

## Submission to Labour Market Enforcement Strategy 2023 to 2024: call for evidence

30 May 2022

### Response to Call for Evidence questions

#### Section 1: About you

**Please briefly tell us about you / your organisation and your interest in enforcement of labour market regulations.**

- This response has been prepared by the [Modern Slavery and Human Rights Policy and Evidence Centre](#) (hereafter: Modern Slavery PEC).<sup>1</sup> The Modern Slavery PEC was created by the investment of public funding to enhance understanding of modern slavery and transform the effectiveness of laws and policies designed to address it. The Centre is a consortium of six research organisations led by the [Bingham Centre for the Rule of Law](#) and is funded by the Arts and Humanities Research Council on behalf of [UK Research and Innovation](#) (UKRI).
- The Modern Slavery PEC funds research to provide independent, innovative and authoritative insight and analysis on modern slavery. The Modern Slavery PEC is an impartial organisation and our focus is on ensuring the best available evidence and analysis is available for policymakers and law-makers. We are led by evidence and our position is that policies are more effective when they are firmly underpinned by evidence that is grounded in robust research and data. Our approach is rooted in human rights.
- This response will focus on the issue of forced labour, which is one form of modern slavery. Modern slavery is understood as an umbrella term that encompasses a range of different exploitative offences and practices, including those captured by the UK's legislation on modern slavery.<sup>2</sup> The Director of Labour Market Enforcement (DLME) and the labour market enforcement agencies are responsible for addressing non-compliance across the labour

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<sup>1</sup> This response has been prepared by the Modern Slavery PEC's core team and does not necessarily represent the views of all partners making up the PEC consortium

<sup>2</sup> Modern slavery offences are defined in the Modern Slavery Act 2015, which covers England and Wales, the Human Trafficking and Exploitation Act (Scotland) 2015 and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015. Please see [here](#) for further detail on how the Modern Slavery PEC understands and defines modern slavery.

market. As highlighted in previous DLME strategies and wider research, labour market non-compliance can be conceived as existing on a continuum, ranging from deviations from “decent work” standards set by the International Labour Organization (ILO) to serious criminality, such as forced labour.<sup>3</sup>

- The Modern Slavery PEC funds and supports a wide range of research on modern slavery, including projects that are directly relevant to forced labour and legal enforcement. The Modern Slavery PEC also regularly publishes policy briefs that provide reviews of evidence in this area. This response draws on research and policy briefs published to date by the Modern Slavery PEC.<sup>4</sup>
- Members of the Modern Slavery PEC core team meet staff from the Office of the Director of Labour Market Enforcement regularly to discuss relevant Modern Slavery PEC evidence, and we will continue this engagement as the Director develops the labour market enforcement strategy.

## Section 2: Questions relating to the emerging non-compliance threats

This Modern Slavery PEC response addresses the specific questions from the call for evidence for which the Modern Slavery PEC has published relevant research or policy briefs (specifically questions 1, 2, 3, 4 and 8)

### **1. Recent changes in how UK labour market is operating**

**For instance since the end of the Coronavirus Job Retention Scheme (CJRS), changes in employment status (eg, the shift away from self-employment following IR35 rules changes) increases in job vacancies.**

**1a. What changes have you observed or experienced?**

**1b. How might these changes impact non-compliance and is this likely to grow or subside over the coming year (2022 to 2023)?**

**1c. What response have you observed by the enforcement bodies to identify and address these issues?**

In November 2021, the Modern Slavery PEC published a Policy Brief<sup>5</sup> analysing evidence on the impact of the Covid-19 pandemic on modern slavery, which drew on new academic research funded by the Modern Slavery PEC. Several key findings from the Brief are relevant to this question:

- Evidence shows that the pandemic has increased vulnerability to modern slavery all over the world, including in the UK, as many of the underlying drivers of modern slavery have worsened, such as poverty, inequality and unemployment.
- Some evidence suggests that traffickers adapted their methods during the pandemic; increased online recruitment and exploitation was a common theme.
- In the UK, identification of potential victims of modern slavery appeared to be affected by the pandemic, with declining number of adults identified, linked to

<sup>3</sup> Skrivankova, K. (2020) *Between decent work and forced labour: examining the continuum of exploitation*. Available at: <https://www.jrf.org.uk/report/between-decent-work-and-forced-labour-examining-continuum-exploitation>

<sup>4</sup> This response is not based on a full review of evidence.

<sup>5</sup> Modern Slavery Policy and Evidence Centre (2021) *Policy Brief: Impact of the Covid-19 pandemic on modern slavery*. Available at: <https://modernslaverypec.org/resources/covid-modern-slavery>

reduced international travel, but marked increases in the number of ‘county lines’ referrals, mostly involving UK national children.<sup>6</sup>

- Government-mandated lockdowns, which were important protective public health measures, had the most significant direct and indirect negative impacts for modern slavery.
- The pandemic response limited opportunities to identify and support people affected by modern slavery across the world. Investigation and prosecution of modern slavery was disrupted. The pandemic reduced direct modern slavery prevention efforts, and Government resources were re-prioritised to focus on addressing the pandemic.
- Business measures taken in response to Covid-19 meant that workers in lower tiers of supply chains were more vulnerable to forced labour and that brands and retailers could not undertake standard due diligence activities.
- Despite these challenges, there are multiple examples of promising practice in addressing modern slavery during the pandemic, such as businesses improving supply chain visibility and ongoing provision of Government and NGO support to survivors through remote methods. In the UK, promising practice included intelligence-led law enforcement activity targeting sectors and premises where there was increased risk of exploitation, such as the UK’s Project AIDANT activity in summer 2020.
- The economic impact of the pandemic will likely mean that the increased vulnerability to modern slavery observed during the pandemic will persist in the short to medium term (i.e. at least the next 1-3 years), especially in low- and middle-income countries, which is likely to affect workers in supply chains for goods to the UK. The re-prioritisation of government spending to address pandemic recovery risks may further reduce resourcing to address modern slavery.

## **2. Workforce**

**Looking at the experience of people engaged in or available for work, either in a specific geographical location or in a particular firm or industry sector.**

**2a. What has been the experience of workers arising from changes to the labour market? Please provide specific evidence.**

**2b. Have changes in the immigration rules in 2021 impacted on workers’ experience and has this differed between migrant or domestic workers?**

**2c. Are these impacts consistent across the board or do they vary by sector? If the latter, then how?**

**2d. Is there any evidence to suggest additional threats to workers associated with labour shortages?**

The Modern Slavery PEC has funded one research project relevant to this theme. This project considered the experience of Romanian and Bulgarian workers in the UK agricultural industry during the Covid-19 pandemic.<sup>7</sup> The team carried out an

<sup>6</sup> The impact of the Covid-19 pandemic on the identification of modern slavery in the UK was explored in an earlier Modern Slavery PEC Policy Brief - Modern Slavery Policy and Evidence Centre (2021) *Policy Brief: Impact of Covid-19 on identification of potential victims of modern slavery in the UK in 2020*. Available at: <https://modernslaverypec.org/resources/impact-covid-identification-modern-slavery-uk-2020>

<sup>7</sup> Burcu, O. et al. (2021) *The Impact of Covid-19 on Romanian and Bulgarian Workers in UK Agriculture – Research Summary*. Available at: <https://modernslaverypec.org/assets/downloads/Romanian-workers-UK-agriculture-summary.pdf>

online survey of 439 UK-based Romanian and Bulgarian migrant workers and interviewed stakeholders in business, labour authorities, migrants, NGOs, unions and organisations representing business interests. The key findings were:

- 67% Romanian and Bulgarian workers reported to be negatively affected by the Covid-19 pandemic, potentially making them more vulnerable to exploitation. Many workers struggled to cover basic expenses and ran into debt due to being furloughed and having to rely on 80% of their regular wage, being placed on statutory sick pay, having had their work hours reduced and, in some cases, losing their jobs.
- Some workers faced additional pressures, with reports of problematic practices including not being allowed to take breaks at work and enforcing overtime.
- Covid-19 amplified existing vulnerabilities, such as working on non-permanent contracts, lack of language skills or lower literacy.
- The systemic challenges faced by businesses and enforcement agencies limited the inspection and regulatory oversight of workplaces and had potential negative effects on workers' vulnerability to exploitation.

The full research report also highlights previous evidence that temporary migration programmes, especially in agriculture, are linked to risk of exploitation. The research also found that some stakeholders interviewed expressed concerns about the impact of the Covid-19 pandemic alongside the implications of the UK's exit from the EU. For example, businesses expressed concerns around labour workforce shortages in light of the cap on visas for seasonal workers in the edible horticulture sector, and NGOs were concerned about the potential dependency of workers sponsored by seasonal work operators.<sup>8</sup>

Understanding the impact of changing immigration systems for modern slavery and forced labour in the UK is a priority for the Modern Slavery PEC. We will shortly announce which research projects will be funded under our most recent open call for research, that aims to understand the impact of wider laws and policies (such as immigration and labour market regulation) on modern slavery. We will provide relevant updates on these projects through our regular engagement with the Office of the Director of Labour Market Enforcement.

### **3. Workforce Engagement**

**Looking at evidence of how workers gain understanding and enforce their employment rights.**

**3a. What examples can you share of initiatives that have assisted workers to understand and enforce their rights – particularly as regards harder to reach workers?**

The Modern Slavery PEC-funded project discussed under question 2 explored knowledge of workers' rights among UK-based Romanian and Bulgarian migrant workers, through an online survey of 439 workers. This research found that the majority of respondents generally knew their rights, however there was a lack of knowledge around certain aspects, such as not knowing or not being sure of right to

<sup>8</sup> Burcu, O. et al. (2021) *Understanding risks of exploitation for vulnerable migrant workers in the UK during Covid-19*. Available at: <http://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/July/Impact-of-Covid-19-on-Romanian-and-Bulgarian-Workers-in-the-UK-Agriculture.pdf>

a minimum wage and entitlement to holiday pay. The survey also asked respondents how confident they would feel in reporting any problems they had experienced at work. The most common choice was speaking to their employer or manager, followed by reporting to the police. The survey also asked respondents why they might not report workplace problems, with common barriers being language, fear of losing their job and lack of knowledge about what mechanisms to use to raise issues.<sup>9</sup> The research recommended that labour market enforcement agencies should develop communications campaigns that engage with existing social media networks, in community languages, to share employment information such as access to support to report workplace abuses.

#### **4. Business Engagement**

**Various mechanisms initiated or supported by the enforcement bodies encourage, influence and embed good practice, eg Responsible Car Wash Scheme, Construction Protocol and the Apparel and General Merchandise Public/Private Protocol, The National Minimal Wage Naming Scheme and the Good Business Charter.**

**4a. What impact do you think these interventions have had? ie are they effective?**

**4b. Why? What would make them more effective?**

**4c. Are there any other examples of good practice? These can be drawn from across the regulatory landscape.**

The Modern Slavery PEC has not published any research specifically on mechanisms initiated or supported by the enforcement bodies. However, evidence suggests that regulatory interventions aiming to engage businesses should be designed and implemented in a way that takes into account the emerging good practice around *non-regulatory* interventions, including those initiated by businesses.

The Modern Slavery PEC has recently awarded funding to a research project that will examine business perspectives on, and approaches to, supply chain governance, as well as the comparative effectiveness of different approaches. Further details will be announced on our website in due course, and we will provide relevant updates through our regular engagement with the Office of the Director of Labour Market Enforcement.

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<sup>9</sup> See pages 25-33 and page 48 of: Burcu, O. *et al.* (2021) *Understanding risks of exploitation for vulnerable migrant workers in the UK during Covid-19*. Available at: <http://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/July/Impact-of-Covid-19-on-Romanian-and-Bulgarian-Workers-in-the-UK-Agriculture.pdf>

## Other issues

**8. Over and above the issues raised above, are there any other relevant issues you would like to bring to my attention for this strategy? For instance, effectiveness of labour market enforcement and how this could be improved, allocation of resources and good practice that can be drawn from across the regulatory landscape.**

The Modern Slavery PEC is driven by a vision where success would be a world where everyone is protected from exploitation by effective laws, policies and practices, informed by evidence. The Modern Slavery PEC welcomes the DLME's commitment to fund research to assess the nature and scale of non-compliance across the UK labour market, as this is a priority evidence gap. The findings could help form a useful baseline from which to measure the effectiveness of future labour market enforcement efforts. In addition, it would be helpful if the DLME strategy could articulate 'effectiveness measures' for the strategy i.e. the impacts that might arise from the strategy's objectives, and set out what qualitative and quantitative data will be collected and monitored to understand whether these effectiveness measures are being achieved.

Evidence from existing Modern Slavery PEC research has demonstrated the value of equitable partnerships for researching and addressing forced labour and modern slavery. The Modern Slavery PEC encourages the strategy to set out how the DLME and enforcement agencies will work in partnership with wider organisations, such as civil society, trade unions and researchers, to deliver its objectives.

There is broad agreement across the sector on the importance of meaningfully involving those with lived experience in developing effective responses to modern slavery. There is also increasing recognition that meaningful engagement must go beyond understanding and supporting the needs of survivors as beneficiaries of services or interventions, or as participants in research projects, but instead should be based on recognising survivors as experts by experience. The Modern Slavery PEC encourages the Office of the DLME to meaningfully engage people affected by labour market non-compliance issues in the development of the strategy. The Modern Slavery PEC has published outputs which set out emerging lessons on how to meaningfully engage with survivors of modern slavery.<sup>10</sup> This includes the importance of open, equitable and ethical partnerships based on fair remuneration, agreement on key principles and values, and engagement that occurs in advance to inform strategic decisions.

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<sup>10</sup> Paragraphs 65-59 of the [Modern Slavery PEC briefing on the UK Government Modern Slavery Strategy](#) set out good practice toolkits and emerging lessons on meaningful survivor engagement, and a [blog](#) published in May 2022 sets out emerging lessons from research projects funded by the Modern Slavery PEC.