



MANAGEMENT COMMITTEE – 30 NOVEMBER 2016

MODERN SLAVERY ACT 2015

REPORT OF THE DIRECTOR AND DEPUTY DIRECTOR

Introduction

1. Modern slavery exists today in a number of industries around the world. The International Labour Organisation (ILO) estimates that there are 21m workers trapped in modern slavery around the globe. An estimated 13,000 of the total are in the UK. Slave labour can be notoriously difficult to stamp out; supply chains are long and complex and often companies do not have enough visibility of or influence to address the problem.
2. The March 2015 UK Modern Slavery Act Transparency in Supply Chains provisions placed legal obligations on all in-scope organisations, with a turnover above £36m and with UK operations, to publish an annual statement disclosing the steps it is taking to try and ensure there is no slavery or human trafficking in its business and supply chains.
3. Those organisations with large global supply chains are particularly at risk as they can often lose sight of the conditions under which goods are produced. Sectors which have large numbers of low paid unskilled workers will be most vulnerable to slavery and trafficking issues.
4. According to David Noble, Chief Executive of the Chartered Institute of Procurement & Supply (CIPS), 11% of British business leaders say it is likely that modern slavery already plays a role in their supply chains.

Legislation

5. The Modern Slavery Act received Royal Assent on 26 March 2015. The Act consolidates slavery and trafficking offences, and introduces tougher penalties and sentencing rules.
6. The Act ensures that law enforcement agencies have the powers they need to pursue, disrupt and bring to justice those engaged in human trafficking and slavery, servitude and forced or compulsory labour. The Act includes provisions, amongst other powers, to require businesses over a certain size and threshold to disclose each year what action they have taken to ensure there is no modern slavery in their business or supply chain.

Transparency in Supply Chains (Section 54)

Section 54 (Part 6) was added retrospectively to the Act and states that all in-scope organisations over the turnover threshold must publish an annual slavery and human trafficking statement disclosing the steps the organisation has taken during the financial year to try and ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business; or prepare a statement that the organisation has taken no such steps.

7. The statement is a summary of steps taken during the financial year to try and ensure that slavery and human trafficking is not taking place in any part of its business or its supply chains. A statement needs to be published regardless of whether any steps have been taken or not.
8. There is no specific template for reporting but the Act suggests the following for inclusion in the statement:
 - The organisation's structure, its business and supply chains;
 - Its policies in relation to slavery and human trafficking;
 - Its due diligence process in relation to slavery and human trafficking in its business and supply chains;
 - The parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
 - Its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
 - The training about slavery and human trafficking that is available to its staff.
9. The section specifies who in the organisation must sign off the slavery and human trafficking statement. This part of the Act explicitly defines the organisations that are within the scope of the Act (and therefore by implication any not included in the following definitions are not covered). If the organisation is a:
 - Corporate body other than a limited liability partnership, the statement must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent);
 - Limited liability partnership, the statement must be approved by the members and signed by a designated member;

- Limited partnership registered under the Limited Partnerships Act 1907, the statement must be signed by a general partner;
 - Any other kind of partnership, the statement must be signed by a partner.
10. The Act also sets out where an organisation should publish its statement and guidance:
- If the organisation has a website, it must publish the slavery and human trafficking statement on that website and include a link to the statement in a prominent place on that website's homepage;
 - If the organisation does not have a website, it must provide a copy of the statement to anyone making a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.

Procurement Role

11. Evidence suggests that the risk of modern slavery affects almost every industry; electronics and high tech, steel and automobiles, agriculture and seafood, mining and minerals, garments and textiles, and shipping and transportation. ESPO has some high-profile frameworks in category areas in which slavery and human trafficking are particularly prevalent: temporary labour and food supply, and it also relies on temporary labour in its warehouse operation.
12. The evidence also suggests that, while modern slavery is illegal in every country in the world, it still occurs in every country. There have been recent examples of these practices in the UK (see Appendix 1).
13. Procurement has an important part to play in sourcing in a manner that enables and rewards suppliers for good employment practices, rather than in a manner which drives the use of modern slavery practices. Procurement should be part of a wider risk management strategy addressing ethical and sustainable procurement practices.

HR/Operations Role

14. HR and Operations should take steps to ensure recruitment of staff, particularly through agencies, and in our contracted and outsourced activities are subject to similar risk assessment and scrutiny. Where procurement of such services is undertaken through ESPO frameworks, it is anticipated the risk will be reduced.

Conclusion and Recommendation

15. ESPO, as a Local Authority Joint Committee, does not meet the definitions of organisations covered by the Act and, therefore, is not required to publish a statement. However, as a professional, responsible and ethical public procurement organisation, ESPO should take steps to address risk including slavery and human trafficking in its supply chains, through contracts for goods and services destined for framework, catalogue and other customers, and through its own contracted supply chains, in particular for agency staff.
16. This not only represents good practice, but is likely to be something that like-minded customers will require, and to fail to do so would give rise to increased supply chain and reputational risk.
17. The ESPO Leadership Team and COG have proposed that ESPO will voluntarily adopt the provisions of the Act, review and enhance supply chain management, and publish a suitable Modern Slavery and Human Trafficking statement and policy.

Next Steps

18. The next steps we will be taking at ESPO include:
 - Review of ITT templates for frameworks and for catalogue to consider the inclusion of a method statement question for suppliers on their approach to Modern Slavery and Human Trafficking in their business operations and in their supply chains (note however that not all suppliers will be subject to the legislation);
 - Amend the Risk Assessment Tool to accommodate supply chain ethical risk including slavery and human trafficking, to reflect risk by category and country;
 - Contract clauses to be drafted and implemented to cover slavery and human trafficking in the supply chain covering (for example):
 - Sub-contracting;
 - Due diligence and supplier warranties backing off potential risks;
 - Immediate notification of any actual or suspected breaches of the organisation's policies and any actual or suspected slavery or human trafficking which has a connection to the agreement;
 - Audits and training;
 - Compliance with all laws and policies and, specifically, the Modern Slavery Act;
 - Early termination if a suspected or actual breach is discovered or reported;
 - Draft initial ESPO Modern Slavery and Human Trafficking statement for 2016-17;
 - Writing a section in the Annual Governance Statement on Modern Slavery and

Human Trafficking;

- Major Risk Record to be added to the ESPO Corporate Risk Register;
- ESPO's Modern Slavery and Human Trafficking Policy and annual statement to be approved at Leadership Team and signed off by the Director or Deputy Director.

Resources Implications

19. None arising directly from this report.

Recommendation

20. It is recommended that the Committee:
 - a) Confirm agreement with ESPO's voluntary compliance with the Modern Slavery Act 2015;
 - b) Note the contents of the report.

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Appendices

Appendix 1: Lawrence F. (2016) 'Lithuanian Gangmasters jailed in modern slavery and trafficking case', *The Guardian*, 22 January

Lithuanian gangmasters jailed in modern slavery and trafficking case

Judge says two fellow countrymen, one of whom has learning difficulties, treated with 'grossly degrading and cruel behaviour'

Felicity Lawrence

Friday 22 January 2016 19.45 GMT

Two Lithuanian men have been found guilty of trafficking two of their fellow countrymen, taking all but £20 of the wages they received over several months for working in food factories that supply many leading supermarkets.

The victims, Edvinas and Edgarus Subatkis, were found still wearing the same clothes in which they had made their journey to Britain. They had also lost weight dramatically since leaving Lithuania - about 15kg (2st 4lbs) in the case of Edvinas.

Fellow Lithuanians Linus Ratautas and Konstantin Sasmurin introduced the twins to recruitment firms, where Ratautas helped them fill in registration forms with his own bank details.

Payment for the work the Subatkis brothers undertook was deposited directly into Ratautas's bank account. The twins were given just £20 over the four-month period they worked and a small amount of food each week: bread, margarine, onions, ketchup, and occasionally a little mince.

They were found working in a chicken factory owned by the largest poultry processor in the UK, the 2 Sisters Food Group, whose factory in Flixton, Suffolk, supplies meat to many leading British supermarkets, including Sainsbury's, Tesco, Asda and M&S.

The twins said their convicted gangmasters had repeatedly threatened them with violence. If they were to tell anyone about their conditions or try to get out of their "agreement", Edvinas and Edgarus were warned they would have their bones broken, be "dug under" or "fed to the crabs", which the brothers understood to mean that they would be killed. They were hungry, frightened and very reluctant to speak.

After several weeks, however, the Flixton factory's human resources manager was alerted to a problem and interviewed the brothers. The manager, in turn, reported his concerns immediately to the Gangmaster Licensing Authority (GLA).

In a ruling at King's Lynn crown court earlier this month, Ratautas and Sasmurin were each sentenced to three and a half years in prison for trafficking and money laundering. They were also given the first ever slavery and trafficking prevention orders (STPOs) relating to labour exploitation in the UK.

Sentencing the pair, the recorder Mark Dennis highlighted the harm done by their “grossly degrading and cruel behaviour”.

“Once lured here and met by you, [the brothers] were in reality controlled by you physically and financially. You pocketed their earnings ... for your own financial gain and greed, picking on vulnerable persons who were not in a position to resist or extricate themselves from your grasp,” he said.

“I start on the basis for forced labour but there are obvious elements of slavery and servitude which cannot be ignored.”

The Subatkis twins were used as forced labour and their experience is typical of a growing pattern of exploitation in the UK made possible by a supply chain that relies of layers of sub-contracting in which traffickers can thrive. The pair were employed at the 2 Sisters factory via the Staffline recruitment agency, as signed up by Ratautas.

They were vulnerable young men, brought up partly in care in Lithuania. Edvinas has learning disabilities and Edgarus is of limited education.

Both had been in trouble with the Lithuanian authorities in the past, so when offered work in the UK in 2013, the two men, then 26, saw the chance of a fresh start.

They were lured from Lithuania on the promise of good jobs, housing and all their essentials being provided. They agreed to pay an £800 fee for transport and employment, even though it is illegal to charge workers for finding work in the UK.

They were taken to 3 Crittens Road, in Great Yarmouth, a damp, mouldy and barely furnished three-storey house occupied by several other Lithuanians, where they shared a single mattress in a room with two other men. When they asked for the things they had been promised, they were told they had to pay off their £800 debt first.

At first they were put to work at Norbert Dentressangle’s pea processing plant in Lowestoft, where they were signed up by the Jark recruitment firm on site. The plant supplies a frozen food giant whose products are sold as own-label frozen peas in many high street retailers.

Their gangmasters later moved them to 2 Sisters in Flixton.

Enforcement agencies say this was not an isolated incident. The conviction of Ratautas and Samuris came as the government admitted in a recent consultation paper that “serious and organised crime gangs are infiltrating legitimate labour supply chains in several sectors” in the UK.

This week the government introduced last-minute amendments to the immigration bill in the House of Lords committee stage to increase the powers, remit and parliamentary oversight of the GLA to tackle labour exploitation. The STPOs prohibit the convicted men from acting as gangmasters again.

According to court papers, the two Jark and Staffline employees who registered the twins under the eye of the gangmasters have resigned. All the companies involved in

The Subatkis case say they have strong anti-slavery policies in place and 2 Sisters acted quickly once the case was brought to their attention.

The agencies and both the pea and chicken factories said they had rigorous procedures in place to guard against trafficking and exploitation and that these had been updated since the Subatkis case.

A spokesman for 2 Sisters told the Guardian: "Once we were aware of the situation, we acted swiftly and decisively. The UK food industry depends on migrant labour, and our processes and systems lead the sector.

"Unfortunately, even the best systems can occasionally be breached. We work closely with the GLA and are the biggest supplier partner in the Stronger Together anti-slavery initiative."

XPO Logistics, which owns the Norbert Dentressangle pea factory, said it took its responsibilities to its employees "extremely seriously". Mark Simmons, the company's HR director, told the Guardian: "Our pea processing facility at Oulton Broad employs around 150 people in peak season, around half of which are agency staff provided by Jark.

"Jark has been licensed with the Gangmasters Licensing Authority on a continuous basis since July 2008. Our service level agreement with Jark covers all relevant legislation and our internal training procedures."

The supermarkets told the Guardian they did not tolerate slavery or trafficking and said they had imposed audits and codes of practice on suppliers, and joined an industry-wide initiative to prevent it. Sainsbury's, Tesco, Asda and M&S said that organised crime could occasionally penetrate these systems despite their best efforts, a position echoed by the GLA.

The GLA's chief executive, Paul Broadbent, said: "No matter how robust and secure company systems and structures are, organised criminality can and will infiltrate the legitimate supply chains in their endeavours to exploit workers.

"I am satisfied that in this case, all that could have been done to keep criminals out of the supply chain was done. The companies involved worked with us closely and swiftly to resolve this serious issue."

The Subatkis twins meanwhile are adrift. They have been provided with emergency housing and are supported by charities in the UK through the national referral mechanism for victims of trafficking. They have no family to turn to and no work in the UK, but feel unable to go back to Lithuania for fear of reprisals from associates of Ratautas and Sasmurin.

This article was amended on 25 January 2016 to clarify details of the slavery and trafficking prevention orders given to Ratautas and Sasmurin.