



HOUSES OF PARLIAMENT

Joint Committee on Draft Modern Slavery Bill

Oral evidence: [Draft Modern Slavery Bill](#), HC [1019], Tuesday 4 February 2014

[Watch the meeting](#)

Ordered by the House of Commons to be published on 4 February 2014.

Members present: Mr Frank Field (Chairman), Baroness Butler-Sloss, Baroness Doocey, Baroness Hanham, Baroness Kennedy of Cradley, Lord McColl of Dulwich, Lord Warner, Fiona Bruce, Michael Connarty, Fiona Mactaggart, Mrs Caroline Spelman and Sir Andrew Stunell

Questions [268-340]

Witnesses: **Paul Broadbent**, Chief Executive, and **Margaret McKinley**, Chair, Gangmasters Licensing Authority, examined.

Q268 Chairman: Welcome to the Joint Committee. Would you both identify yourselves for the record?

Margaret McKinley: I am Margaret McKinley. I chair the Gangmasters Licensing Authority.

Paul Broadbent: I am Paul Broadbent. I am the chief executive of the Gangmasters Licensing Authority.

Q269 Lord Warner: Could we start with how you see yourselves as having been successful or otherwise in reducing the incidence or impact of modern slavery in the UK? Would you say a little bit about what you think are the limitations on you in combating modern slavery?

Paul Broadbent: As you know, the Act was created out of the Morecambe Bay disaster. We were created and started work in April 2006. Since that time we have made a number of prosecutions for

being an unlicensed gangmaster, using an unlicensed gangmaster or obstructing us in the execution of our duty. More importantly, since 2010 when those records started to be kept, we have secured and protected over 5,000 victims of labour exploitation. We refer to labour exploitation as anything from withholding holiday pay right up to being trafficked for the purposes of labour exploitation.

We have protected over 5,000 workers that we have come across proactively, that were not known before. We have secured over £1 million-worth under the Proceeds of Crime Act, which has been recirculated back into the criminal justice system. We have also recovered, on workers' behalf, over £4 million of unpaid wages, unpaid holiday pay or overpayments that they made that they should not have done. Those are the figures, and we can produce written evidence as well.

Essentially, throughout the course of the GLA, the people that we deal with directly—1,100 licence holders that have approximately 500,000 people on their books, collectively, at any onetime—are a £1.34 billion turnover business. They are a big business. We are a small organisation. We have an excellent relationship with the vast majority of those, who want to do the right thing and make sure that people get paid for the honest day's work they do. What we do relentlessly is focus on the high end of risk, on the people who act as illegal gangmasters. They are in the system and they just want to exploit people for money. More recently, there is a growing trend—the organised criminal, who never intended to get a licence in any way, shape or form. They just see people as a way to make money for them to recycle into organised crime, drugs and guns.

I would suggest that we have been very effective in what we have done over the period. The vast majority of honest licence holders would corroborate that, as would the retailers, growers and users right at the front end, who feed the country.

Q270 Lord Warner: As the trade, so to speak, has changed, what do you see as the limitations on you and your ability to cope with the changing profile of the people doing the exploiting? Do you feel that you lack particular powers to enable you to make a better fist of dealing with this changing profile?

Paul Broadbent: Yes; the profile has changed from Morecambe Bay. That was a man in a van with some Chinese people that he sent out on to the sands. There are far fewer lone individuals like that; there are big recruitment agencies, which have good systems and processes in place. However, some of those agencies really push the boundaries for paying as little tax as possible or paying less tax than they should. It is on the verge of tax avoidance but absolutely on the verge of tax evasion. They have some very clever tax promoters that come up with

employment models that are all designed to increase their profit margins and pay the workers less. On the one hand, we have more sophisticated tax models within the licensing system. On the other hand, as I have just described, we have the organised criminals who do not care about ever being a licensed gangmaster but just want to make money for organised crime purposes.

Our legislation is good up to a point but does not allow us, if I may use the phrase, “hot pursuit.” If we turn up at a licensed labour provider and we find people within our midst that are trafficked, we can take them out of the system, but what we cannot do at the moment with the powers we have, which are purely under the Gangmasters Licensing Act, is pursue the middle people and secure best evidence quickly.

Ideally what we would like are some additional powers to be able to secure that best evidence, possibly under section 71 of the Coroners and Justice Act, which refers to forced labour, or an amendment to our Act to allow us to seize best evidence at the time. Of course, when bringing in the police for a joint investigation, once the evidence has gone in that instant—that moment—we all know that it is probably not recoverable.

Q271 Lord Warner: That takes you beyond the role of a licensing authority though, does it not? Do you see it as taking you beyond that role?

Paul Broadbent: I actually do not. We perform a dual function now. We are a licensing authority but we are also a law enforcement agency because of the criminal act powers that we already have. The only step beyond would be to allow us to secure that best evidence when we first come across it at the time, in hot pursuit, as opposed to having to call in the police, which we do now. As we know, they are really busy people and it can take some time, and some evidence can be destroyed.

There are some other aspects that could be considered around civil or criminal sanctions. We know—and I am often sadly disappointed—that when we prosecute an unlicensed gangmaster they may receive a fine that is a fraction of what they made by exploiting individuals. They save thousands of pounds by withholding holiday pay but they are actually fined £300 or £400. The Gangmasters Licensing Act is not part of the sentencing guidelines, so could it be part of the sentencing guidelines and could more work be done with the judiciary and magistrates to raise the profile of being and using an unlicensed gangmaster, which we would say is part of modern slavery?

Q272 Lord Warner: Can you say a bit more about the boundary between yourself and some of these other agencies? You mentioned tax evasion. How do you work on a co-operative basis with HMRC, for

example? You mentioned the police in terms of hot pursuit. There does seem to me to be an issue about whether one should actually be expanding the role of the GLA, or whether one should be getting these other agencies to work in a more co-operative way with you. What is your advice on that dilemma to this Committee?

Paul Broadbent: We already work extremely collaboratively. A recent operation—Operation Endeavour in Cambridgeshire on 15 October last year—saw us, the police, the local council and UK Border Agency immigration enforcement come together and collectively work out who was exploiting whom for how much, and what criminal offences were most appropriate. That happens on an increasing basis in respect of the top end of crime.

At the lower level of exploitation, we already have excellent service level agreements, well established and well practised, with HMRC. They tell us if a licence holder has a tax debt, for example, so we get all that research. We work extremely well with DWP and all the statutory and voluntary agencies. At a strategic level, I sit round a table at the meetings with police forces, which the Home Secretary chairs, around serious and organised crime. That collaboration is there. What is not there at the moment is a level of knowledge for the police service and the National Crime Agency around the labour exploitation that we have been working through for the last eight years.

We have positioned ourselves practically as tactical advisers for the UK's law enforcement agencies around labour exploitation. We can determine whether it is within our sector, in which case we will deal with it, or, if it is outside our sector, who is best placed to deal with it—if it is primarily tax evasion, would it be the Revenue? We see ourselves as a single point of contact for all law enforcement agencies around labour exploitation. We are also a conduit to other law enforcement agencies in determining who is best placed to deal with it.

Q273 Lord Warner: Earlier on you said something about the feebleness, if I may put it that way, of some of the penalties for breaching the law. What sort of profile of civil and criminal sanctions would you like to see, based on the experience you have had over the last 10 years or so?

Paul Broadbent: It would be useful if in some way there were increased civil sanctions once someone has broken the law under the Gangmasters Licensing Act, to make sure that they do not do it again. At the moment there is no power to disqualify someone from being a company director if they have been found guilty of being an unlicensed gangmaster. We can prevent them from reapplying for a licence, or refuse them, but if they went somewhere outside the GLA sector I am not sure whether those checks and balances are in place; in fact, I

know they are not in place. There are a number of civil sanctions that could be brought in.

We have talked at length, and through the Red Tape Challenge, about the issue of low-level fines to some labour providers and whether that would provide a deterrent. The Government position is quite clear on that; it does not see that as a viable option moving forward. Maybe this Committee could consider whether or not that is still the case. We see that low-level fines for minor misdemeanours actually work and put people off committing that kind of thing again. At the moment they have either a warning from the Gangmasters Licensing Authority or we seek to prosecute, but at some point the CPS may say that it is not in the public interest because it is not proportionate to the crime that was committed. There is a lot that falls through the crack in the table.

Q274 Baroness Hanham: In terms of the prosecutions you have done, or that you see coming up in the future, how many will be started at magistrates court level and how many will be at Crown court level? That affects the penalty situation, doesn't it?

Paul Broadbent: It does indeed.

Q275 Baroness Hanham: When you say you want more, does that by definition mean that you would like the seriousness aspect to take it more into the Crown court rather than the magistrates court?

Paul Broadbent: Yes.

Q276 Baroness Hanham: With serious offences I do not see how it starts at the magistrates court level, but it does, clearly.

Paul Broadbent: The more serious offence is being an unlicensed gangmaster, because those are the people who are making the money out of exploiting people. That particular offence is triable either way and generally makes its way to the Crown court because it carries a 10-year imprisonment sentence. They are generally dealt with in the Crown court.

On using an unlicensed gangmaster, we could use the example of dairy farmers indirectly employing people to milk their cows for, say, £10 an hour. If somebody comes along and says, "I can provide you with that for £5 an hour," clearly the only way they can do that is to reduce the amount of money they give to the actual dairymen themselves. Using an unlicensed gangmaster is a less serious offence than being a gangmaster. That is triable only in the magistrates court.

Q277 Chairman: We have had half our time and we are only on question 1. Could you send us a list of possible civil sanctions?

Paul Broadbent: Civil sanctions were included—

Chairman: Could you just send us a list?

Paul Broadbent: Yes; I can.

Q278 Chairman: That would be marvellous. In your first answer, you said that you had helped rescue 1,000 people.

Paul Broadbent: It was 5,000 people.

Q279 Chairman: How many of those were slaves?

Paul Broadbent: Approximately 100. I would need to go back and identify specifically, but about 100 of those were people we would classify as at the top end of slavery.

Q280 Baroness Kennedy of Cradley: Could the expansion of the GLA's remit be funded through licensing fees?

Paul Broadbent: The licensing fees only cover the administration of the licensing costs and do not fully fund the GLA. In fact, they do not fund the GLA at any point at all. The licensing fees go to the Treasury and nothing gets recycled to us. In any event, the licensing fees would only cover the administration of the licensing and not the criminal investigation or the enforcement work that we do around the high end of slavery.

Q281 Baroness Kennedy of Cradley: How much is the licensing fee? Is it dependent upon the turnover of the business?

Paul Broadbent: It is, yes.

Q282 Baroness Kennedy of Cradley: Could you give us an example?

Paul Broadbent: It is anywhere between £400 for a small business to £2,000 for a large business.

Q283 Baroness Kennedy of Cradley: But at either end it still only covers the administration of the licensing fee.

Paul Broadbent: It does, yes.

Q284 Baroness Kennedy of Cradley: Would you want to see those licensing fees increased?

Paul Broadbent: Whether or not they are increased or whether that licensing fee comes back to the GLA so there could be some modest growth would be something we would love to see. I think BIS would have a view on whether or not, in trying to promote growth—which is what we are trying to do—and create a level playing field, increasing the licence fees would be counterproductive to trying to get the country back on its feet.

Margaret McKinley: The GLA has two streams of income. One is associated with licensing and the second is that we do enforcement work on behalf of DEFRA under a service contract. They pay us money to do that. Separately the licensing income covers, as Paul said, the administration of a licensing scheme, which can include going out to inspect premises and doing investigations with other Government Departments as to whether somebody is a fit and proper person.

Q285 Chairman: The FA has rules and sanctions. Taxpayers do not pay for that; the football goers pay for it. Why couldn't the fee pay for this activity?

Paul Broadbent: That is a really good question. The turnover of the sector that we regulate was £1.34 billion in the last full financial year. Our budget is a quarter of 1% of that.

Q286 Fiona Bruce: You talked about certain measures possibly being counterproductive to getting the country back on its feet in terms of the impact on businesses. Do you think there is a danger of imposing disproportionate costs on legitimate businesses through a strengthened GLA?

Paul Broadbent: From the feedback we have had, I think that legitimate business would welcome it in some way, shape or form. They are quite happy with us at the moment, because it helps to legitimise their business and keep the unlawful aspect out so that they can more readily flourish.

Q287 Baroness Hanham: I want to move us on a bit, to the Anti-Slavery Commissioner. Do you think that the Anti-Slavery Commissioner will help you work more effectively? The corollary to that is that it will not at all and that they will all get in a muddle, one with the other. The independence of the Anti-Slavery Commissioner is one thing in issue, but what is its effect on you? Where do you think you can work together co-operatively, or where might there be competition?

Paul Broadbent: I absolutely think it would be a really positive thing, not just for the GLA but for all parts of the labour market, to have a strategic central single point of contact that could give a definitive point

of policy, strategy or reference in terms of whatever it was we were trying to do, and turn that round a bit quicker than we have done at present. At the moment there are lots of people with very valid points, but we do not get to a good conclusion really quickly. Of course, we would be quite happy to be tasked by the Anti-Slavery Commissioner if they had access to information on exploitation and slavery in our sector.

Q288 Baroness Hanham: You do not see a competitive area coming in between you and them at all.

Paul Broadbent: Not at all.

Margaret McKinley: One of the things that we see is that the Anti-Slavery Commissioner gives a higher profile to the problem. That will generate more intelligence, and that is what we need in order to investigate what is going wrong.

Q289 Baroness Hanham: As an aside, at the moment the Anti-Slavery Commissioner is attached to the Home Office. How do you see that working?

Paul Broadbent: I do not see that as a problem at all.

Q290 Chairman: Margaret, on the business of the commissioner, you talked about the commissioner tipping you off on work to do. Are there other functions you think a commissioner should carry out which would help you do your job better?

Margaret McKinley: The investigative powers of the commissioner are quite important; the ability to call witnesses and do forensic investigation will be extremely valuable.

Q291 Mrs Spelman: This is an interest you will be aware of, but for the sake of the Committee I should make it clear that I was the Secretary of State who appointed you. That is very important in relation to what I am about to ask. Can I come back to the architecture for a minute, because it is really important?

You are currently under DEFRA. It is proposed that the commissioner would be under the Home Office. We are looking at the possibility of your remit widening, maybe, to other areas where forced labour is a problem that are right outside DEFRA's aegis, such as construction. Thinking about all of that, can I come back to this question of where you think the right place for the GLA is?

Margaret McKinley: We have developed really important expertise as regards labour exploitation. We live in straitened times; budgets are

cut, and tight all over the place. One of the questions in my mind is how, across Whitehall and Government, can this expertise best be harnessed? It is a topic that I know was covered in the triennial review that has just taken place, and which should be published shortly. They too are asking the question, "Is the GLA in the right place?" We are of course servants of the process and we cannot call the shots, but it is a really important question to ask. Given our expertise and given the extent of the problems, where might we best be located so that we can share infrastructure? One of the problems that we have with DEFRA is that the other agencies do not do the things that we do, so, as we are trying to work together to save money, we cannot do it within the DEFRA family.

Q292 Chairman: To pick up the answer you gave Fiona on concern about over-regulating industry when we are trying to get out of this mega-recession—or further out of recession, as we are clearly out of it—and taking Paul's point about the turnover of the businesses that you regulate, it does not seem beyond the wit of man to have a licensing system that successfully raises money from a very wide base, which would allow your expertise to be built on to cover that wider base.

Margaret McKinley: I would agree.

Q293 Sir Andrew Stunell: Let me switch direction. Can you say something about your relationship with the national referral mechanism, and the passage of people into that system that you have become aware of?

Paul Broadbent: The NRM is currently situated within the UK Human Trafficking Centre and is part of the National Crime Agency. We have strong links directly, and have an officer permanently seconded to the UK Human Trafficking Centre. We have successfully referred a number of people over the years into the NRM. If they are not accepted into the NRM, there are other more local, softer, wraparound support areas to make sure that those individuals are supported. It works well for us, but I know there is a debate going on as to whether the NCA is the right place for the NRM to sit, given that it is underpinned by charities who do that work.

The service and access we get is absolutely excellent. As to its current location, that remains to be seen.

Q294 Sir Andrew Stunell: Some of those charities say that their clients are extremely reluctant to be fed into that system. Do you have the same issue?

Paul Broadbent: We noticed it previously, but if we go back to Operation Endeavour, 82 people were referred to the reception centre,

and 35 people went into the NRM. Out of all of them, 81, because of the work that we did with the council, were immediately found alternative employment and accommodation. One of the perceived negatives about the GLA is that, when we close down a business, people can become jobless and homeless instantly. We have got over that and it is no longer the case.

Q295 Chairman: Your group of ex-slaves that you rescued immediately got employment.

Paul Broadbent: Yes, they did.

Q296 Chairman: Andrew, do you mind my asking whether they can give us some more information on that? That is an incredibly important model for us—that it can be done.

Paul Broadbent: Yes, we can provide all the detail on that.

Chairman: Sorry, Andrew.

Q297 Sir Andrew Stunell: To follow up a little bit on that, the specific problem, which has been mentioned by charitable groups, is that people who are irregular migrants are very reluctant to go into that system. Were the people you rescued irregular migrants or not?

Paul Broadbent: They were irregular migrants. We had done some work to find out their profile before we set up the operation, so we knew exactly what we were dealing with—were they transient, were they domiciled and what was their profile, so we could offer bespoke support straight away.

Q298 Sir Andrew Stunell: Moving on a little bit, there is obviously a spectrum of things, from somebody who did not get their overtime pay to somebody who has been locked into a slave environment for 10 years. What do you see as being the tipping point, or the definitional point, that makes the difference in your approach to these cases?

Paul Broadbent: Internally we have a complaints continuum that talks about exactly that—from the honest trier who makes a mistake and does not pay their holiday pay right up to the hardened criminal. Each case is dealt with on its merits as to what the tipping point is for informal advice, a warning, a prosecution or taking it further. It has to be on the merits of that unique job at that particular moment in time.

Q299 Sir Andrew Stunell: When you have taken a decision that it is one that merits prosecution, do you find that the CPS or the police

are not satisfied with the evidential basis or the proportionality of what you are doing? Are you broadly satisfied that your decision is reflected in the subsequent legal processes?

Paul Broadbent: I am broadly dissatisfied, because historically the CPS were quite reluctant to invoke the powers in the other criminal offences—forced labour was one. That is coming round now, so we have a much better relationship than we had. We either prosecute through the police to the CPS, if it is a joint operation, or we have our own CPS in London who do it direct.

Q300 Sir Andrew Stunell: Is it your opinion that the problem has been a reluctance to use the law as it is written, or is it that you think that the legislation might need to impose some new definitions on the scenery?

Paul Broadbent: I think it was a reluctance to use existing legislation, but a clear and agreed definition of modern slavery that we can all use would be really useful going forward.

Q301 Sir Andrew Stunell: Does the GLA have, in a pigeonhole somewhere, a definition that you would want to see the Bill incorporate?

Paul Broadbent: We do indeed, and I can supply it as part of the written evidence.

Q302 Baroness Butler-Sloss: We heard people who are involved in the retail business this morning. I think you were telling me a moment ago, before you came in to give evidence, that you have been giving advice to retailers. Could you tell us a little more about the sort of thing you are doing and how you are achieving it?

Paul Broadbent: Yes, indeed. There are two key issues. One is that there is now a retailer/supplier protocol which gives people who want to supply us with information a secure gateway to do that. In the past they always felt that it would damage their brand reputation, that there were commercial sensitivities and that people would lose contracts. We have that in place.

The other aspect is that there is confusion about what sectors the GLA regulates. What we have said to retailers practically speaking is, “We will be your tactical advice and single point of contact. We will advise whether or not that abuse is within our sector, in which case we will take it on. If it is not, we will signpost you to the most appropriate law authority to take it on.” In the past some of them were being bounced through different Government agencies before they landed in the right place. We have put ourselves up as a practical single point of contact to provide tactical advice on labour exploitation.

Q303 Baroness Butler-Sloss: That is very helpful. One point made by David Camp, the Stronger Together co-ordinator, was that he and other people did not know who they should go to if they had evidence of potential exploitation in the labour force. What advice would you give on that?

Paul Broadbent: That is really interesting, because the GLA, in partnership with David Camp, are rolling out nationally the Stronger Together programme. It clearly says in there, from a member of my staff, that we will be that single point of contact.

Q304 Baroness Butler-Sloss: They had not learned it this morning.

Margaret McKinley: We are seeing him tomorrow.

Q305 Chairman: Paul, in relation to those slaves that you rescued, when you went in did you think there would be slavery there, or was it just by chance, because there were other abuses to which your attention had been drawn?

Paul Broadbent: No. We thought from the strength of the evidence that there would be some slavery when we got there; and indeed there was. Sometimes you clearly need to move quickly because of the risk of harm to the individuals.

Q306 Michael Connarty: Some of my questions are an extension of your own. I notice that between 2008 and 2013 there were 47 convictions for operating as a gangmaster without a licence, and 22 for using an unlicensed gangmaster. How many of those were triggered by reports of abuse? It is illegal to operate as a gangmaster without a licence. Does that mean they are all abusive employers? Are all of them cases of exploitation and abuse of labour, or are people being fined who are possibly good employers but they do not have a gangmaster's licence? Are all of these cases of slavery?

Margaret McKinley: We have a proportionate approach. If we come across somebody who is following employment law to the letter but does not have a licence, we would take a different approach than to somebody who was not paying appropriate wages and was making unfair deductions.

Q307 Michael Connarty: Were those 47 convictions 47 abusive employers, or were they just 47 people who did not have a licence?

Paul Broadbent: No, it was probably about half and half. I could not be exact but I will give you the figures. Some people were operating

illegitimately but had just forgotten to get a licence. Everything was triggered by information that people had not been paid their wages. There was some form of abuse in every single one, but I cannot tell you at this moment in time whether abuse was a primary or secondary factor in all of those prosecutions. We can get you that information.

Q308 Lord McColl of Dulwich: You said that you would refer them to appropriate advice. Could you give us a list of the sort of things? It would be legal and what else?

Paul Broadbent: In respect of the other agencies?

Lord McColl of Dulwich: Yes.

Paul Broadbent: Department for Work and Pensions; HMRC; VOSA around vehicles, because a lot of labour providers carry people all around the country in dangerous vehicles. It might be the National Crime Agency if it was trafficking. It might be the local force or the regional organised crime units. Depending on what the information was, we will make contact with whoever is best placed. If it is the national minimum wage, we can make contact through BIS and the EASI, and now HMRC—whoever is best placed to deal with that information.

Margaret McKinley: The Health and Safety Executive might be other people we would be in touch with.

Q309 Baroness Hanham: Local authorities?

Margaret McKinley: Yes.

Q310 Mrs Spelman: It is so good to have you here because we can try out some things. Listening to you and to the evidence we had this morning, it is clear that the retailers who want to do the right thing are very happy to receive some assurance from you that, as far as you can tell, they are not exposed to the reputational risk of slave labour. You are clearly giving advice on how they can do things the right way. We have to look at supply chain transparency as part of this draft Bill exercise. It seems to me that you are providing a service for free, at the moment, to the retailers, who essentially are seeking your approval or accreditation in some way. That goes beyond the very narrow and focused role of licensing and enforcing, and possibly points the way to effective supply chain transparency. Do you have thoughts on supply chain transparency?

Paul Broadbent: Some of the retailers would like us to police their supply chain to the supermarket shelf right from taking it from the ground.

Mrs Spelman: That is what I thought you'd say.

Paul Broadbent. It is not possible to do that. We necessarily need to look at the higher end of risk first, before we move on to that. Essentially we would like to be everything to everybody, but we cannot be, so we focus on the things that we know we can do and achieve. We do not want to under-deliver and over-promise. Conversations have been had with some retailers around some forms of funding, so that we can specifically target areas they have concerns about.

Margaret McKinley: We are also talking to them about training—whether there are training services that we can enter into, something that is commercial. We want to look at ways in which we can increase income so that we can do more, subject to all the rules about that. We can work with them so that their auditors will be better trained.

Q311 Mrs Spelman: Absolutely. Do you find yourself effectively having to train some of the other Government agencies with which you have to interact to get a better understanding of what they need to deal with?

Paul Broadbent: Yes.

Q312 Baroness Butler-Sloss: Are other Government agencies checking on their supply chains? Have you given any advice as to how they ought to be doing it? It must be happening down the road with some Government Departments, don't you think?

Paul Broadbent: I agree, but most, if not all, Government Departments do not procure or supply labour around the GLA sector. There might be a lot of temporary workers in different Government Departments, but that falls outside our sector.

Q313 Chairman: We are also thinking about Government having big procurement Departments. I think Elizabeth's point was about the supply chains there.

Paul Broadbent: Yes.

Chairman: Thank you very much.

Examination of Witness

Witness: **Caroline Robinson**, Policy Director, Focus on Labour Exploitation (FLEX), examined.

Q314 Chairman: Welcome to the Joint Committee. Would you identify yourself please for the record?

Caroline Robinson: I am Caroline Robinson, the policy director of Focus on Labour Exploitation, which is an organisation that supports Government and civil society to take effective responses to trafficking for labour exploitation.

Q315 Mrs Spelman: Thank you very much for coming to give evidence this afternoon. We are looking at the role that the Gangmasters Licensing Authority plays. We would be very interested to hear your view about what powers it lacks. It has publicly said that it could do with some more powers, but it would be interesting to know what you think it lacks.

Caroline Robinson: There are a number of powers. One of the most important things in terms of victims of trafficking that relates very much to our concerns about compensation for victims of trafficking is a power on repayment orders. That was mentioned in a written ministerial statement in May 2012 in relation to the expansion of the GLA into other areas, or the address of powers for the GLA, and yet was not addressed at all in the DEFRA consultation on the GLA over the summer. We would like to see these repayment orders considered again, and the idea that if a large sum of unpaid wages is recovered—as Paul Broadbent mentioned, an amount has been recovered to the tune of £4 million since 2010—there should be some link between those recovered unpaid wages and the repayment of victims. What we are seeing at the moment is that there is not any way of tracing those wages back to the victims. That is a core power that we would like to see in terms of the civil powers of the GLA.

Q316 Mrs Spelman: What about powers of investigation and enforcement? When you think of what other agencies rather like them have in the toolkit, do you have some views on those?

Caroline Robinson: Yes. We know that part of the success of the GLA is based around its intelligence-led approach, and the way in which it engages with workers on the ground, and also the way in which it is able to distinguish itself from law enforcement agents or the Home Office and build up relationships of trust across the board. We know that that is how it started out—building up that intelligence database from the outset. By conducting its licence inspections it was able to gather intelligence from workers in an informal and trust-building setting, which was then able to be translated into targeted operations that meant they could get wins in terms of proper enforcement. In terms of the intelligence and the expansion of its intelligence powers,

we would caution against a too great confusion with the National Crime Agency or law enforcement in terms of its criminal powers, but would look very much to that intelligence-led approach and the way in which it uses the licence inspections and has feelers on the ground.

In 2010, the Communities and Local Government Minister gave some money to the Gangmasters Licensing Authority to try to do localised intelligence-gathering operations. Speaking to people there, I think they were very successful in the way that they were able to have people based in high-risk areas at certain points of the year. They know that the movement of labour is very seasonal, so you might have someone in Boston at a certain point in the year who could then engage with workers on the ground and be a presence to really play that preventative role. That is something I would emphasise all the way through. As an organisation concerned with trafficking for labour exploitation, we are first and foremost very much concerned with the prevention of trafficking for labour exploitation rather than finding people once they have been trafficked. We would rather that people did not end up in a trafficking situation at all.

Q317 Mrs Spelman: Would you agree, though, that those greater powers to deal with repayments, beyond intelligence-gathering, are enforcement powers that would take the Gangmasters Licensing Authority beyond being a licensing authority?

Caroline Robinson: I would say that the repayment orders would be related to the penalties. They already have some power to leverage and to recover the unpaid wages. A link between unpaid wage recovery and the repayment—some of which has been discussed in relation to criminal cases as well—would not necessarily have to go beyond the licensing function. The terms of the licence relate to the terms of the contract and the payment of wages to individuals. It is about upholding that licence in its monetary terms for the individual as well.

Q318 Mrs Spelman: Coming back to the excellent point you made about the fact that they had built up trust with the companies that they were licensing, and that relationship of trust had helped the authority become more effective, do you have a view about the role that the GLA could play in strengthening corporate responsibility for work practices in the supply chains in British companies?

Caroline Robinson: The way that they have used awareness-raising and the media to draw attention to exploitative labour practices has worked well. There is an acknowledgement within supply chains that in the majority of areas in which the GLA works a lot of subcontractors are very dependent upon these large and very well-known organisations in the UK, so the supermarkets protocol was developed to have the

knock-on effect of the threat of the public outing of unlicensed gangmasters, or those who are not meeting their licence terms. The impact that will have on the prime contractor or retailer at the top has been used very effectively by the GLA. To have those relationships with those who have a strong brand image that is serving to gain from those that the Gangmasters Licensing Authority is working with has been a good way of enforcing supply chain transparency and ethical supply chains.

It was interesting to hear Paul Broadbent's response about how they were doing a piece of work for those organisations in terms of policing their supply chains. There does need to be that twin approach, where you have the mandatory measures and the enforcement of licensing, but also have organisations on board who want to police their own supply chains and are able to observe their supply chain and the possible loose links within it in terms of exploitation and exploitative practices. I would say that those two approaches need to be taken together: the voluntary supply chain protocols, similar to the Transparency in Supply Chains Act in California, and the mandatory enforcement measures that would be overseen by a labour inspectorate or by the GLA in certain sectors in the UK.

Q319 Mrs Spelman: You think that would be sufficient, and we do not need to legislate for supply chain transparency in this Bill.

Caroline Robinson: Supply chain transparency legislation is a difficult one, because we only have the Californian model to look at. We are conducting a comparative project that takes in the US at the moment. We work a lot with organisations in California, and many would say it is too soon to say whether or not that has been a useful tool in policing supply chains. It is quite difficult to see who should be compliant. It is quite difficult to make them comply, and it is not transparent in itself as to which companies need to report, because of the way that it is measured in terms of the assets of the company. The size of the company may take it over the bar in terms of reporting in relation to the Transparency in Supply Chains Act, so people have to know about the accounts of organisations before they can know which ones they should be monitoring and engaging in.

We are speaking to organisations that have an estimate of organisations that should report. They do not know exactly what penalties could be exacted if they do not report. At the moment it seems there are a few confusions about the way that Act is being implemented. It is quite soon to tell whether or not that would be an effective model to replicate. If we were to take any position, I would say that it probably would not do any harm but it does not seem to be an end in itself.

Q320 Lord McColl of Dulwich: In your opinion, what is the tipping point between a case that is deemed to be an infringement of workers' rights and those in which the offence of forced labour has been committed?

Caroline Robinson: The tipping point would be similar to our tipping point with trafficking in terms of consent, the way in which that labour is exacted from the worker and the way in which punishments are leveraged to override that consent. In the forced labour definition the menace of penalty is the move between free and forced labour. The fact that a worker is working without consenting to it but is under the threat of penalty is our tipping point. To pin that down and understand what that would mean, we would use the ILO indicators of forced labour.

Q321 Lord McColl of Dulwich: What lessons can be drawn from the Rana Plaza tragedy in terms of the need for voluntary and mandatory measures? How should these lessons be reflected in legislation?

Caroline Robinson: I was thinking about this last night. I wrote about it in response to Frank Field's inquiry.

Lord McColl of Dulwich: Which inquiry?

Caroline Robinson: The modern slavery evidence review. On the Rana Plaza tragedy, one of the main lessons that the Clean Clothes Campaign, which campaigned for the Bangladesh fire and safety accords, drew from that was that it was a very individualised approach; they had been working for many years, from what I understood, with those who had business interests in Bangladesh to try and develop some kind of safety accord and safety agreement. At the same time there was a strong engagement with unions and workers on the ground to try and understand what they would need as protection to avoid any exploitative circumstances occurring.

The key lesson from that approach was that it was very focused on the country, the context and the way in which businesses were operating in that environment. The real strength of it from our perspective, in terms of workers' rights, was that it was also very much rooted in the unions and the way in which people could use collective bargaining structures to ensure that their rights were upheld. One of the dangers of supply chain models and supply chain monitoring is that you have these auditing processes, but you do not have a clear way of checking with workers that what is said to happen on the ground on working hours and pay is what is actually happening on the ground in each of the factories and each of the links of the supply chain. Part of the way to guarantee that is by having strong unions and collective structures that

you can check data with, and to have a mediation mechanism to understand what disputes are arising so you are able to address them at the point at which they arise.

Q322 Lord McColl of Dulwich: What about putting the lessons you have learned into legislation?

Caroline Robinson: One of the ways the Bangladesh Government put it into legislation was by strengthening the labour laws, but, similarly to how we have approached it in this country, you would then need strong enforcement of those labour laws. You need to find a way of effectively monitoring the links in the supply chain so that you can ensure that what is on paper is happening in practice.

Q323 Baroness Butler-Sloss: There are various ways in which people are locked into labour exploitation, some of which would mean that they were actually consenting, in effect, to being exploited. One example is that they would be worse off back in their own country; another of course is debt bondage. How can one draft legislation that would meet those sorts of situations? Do you think it can be done?

Caroline Robinson: The answer that we proposed is to have it based on international legal definitions. I know that there are some problems with those. There is some overlap between forced labour and trafficking, but there is a body of work being done to expand the definitions of exploitation—for example, within the trafficking protocol. I know that Anne Gallagher is working on that with the UNODC at the moment, to look at exploitation and the definitions of exploitation. That has caused a particular problem in the trafficking definition, and from our perspective as well, because it is the end purpose; the core element of human trafficking is this third part—the means and purpose of exploitation—yet exploitation was never defined in law and there is no international legal definition of exploitation. To have that UNODC theme paper produced on exploitation will be useful in that regard, to flesh out the international definition. We find the international legal definition of trafficking to be the most useful in terms of determining the situation that people face when they enter.

Q324 Baroness Butler-Sloss: Do you think that, regardless of the word “consent,” one of the ways would be to have the fact of what was happening to them seen as them being exploited because they are found in a situation of slavery, and the issue of consent should not arise?

Caroline Robinson: I find that quite dangerous as it then overrides the choice of the individual. For example, my background is in international responses to trafficking. I worked in India for a long time and saw women who were working in the sex industry, and said that

they wanted to work in the sex industry, being forcibly removed and placed in Government shelters for a number of years. I saw that consent taken away simply because other people could not imagine themselves working in that profession. It made it very difficult to understand that you could remove someone's consent from them when they were saying that they consented. How do you decide where the point lies in a discussion with an adult who enters a job of their own free will? There are many jobs that we might not do ourselves, but other people consent to do them. That is why the issue of consent is so key.

Q325 Baroness Butler-Sloss: That gets to the tipping-over point that you have already been dealing with.

Caroline Robinson: Yes; it is critical. I work for an organisation that produced a publication called "Collateral Damage". I would say again that that is a key element of the trafficking response. No trafficking response should do harm to the individual itself. If you look at some trafficking responses in some countries worldwide, taking away that choice from the individual is where the point of harm occurs. If you decide for someone that your response to their situation is better than their own response to the situation, and in many countries that involves placing someone in a trafficking shelter as opposed to the independent working environment that they have chosen to be in, no matter how exploitative the state sees it, I do not think that can be tolerated within individual universal human rights.

Q326 Lord McColl of Dulwich: In this country, 95% of prostitutes hate the job and don't want to be in it. What is the percentage in India, because that is quite crucial?

Caroline Robinson: I have no idea. I used that as an example. A similar example would be in the UAE where you see people working in construction. The conditions in which they are working are intolerable; they are working at 50°, and yet they come to work in those jobs because they want to send money home and create a better life. To remove them from that job, because you see that job as difficult due to the temperature, working circumstances and the conditions in which they are living, removes choice from that individual. You enter into so many difficult arguments about how someone could choose certain professions and not others.

Lord McColl of Dulwich: But one profession is lethal and the other isn't.

Chairman: Fortunately, we are not going to do this in the Bill.

Q327 Baroness Hanham: When does consent become coercion? What you described as going on in the middle east involves people who have come there voluntarily on an expectation. Once there, that expectation is completely overridden. They do not get paid and they are in unacceptable conditions of housing. They then cannot leave because they do not have the documents. They cannot go back. Is that not coercion or exploitation? I think there is a tipping point here between those two. Whether that is anything to do with legislation, I do not know, but I do think this movement from consenting to do something into then being exploited as a result of that consent is quite important.

Caroline Robinson: Yes. We were talking to someone about the definition of forced labour in the US and how, within that definition, there is the threat and abuse of legal process and how that can then be applied to withdrawal of identification documents, or the threat of reporting someone for not having immigration status.

In the UAE example, people need an exit permit from their employer to leave the UAE. The fact that you are entirely dependent upon your employer, in terms not only of your legality in the country but also your departure from the country, means that it is very difficult to exercise many of your labour rights in that country. That gets back to the role of the GLA, and also how we avoid everyone being trafficked or everyone having no rights. You have to have an ability or a structure that can enforce labour rights rather than simply having a structure, which they have in the UAE, that looks at trafficking and extremely exploitative situations where there is no consent. Before that, you look at the continuum of exploitation—all the different elements of exploitation that people are facing—and enforce those abuses of labour rights along the way, so that people do not get to the point where they have to say that they are a victim of trafficking because they have no other choice and there is no other recourse to justice.

Chairman: That is a really important point that we will raise in our discussion afterwards. Thank you.

Q328 Baroness Doocey: Are there any particular international examples of licensing regimes that you think it might be helpful for the Committee to examine?

Caroline Robinson: I mentioned the comparative legal project that we are doing. We are looking at the Netherlands, the USA, Brazil, Thailand, Kenya and the UK within that. So far, two that stand out would be the Netherlands and Brazil. The Dutch response is similar in a way to the UK; they have a labour investigation-led approach underpinned by a criminal approach. There is co-operation between the labour inspectorate and the police. That happens in a number of cases. Also

supervision of compliance of licences is linked to looking for trafficking and exploitative and forced labour situations.

Something that struck me about the Netherlands labour inspectorate that I think is important is that they have also recently signed a bilateral agreement with the Polish labour inspectorate. The Polish and the Dutch labour inspectorates are able to discuss certain instances of exploitation and abuse that are taking place amongst Polish workers in the Netherlands. I mentioned trust building and co-operation between different migrant communities and the way people talk about exploitative labour providers. That is a really good way of trying to get further information about what is going on within certain migrant communities in a country.

The Brazilian example is quite well known. They have strong civil and criminal powers, and a lot of civil cases are taken because of the Brazilian labour inspectorate operating widespread and proactive labour inspections. There is also quite an interesting link to the dirty list, which links to investments in companies. When a company is found by the Brazilian labour inspectorate to be an offending company, and if a case is taken, at a certain point the company will be put on the dirty list as being a non-compliant company. That then has implications for investment in that company by banks in the country. It is almost like a transparency in supply chain effect; there is a carrot for people to police their supply chains much more carefully because they might be linked to this dirty list and will therefore have disinvestment or find it very difficult to get assets from investment banks.

Q329 Baroness Doocey: You wrote an article in *The Guardian* in December about the draft Bill. You said, “top of the list of oversights is its failure to provide for the protection of victims.” Are there any specific measures to support victims that you would like to see included in the Bill, and would they require legislation?

Caroline Robinson: Like many NGOs, we would like to see a statutory basis for the national referral mechanism. One of the main things I have been working on for many years is accountability in anti-trafficking responses. Without having a statutory basis for how the national referral mechanism operates, and without being able to understand its workings and its proceedings, as an NGO on the ground it is very hard to hold them accountable for the way in which they respond to trafficking situations. Minimum standards for assistance for trafficked persons would be included in that. We have talked a lot about legal assistance and access to compensation, particularly in cases of trafficking for labour exploitation. It is fantastic that people were removed in Operation Endeavour and went straight into jobs, but it should be understood that male victims of trafficking and victims of trafficking for labour exploitation also suffer deep trauma, in the same

way as victims of trafficking for sexual exploitation do. The assistance, counselling and real trauma care that is provided to victims should be provided as a standard to all victims, no matter what they choose to do or how they proceed. If not for anything else, it should be to prevent re-trafficking and the vulnerability that is at the core of a trafficking situation.

Q330 Chairman: Should this be in the Bill or should it be in regulations?

Caroline Robinson: We believe that minimum standards for victims of trafficking should be in the Bill. The Human Trafficking (Scotland) Bill that has been developed by Jenny Marra has quite interesting minimum standards in that regard. Those are proposed for the face of the Bill and could be used as interesting guidance.

Q331 Sir Andrew Stunell: I want to pick up the point about the statutory basis for the NRM. We have received very strong representations from some NGOs that it would be counterproductive and probably not very effective. Could you sketch that out for us?

Caroline Robinson: I should make a distinction between the statutory basis for referral to the NRM and the statutory basis for the NRM. We think it is important to have a structure for the NRM and to have established in law what the NRM looks like, rather than just in policy. We would find a statutory obligation on agencies and first responders to refer to the NRM problematic. One of the reasons why it is problematic in the draft Bill is that the anonymity of victims is not provided for on the face of the Bill. It is simply in the White Paper, so it is not guaranteed that that anonymity will be upheld, simply because confusion might arise from this referral to the NRM.

We would also find it problematic to police the referral to the NRM of all victims that any first responder comes into contact with. It would be very difficult to monitor and observe. As discussed in the previous session, so many victims do not want to be referred to the national referral mechanism. The fact that they do not want to be referred should be a core principle, and that choice should be listened to. The danger in referral is that overriding the choice of not being referred to the national referral mechanism is quite strong.

Q332 Sir Andrew Stunell: Is it not a bit paradoxical to go to all the trouble of making it statutorily based and then not to have any requirement for people to be referred to it? What do we gain by the statutory basis of it if it is not going to have a much more all-encompassing reach as far as the information is concerned?

Chairman: Would your objection hold if anonymity was written into the face of the record? If it was in the Act, would this make a difference?

Caroline Robinson: I think it would still be very difficult to support as a victim-centred organisation. If someone says they do not want to be referred to the national referral mechanism and yet they are still referred, whether anonymously or not, it is a difficult principle to support. We conduct a lot of training with police and local authorities around the country, and there is already quite a lot of confusion about people's role as first responders, especially amongst local authorities. I would suggest that any additional confusion, particularly in relation to anonymity and victim protection and the respect of the consent to be referred to the national referral mechanism, is a real danger. One of the collateral damage points of this Bill could be people being referred without the desire to be referred.

Q333 Sir Andrew Stunell: I understand that point, but I am struggling to understand what the added value is of making the NRM statutory, if it does not have that sort of reach.

Caroline Robinson: The value to those engaging with the NRM and those who believe that it has a role to play in offering a support and assistance function is to know that there is a clear process for decision making, and that there are minimum standards for assistance and support. At the moment it is quite difficult to know what kind of support someone might get in any individual circumstance—it would be different across the board—and to know how a decision is going to be made, and on the basis of what grounds. Often decision making is done in different ways by different agencies. To have clear guidance and a clear accountability mechanism to the NRM is very important to those who might be wondering whether or not to advise referral to the national referral mechanism.

Chairman: Can we leave it there? We have a vote coming up and we still have two areas of questions.

Q334 Fiona Mactaggart: Can I finish up on Andrew's point? Are you saying that if there was clarity about what being a victim meant and it got to a victim, there might be better use of the NRM?

Caroline Robinson: If the NRM was a much more clearly defined body, it would be easier for those with informed consent to make the decision to go into the NRM.

Q335 Fiona Mactaggart: Thank you. In the article that Baroness Doocey referred to, you suggested that the proposed commissioner could end up being worse than no commissioner at all. Why?

Caroline Robinson: Because it is entirely resourced by, has its remit led by and can be overridden by the Secretary of State. We see the commissioner as having a very important UK oversight accountability function, but also an international function working within the EU and internationally with other points of contact.

Q336 Fiona Mactaggart: What are the minimum requirements for a commissioner who would be worth it?

Caroline Robinson: For a commissioner to be independent; to report to Government and have that report discussed by Parliament; and to be able to make investigations as they wished. Based on the Dutch model, the National Rapporteur in the Netherlands has really had a transformative impact on the anti-trafficking response in the Netherlands by being able to take proactive steps to conduct investigations and then to report on that and have discussions at civil society level, in Parliament and with Government.

Q337 Michael Connarty: I have been reading all the submissions you made on the supply chains issue. You seem to take quite a hard line. As I read your submission, you are saying that basically there must be “voluntary and mandatory” adherence to some sort of supply chain analysis, and the “threat of penalties upon failure to do so”. That might be an aspiration for the perfect world. Hopefully, we would not need to implement those threats if people signed up to it. What would you say is the basic minimum required in this Bill to move forward? There is nothing on supply chains in the Bill at all. There is the idea of looking further down the supply chain than just within the UK.

Chairman: Caroline, I thought you said that, despite the evidence that Michael cites, we are not to really worry about this. We do not know anything about California. How could we possibly draw any conclusions? You seem to be saying that we should be doing nothing, whereas Michael cites your evidence and, as we read it, you are going to be quite tough on this.

Michael Connarty: Caroline did actually say, based on Fiona’s question, that they are demanding that they report and take action. California does not ask anybody to take action, and that is the problem.

Caroline Robinson: As I said, having worked in different international contexts on the issue of trafficking—

Q338 Chairman: Can you relate it to here? We have a Bill and we are taking evidence on the Bill. What do you advise on supply chains?

Caroline Robinson: The first thing I would advise is the expansion of the GLA and effective investigations in the UK. I find it difficult to talk about policing supply chains overseas if we do not police our supply chains in the UK. First and foremost in the Bill, I would include prevention in respect to labour inspection and the GLA in the UK.

I mentioned on Rana Plaza that we need to take each situation in its context. I can see a role to be played in that situation by having a strong labour inspection regime in the UK that we then use as an example in other countries. I said voluntary and mandatory measures. I meant that if you have voluntary measures—*[Interruption.]*

Chairman: Sorry. We have eight minutes to get down for the vote. Can we hear the end of this answer?

Caroline Robinson: You can have those voluntary measures in the monitoring of the supply chain, which as I said isn't a bad principle, but alongside them you need effective labour inspection regimes in each country in which there is that supply chain. We have had many multinationals for many years saying that they will adhere to local labour laws and that is how they will ensure that their supply chains are ethical, but where there are no labour laws and where there is no enforcement of labour laws, it is very easy for them to continue to say that. That is where we have a really strong role in having a strong labour inspection regime and strong enforcement of labour laws in sectors outside and beyond the GLA sectors. I agree with your recommendation of construction, cleaning and care, and I would suggest hospitality, as first points.

Q339 Chairman: We have got that point, but I chair a major company. Are you going to put any duties on me, given that most of my produce comes from overseas sources where there may be slave labour used? Do I get off scot-free or do you have some recommendation for this Bill?

Caroline Robinson: Like I said, I do not oppose a transparency in the supply chain clause in the Bill. I just think it is very important that we get our own house in order first, and that I see the GLA working very well with certain industries in terms of developing voluntary protocols. Where there are very limited things within the Bill, it seems odd to me to suggest putting transparency in supply chains as a first thing before we look at the labour inspection regime in the UK. But if we can have everything, yes, I would have transparency in the supply chain as well as a labour inspection regime in the UK.

Q340 Chairman: We hope to do the first recommendation but we are also interested in the second as well. Let us assume that we are going to do something about the powers here in this country and try to put our own house in order. If you have ideas about what duties we should then

put on great trading companies in this country, who may be drawing on slave labour for their products, we would be very grateful to have them.

Caroline Robinson: Yes.

Chairman: Thank you very much.

Caroline Robinson: Thank you.