and control. We are very experienced at dealing with

coercion and control in the ordinary sense, through safeguarding and other activities. Where it comes up, we can spot it. We train our staff to be armed to spot those issues.

Finally, with the framework, we have a memorandum of understanding that we use with other agencies to swap information and risks in a very structured way. We recognise, though, that there is more to do. In a further phase of work, we have a project that is looking at further detail. We will try to look at this going forward and make sure that it is as comprehensive as it needs to be.

Lord Watson of Invergowrie: You mentioned that quality statements, safety and safeguarding are prime. Will the phrase “modern slavery risks” appear in the inspection framework after this review?

James Bullion: They are in our guidance to our staff. The framework necessarily is at a relatively high level. Underneath that, it is supported by individual documents, statements that we give to our staff, and tools and guidance that they use in the course of their work. We have on our website our position on modern slavery and what we are looking for, and we train our staff to use that. They will be clear.

Lord Watson of Invergowrie: My final question is a follow-up to one asked by Baroness Shephard. It is about the effects on staff should a sponsor’s licence be revoked and whether you give consideration to what the effects might be. Of course, it could place staff in an impossible position with a very limited amount of time to try to find other employers.

Is there any mechanism in your system where you could say, “Well, we’ve identified that this provider is no longer fit for purpose”? Would you simply withdraw the sponsor’s licence, or would you go to them and say, “Look, this is your final warning. If you don’t do this by such and such a period, we’ll withdraw it”, rather than simply pulling the rug out and leaving staff exposed at short notice?

James Bullion: We see that as a key problem associated with modern slavery. To be clear about the licensing, UKVI decides either to suspend or to revoke. From our point of view, our primary concern is about the care the person receives and the continuity of that care. We increasingly come across high numbers of cancellations of licences impacting on individuals in care settings. Our job, as the commission, is to work with others to try to make sure that continuity is dealt with as best it can be.

In our experience, the 60 days that the employee has to move from one licence setting to another is a very short period. You may have seen a feature in today’s *Guardian* about the impact of that on individual employees. Of course, behind those individual employees is the care situation itself. If there is to be an immediate change, or if there is even to be a change within 60 days, that is quite a speedy change for someone receiving care who is vulnerable, especially where, as a consequence of high numbers of staff losing their licence, you have to move people from one residential setting to another. Our position would be that 60 days is a

short period. Generally, the experience of reorganising care is four to six months. It might be better to have a longer period or more flexibility rather than the 60 days.

Q186 **Lord Whitty:** I am trying to find the process. Obviously, your main concern is the quality of care and the safety of the recipients of that care. After the initial regulatory structure, if you have to go in again to look at an organisation, how much of that would be triggered by a modern slavery issue or would it always be triggered by the effect for the individual recipients of the care? In other words, are you triggered to go and have another look because the care is wrong, or are you triggered to go and have another look because the employment conditions and the status of those giving the care is wrong?

James Bullion: Thank you for the question. To some degree, the way we work in the frequency of inspecting is partly planned. We plan for around 70% of our inspections to be frequent and planned and for 30% of them to be based on risk. When we receive a risk, which could be whistleblowing or a notification from a provider about a particular incident they are required to notify us about because of the legislation, it builds a picture of risk.

As I was saying earlier, included in our list of risks now, formally, is modern slavery and exploitation of staff. It could well be that we receive notification of a modern slavery issue or a licence issue. That would shoot that organisation right up our risk log, potentially, for us to take very quick action in partnership with others. If it was an isolated incident, in theory it could be logged as a risk on our system and not necessarily trigger immediate action, but it would be there so that the next time we looked we would particularly check for that.

It can be a combination. Ultimately, we are always looking at the care issue, but the reason for looking at care is partly planned and partly risk. If modern slavery becomes a risk, that is an issue where we look at the care.

Lord Whitty: In your own workforce, what proportion of your inspectors, or whatever you call them, specialise in looking at the modern slavery dimension, or does it always come as a by-product?

James Bullion: In a sense, all the inspectors and assessors need to be up to speed with modern slavery and with a range of other risk-based issues that we come across. Of course it takes time to train people; these are recent changes. We are constantly working with our staff to train them in their competency in all sorts of issues in the care and health sector, because regulations or their meaning change. We do a lot of training, guidance and interactions with people, and give specialist advice internally when they are inspecting a particular provider.

It is 100% of them in one sense, but I recognise the point you are making that, within the commission, certain people have become expert in this field, and we deploy them to give advice to other members of

staff. As we have tracked and worked on the issue, we now have some quite senior expertise to look for particular issues and evaluate what we should and should not do.

Lord Whitty: Do you continue to pursue that, or do you then refer it to the Gangmasters and Labour Abuse Authority or whoever are the enforcers in the area?

James Bullion: Yes, we definitely would make a referral to the other statutory agencies. Our expertise is to make a fine judgment about whether, for example, we deregister an organisation or not. We use the expertise of the person who understands modern slavery to make that judgment and refer the other matters to the other statutory agencies.

Lord Whitty: We have some historical figures on that. How many references have you made to the GLAA since you expanded your focus on this area?

James Bullion: In the last year, it was 113 formal referrals, but we are liaising on many more situations, thousands, in the background to that.

Lord Whitty: Thank you.

Q187 **Lord Smith of Hindhead:** We have taken a bit of time speaking about and understanding what the Care Quality Commission does. We have spent an even longer time speaking about employment exploitation, which is really what we have been discussing so far. However, this committee is looking into the Modern Slavery Act and whether it is working; it is human trafficking more than anything else. The fact that somebody is employed and expected to pay for their own uniform is regrettable and bad employment, but it is not modern slavery and does not constitute anything under the Act we are looking at.

James Bullion: Yes.

Lord Smith of Hindhead: How many cases have you seen or referred to where there have been people who have been trafficked and are working where they do not have the liberty to take their passport or to leave if they choose to leave the employment in the care home in question? What are the figures on that?

James Bullion: I may need to go back and check the exact criteria that we have used. The 113 that we have referred would be cases where—

Lord Smith of Hindhead: There would be a legal case involved. You would be involving the police. These people have been trafficked if they do not have their passport or something like that—coerced.

James Bullion: Yes, it may not always fit the circumstances of trafficking, but it will have met the threshold for modern slavery for us to have made a referral, or at least a suspected level of that before we make the referral.

Lord Smith of Hindhead: If you find somebody who is working under

those conditions in a particular care home, do you shut that care home down?

James Bullion: We take a view about the impact on care and, yes, it can lead to the organisation being deregistered.

Lord Smith of Hindhead: If a care home is caught employing somebody who has had their passport taken away, who cannot do anything, I would have thought the numbers were quite small, because this is modern slavery. We are not really looking at employment exploitation; that is not the role of this committee.

James Bullion: No, I agree that it would be a small number that have met that legislation. However, I should point out that the learning among the CQC, UKVI and the GLAA is that the Modern Slavery Act may not be quite up to date with the reality of how financial exploitation can lead, effectively, to coercion.

Lord Smith of Hindhead: That is interesting. That is what we would like to hear about, so maybe you could write to us and set out the concerns, or clearly set out what you think you should be doing or, working together, could be doing to address those points and how this committee could make recommendations to government on how the Act could be improved to achieve what you want. That is what we are here for.

James Bullion: We would be delighted to write with a bit more detail on that. In generic terms, one of our key recommendations to the committee would be that the Act needs updating to take financial exploitation into account. When you add up the passport issue and having to pay for accommodation and so on, and you are left with 10% of your income at the end of it, effectively, it has gone beyond normal exploitation—if you can call it that—of terms and conditions into something very different. That is not reflected in the Act.

Lord Smith of Hindhead: Forgive me for asking for that clarification, but I felt as though we needed to get our cows over our buckets, otherwise we were going all over the place.

James Bullion: That is very helpful clarification.

Lord Smith of Hindhead: Good. Thank you.

Q188 **Lord Randall of Uxbridge:** When you are doing your inspections, how much do you talk to the employees? You are really looking at the care, so presumably the inspectorate does not interview everybody there, and maybe not in front of their boss. If you want to discover that they do not have their passports, how would that happen? Would it be whistleblowing?

James Bullion: Yes, indeed. It is a combination of crossing the threshold and talking to people in an unstructured way, and making sure that we are not only speaking to the registered manager but talking to staff members on their own and people using the service on their own as well

as family carers. Of course, in the background to events where we have crossed the threshold, we have a speak-up process and a notifications process that can gather information, including anonymously. You can anonymously speak up and tell us about an incident. We can build up a pattern, even when we do not have a named provider. It is incumbent on that; it only works if people are encouraged to speak up and find the bravery to speak up.

It relates to an earlier point about whether a single agency has an overview. There is also a question about whether there is a single way of getting an overview from exploited individuals about what they are experiencing. There is no agency co-ordinating that either. Understanding people's motivations about why they have taken that route and understanding the impact on their lives is a crucial part of motivating people to speak up and to campaign to stamp out that sort of behaviour.

Q189 Baroness Barker: Coming back to the fact that it is, at heart, a financial activity, one of the things that we have been trying to discover through our weeks in this committee is how we can track this illegal activity through the care sector. We understand the finances of the care sector rather well, do we not?

James Bullion: We do.

Baroness Barker: We do, so we should be able to track where this has come out, where it is having an effect. Is it having an effect through people undercutting, with some agencies undercutting each other for contracts, for example? I know that is not principally the remit of the CQC, but presumably you need that sort of information in order to do your job. Is that intelligence and financial intelligence coming through?

James Bullion: Thank you for the question. There are a couple of dimensions. The first is that, as I have said, both the Modern Slavery Act and, to some degree, practice have not kept pace with the financial exploitation that is associated with it—in particular, the part that begins overseas with the payment for a visa. The real cost of international recruitment is rather disguised in the care sector. It is not obvious to us, as a commission, and it is not always obvious to the commissioners, primarily local authorities, where the costs of international recruitment are borne. Is it by the worker or is it by the price being charged for the care? We think there is more work to do on understanding that financial pathway and, to some degree, the role of the GLAA, and the Act itself needs to go abroad and look at the question of international employment agencies as they try to recruit.

The second point is that we see in care the financial consequences of the changes in the visa requirements playing out in how organisations can cope with trying to provide more care in line with demography or in line with commissions from local and national government. We have a pretty good understanding of the bigger providers in relation to the question of finance. In particular, in the market oversight function of the commission, which works with the 30% of providers that are large enough to be

difficult to replace, we can understand exactly how the finance of that is working.

For the small and medium enterprises, the vast number of care agencies for social care, we do not necessarily have a good understanding of how things are working in practice and whether the wage levels are different for international recruitment and the domestic market, or whether the issue of providing accommodation and training people is dealt with differently from the domestic workforce. There is more to do to understand that, but at the commission we come across intelligence associated with where it has gone wrong and therefore have had to make a referral.

Broadly, the two questions are related. Modern slavery is a particular issue, but the international recruitment that has taken place alongside it also needs understanding in the context of modern slavery. No single agency gets a proper picture of that.

Baroness Barker: To return to Lord Smith's question, how should the Act be changed to close that gap? That is the issue.

James Bullion: For example, thresholds for prosecution could be amended and aligned with financial exploitation, not just trafficking. Defining that in more detail is one practical change that the Act could encompass. It would take statutory agencies coming together to work on an updated Act. We get plenty of examples of people being charged money and then being exploited, of coercive and controlling behaviour, of people working excessive hours, and of people being subjected to very unreasonable employment practices that nobody would countenance but which in this market get disguised and people are.

Baroness Barker: Given the disguising of it, and given that a fair amount of the money that we are talking about is public funding that is put towards the purchasing of care, is there a case for there being supply-chain reporting in the care sector?

James Bullion: That is an interesting question, thank you. As a commission, we comply with Section 54 of the Act and encourage our own supply chains to do so. As the committee will know, the turnover of most care agencies would be well below the threshold where compliance with the legislation was required. Probably only the suppliers in our market oversight group would have enough turnover to be making an annual statement.

At a simple level, it is superficially attractive to make it a requirement for the supply chain to comply, but it is probably not as simple as it sounds. It would require both training and awareness, and there is a cost to be acknowledged that would need to sit somewhere in relation to the sector itself. It is a legitimate question to look at, but it needs more work to think through what its intended and unintended consequences would be. Some of those businesses are very small enterprises and family-based businesses that are nowhere near this issue. Remember that 1.6 million

staff work in social care, so even if you thought of a number in the thousands, you would find the right balance between businesses that are affected by this and the vast majority that are not.

Baroness Barker: I have one final question. It is my understanding that at least at some point there have been in effect black markets in care in, for example, Germany and former eastern European states. Has the CQC ever looked at international comparators to see how it might deal with that?

James Bullion: It is an interesting question. In our own research on the impact, we have gone broadly on our understanding of what others do, but we have not undertaken any formal research that I am aware of, looking at that question. We have looked at how exploitation occurs and how the employment agencies work, in partnership with EASI for example, in joint work, but we have not formally done what you suggest, as far as I am aware.

Q190 **Lord Watts:** There have been calls for a single enforcement body to simplify the regulation environment. Would you support that and, if so, would it be as effective as the CQC? What powers would be needed to enact such a change?

James Bullion: In some ways, it is difficult to answer without knowing what the specific proposal might be for a single body and what powers it would contain. In general, as I said earlier, more concentrated oversight of this question is probably a good thing. Although it might seem attractive to create a single body to take into account all enforcement activity, it would mean having to realign both regulations and enforcement in a new way. For the CQC, it would mean, as it were, ceding sovereignty to some aspects of enforcement that we would otherwise need to use for the general regulation of the care sector, so I can see how it might impose new lines of crossover that could be problematic. It would have to be looked at in some detail.

Lord Watts: From the committee's point of view, it would be a bureaucracy issue. We are looking for a system that regulates and can deal with the problems that now exist. Picking up on the modern slavery issues that you have raised and the way you notify people, would that not be far more effective in dealing with what is an increasing problem?

James Bullion: We certainly feel that there could be greater central co-ordination; for example, the director for labour market enforcement could take a co-ordinating role. At one level it would definitely be a good thing, but from the point of view of the CQC and our own regulation of the care sector, we would regard ourselves as the experts. We would need to work with a central enforcement agency in a very different way that gave it some of our expertise. In principle, we think it is a good idea to have a central co-ordinating role, but the matter of enforcement—the technical aspect of trying to enforce, in our case, a breach of care regulations—would need to be looked at carefully to see where the overlap is and to avoid that.

Lord Watts: You could surely do both if you were managed in the right way and everyone was clear in their roles. You would be able to manage and make sure that the care was being provided, but at the same time identify and pick up problems where you thought modern slavery was a problem.

James Bullion: Yes, that is right. If there was a proposal and there was delineation between the regulations for who was enforcing, say, care, as opposed to employment, I am sure that could work, with further thought.

Lord Watts: Thank you.

Baroness Butler-Sloss: I wonder whether we could try a slightly different approach from what Lord Watts suggested. Other organisations, such as the GLAA, are very keen on having a single enforcement agency, but would there be any possibility of having such an agency in addition to you? It would pick up the enforcement side of all the major agencies, such as you and the GLAA, and you would deal with the issues that you now deal with, but where there was a requirement for enforcement you would pass it to the enforcement agency. Is that workable?

James Bullion: Our prime position is that we do not regulate against the Modern Slavery Act, so somebody else doing that would mean creating definitions as to what they do and we do not do. For us, the important aspect would be making sure that we were clear about when a care regulation was going to be enforced and the implications of that on the modern slavery enforcement, and vice versa. I am sure that it can work where there is clarity about regulatory responsibility.

Baroness Butler-Sloss: Is it a possible way of looking forward? Is there any point in it?

James Bullion: There is a point in looking at it. We are very clear about what we do not do, and we are absolutely open to a conversation about what others do.

Q191 **Baroness Hamwee:** Would the CQC suggest any changes to the visa system, such as the shortage occupation list, bridging visas—similar to the one that they have in the United States—or anything else about visas?

James Bullion: I think this first occurred last December, when we were last giving evidence on it. As a commission, we see the impact of international recruitment and visas as having been very important for the care sector in the past three to five years. It is common knowledge that, at the last count, the number of recruits from overseas had gone from 20,000 to 70,000, which made last winter bearable from the point of view of the health service and the care service. The change to the previous arrangement for visas has been major. As a commission, we have some concerns about a potential significant drop-off of international recruitment in social care, and what that means going forward.

From our perspective on the workforce more generally, we note the work being done by Skills for Care on a national workforce strategy, but it is not officially a national workforce strategy; it is a piece of work done in the absence of one, and the commission continues to call for the need for that strategy to be in place. That work indicates that the questions of turnover and vacancies for 160,000 jobs have not and will not go away until some of the fundamentals of social care and its weaknesses are addressed.

Although we can see, from the department's reform approach, progress in training and in the skills passport, the low pay, turnover and career options for carers to proceed through to have a career in care are still outstanding issues for reform. That means that, at the moment, the CQC would not suggest removing care and health from the shortage occupation list. Removing that legitimate route to recruitment might mean a worse impact for health and care in terms of the capacity of the workforce. In other words, to put my answer simply: unless you get the domestic workforce up and better supported, trained and valued, the international workforce cannot be let go.

Baroness Hamwee: How about the visa terms? The United States T visa—I think it is called—allows for some change of employment. Should there be some replication of that and, if so, on what terms? I remember discussing a while ago something quite similar for overseas domestic workers. The terms for them were changed, but such a short period of extra employment was allowed that, frankly, it has not helped a great deal. This may be beyond what you have been thinking about, so I do not want to put you on the spot.

James Bullion: Thank you for the question. To some degree, it goes back to my previous answer about the disruption impact that we see when licences are revoked or when a change of employment occurs in relation to a care agency, which can also lead to disruption. It seems to us that 60 days is a very short period, when we think about the impact on people's care arrangements and then on top of that the impact on the workforce. As I said before, we need the international workforce to stay in care because of the issue of turnover and scarcity. In the rural area where I live in Norfolk, there are deserts where they could not recruit people but for international recruitment. If those people disappeared as a result of the kind of disruption that occurs with the licences, it would create a real problem for local people.

Baroness Hamwee: This will sound like a leading question, but it seems to me that it is a problem for both clients and employers, because who is going to want to go through everything you need to do when you have a new employee but they can be with you for only a very short time? Is that right?

James Bullion: Yes, indeed. The evidence that we see in our partnerships is that new care employers taking on those licences have been very reluctant to do so, because they were not part of the quality process of recruitment, and they do not know the person. It takes you

probably longer than 60 days to get that organised, so the commission would certainly welcome an extension of that term or a bridging arrangement.

The Chair: That is really helpful, thank you.

Q192 **Baroness Butler-Sloss:** You will be relieved to know that this is literally the last set of questions. If you could make a recommendation to the Government about how to improve the Modern Slavery Act, what specific point would you make?

James Bullion: I would crave two points. The first would be updating the legislation to include the financial exploitation issue, and clarity between that and the broad market issues for the employment conditions of care staff. The legislation is out of date and does not allow for the definitions of activity that we and others need to undertake. That would be the first point.

The second point would be that we probably need to formalise the partnership arrangements that have been put together painstakingly over the past six months to a year. The Act itself could facilitate that partnership working by making it clear who does what and what the expectations are for partnership working. At the moment, it is collaborative. If it were statutory, it might improve. I do not say that because people are not working together; they are, but with best endeavours, although MoUs—memorandums of understanding—are positive things, if we look at other areas of legislation, such as the Children Act or safeguarding in adult social services, it is clear that organisations act.

Baroness Butler-Sloss: Speaking as a lawyer, I am not quite sure how one could put that into primary legislation. I would be very grateful if you could think it over a bit and say what you really want so that we can look at that. You have already, very kindly, said that you would put other things in, but at the moment my immediate reaction is that I am not sure that that could go in as you would like to have it, so it would be helpful to have it on paper so that we could look at it.

James Bullion: Certainly. I would be delighted to write and outline what we mean by the guidance that might get associated with the legislation.

The Chair: I am sorry that we have overrun a little, but it has been incredibly helpful. Thank you for your time, Mr Bullion, and thank you again for the extra notes that you have promised us.