



Rights Lab Response to Call for Evidence Labour Market Enforcement Strategyⁱ

About the Rights Lab

The Rights Lab, based at the University of Nottingham, delivers research to help end modern slavery. We are the world's largest group of modern slavery researchers, and home to many leading modern slavery experts. Through our five research programmes, we deliver new and cutting-edge research that provides rigorous data, evidence and discoveries for the global antislavery effort. **The evidence presented here is drawn from our research focusing on two high-risk sectors: social care and fishing**, with additional comments drawn from our work with survivors of slavery and labour exploitation.

The evidence provided here in relation to **social care** draws upon emergent findings from two ongoing research projects examining labour exploitation in the care sector:

- Project 1ⁱⁱ (due to report in July 2022) examines the risks and drivers of modern slavery among paid, live-in, migrant care workers in London. This study employs participatory peer research techniques to capture the voice of live-in care workers.
- Project 2ⁱⁱⁱ (due to finish in October 2023) is a comparative international research project conducted into the risk of domestic servitude among home-based, personalised care workers in France, Italy, Sweden, The Netherlands, Australia and Canada.

The evidence provided in this submission in relation to **fishing** is drawn from our research aimed at understanding patterns in labour abuses onboard fishing vessels.

- The first project^{iv} brings together the largest global front-line response charity to modern slavery in fishing (Stella Maris), the UK's largest fishers' welfare charity (the Seafarers Charity), the maritime sector's global union federation (International Transport Workers' Federation), a leading private sector data partner (Airbus), and academics in a cross-sector challenge-led partnership. It aims to support labour inspection authorities with evidence to underpin action against modern slavery in fishing, and to monitor progress of the resulting impact.
- The second is a two-year project to deliver the first systematic measurement of fisheries management policies' impacts on forced labour in marine capture fisheries, particularly considering the social justice dimensions of environmental policies to reduce overfishing.

More information about the Rights Lab is available at: www.nottingham.ac.uk/rights-lab. For queries regarding this submission, please contact Lois Bosatta, Rights Lab Business and Research Impact Lead: lois.bosatta@nottingham.ac.uk.

By Lois Bosatta, Dr Alex Trautrim, Dr Caroline Emberson and Dr Kieran Phelan



1. Recent changes in how UK labour market is operating

1a. What changes have you observed or experienced?

Social Care

Social care is well-recognised as a labour market entry point, particularly for female migrants. In December 2021, the Home Office announced the **expansion of the Health and Care Visa for social care workers for a 12-month period.**^v At present, such health and care visas may only be issued where there is an organisational sponsor. This precludes their issue for the appointment of care workers by individual employers, such as self-funders, and those employing personal assistants from direct payment funds. Migrant workers have been over-represented in these types of social care roles and their proportion is particularly high where live-in care is provided.

Fishing

Two key changes in UK fishing sector have been observed: **post-Brexit labour pressure and increased legislative pressures.**

Fishing has featured centrally within discussions of Brexit, and the creation of a post-Brexit blue economy. Evidence suggests that the deliverable changes to the commercial environment post-Brexit has matched poorly to the promises of the rhetoric.^{vi} **Market disruption remains high, integrated supply chains have destabilised, and traditional key markets, chiefly within the EU, now face additional barriers to access.**

This sits in a context of intensifying commercial pressures for skippers, which include escalating fuel costs which have significantly threatened profitability.^{vii} Fundamental long-term shifts in labour sourcing towards migrant labour, chiefly driven by cost differentials, have been anecdotally observed. Crew share, a socialised remuneration method^{viii}, is predominantly practiced amongst domestic workers. These fishers are self-employed, earn most or all of their pay through a share in the profits or gross earnings of the fishing boat, and earn the highest wages comparative to other remuneration methods^{ix}. Contract and agency-facilitated remuneration schemes are typically used for migrant workers, who are recruited at a comparative cost differential to domestic workers. They agree a fixed income, which is often substantially lower than share fishers and linked to average wages of the source country and is often arranged through industry recruitment and agency intermediaries.

The recent growth in agency and contract-based migrant labour employment in UK fishing indicates a broader cost saving strategy within the industry, where skippers recruit migrants to maintain a skilled crew, whilst exploiting the ability to pay them less than their sometimes less-skilled domestic colleagues^x. Pervading anecdotal evidence suggests that UK workers do not wish to seek employment in fishing, preferring instead more stable, less physically demanding work. Our findings^{xi} refute this claim. They suggest instead, **the labour market is highly mediated and gatekept by skippers and powerful market actors; this prevents new domestic entrants, and skews labour competition to prefer instead cheaper and more exploitable migrant labour, as a deliberate strategy of competition and profit maximisation.** The UK visa system underpins this strategy; facilitating non-domestic migrant fishers to more readily work on UK fishing vessels. Migrant fishers enter the UK on one of two visas: a transit visa^{xii} or a (relatively new) skilled worker visa. Typically, migrant fishers arrive on a transit visa. The time-limited nature of the transit visa stops fishers from re-entering the port state to access reporting or support services^{xiii}, and as the visa only gives a fisher a right to work upon one named vessel, this effectively withdraws a fisher's ability to remove their labour or go to work for a different employer.



The uptake of the skilled worker visa remains poor in the fishing industry due to the specified requirements of salary and sponsorship, and as such, most migrant fishers continue to enter the UK on transit visas. This is all set in a context where UK borders are increasingly securitised, and privatised ports are growingly perceived in policy as sites of border vulnerability, particularly to clandestine cross-border migration. During COVID-19, ports were increasingly viewed sites of international risk and contagion. This further exacerbated fishers' in-port vulnerabilities because port states limited entry from within them, and spatially confined vulnerable fishers to their boats to mitigate contagion risk.

The enforcement of fishing labour standards within the UK on paper presents comprehensive protections. In January 2020, the International Labour Organisation's (ILO) (2007) Work in Fishing Convention (C188) came into force in the UK. In conjunction with the Modern Slavery Act, this establishes the UK as one of the most stringent fisheries labour regulation environments in the world. Despite these protections, Rights Lab research highlights how exploitation of migrants continues. Rights Lab^{xiv} completed a baseline study of working conditions across the UK fishing fleet. Migrant fishers reported normalised excessive working hours, (60% reporting minimum of 16 hours per shift); 30% reported never receiving 10 hours of rest; many incurred on average £1,800 of debt relating to placement fees, and migrant fishers earned on average £3.51 per hour. In addition to this, 35% of fishers reported regular physical violence, 19% reported probable forced and compulsory labour, whilst 48% reported potential cases of forced and compulsory labour^{xv}. To this end, **the enforcement environment is proving ineffective, with pervasive practices contravening many components of C188 in spite of legislative protections.**

Part of the inefficacy of their enforcement lay in way enforcement responsibilities are dispersed across multiple jurisdictions including the Maritime and Coastguard Agency (MCA), police, Border Force, UK Visas and Immigration, HMRC, Marine Management Organisation (MMO) etc. Agencies often operate with different definitions and evidentiary thresholds, and poorly coordinate their enforcement actions. This is particularly acute for fishing labour standard compliance, where cases of alleged abuse often come under the remit of multiple agencies and multiple legislative frameworks (modern slavery, wage fraud, minimum wage abuses, etc.). In these instances, each agency may have neither the joint or individual capacity or resource to be able to reach every port and consistently enforce the standards of their remit. Rights Lab research into port community resilience highlights the important port-by-port vulnerabilities of fishers, and how successful enforcement regimes are always contingent on the presence of in-port assets, actors and practices of resilience, which include place-based, effective and coordinated cross-agency working (Phelan et al, 2022, in press).

In specific regard to National Minimum Wage enforcement, fishers present a unique case. Share-catch fishers are self-employed, and operate on a socialised-remuneration model, outlined as a special category of worker for HMRC. Migrant fishers often work to contract/agency, at an agreed rate of pay. There exists significant differentials between fishers who work mostly/mainly within the 12 nautical mile limit are entitled to earn the national minimum wage. This is defined as the UK part of the continental shelf. However, those that work mostly or mainly outside of this limit, do not qualify for the NMW. Enforcement challenges come from interpretation of what constitutes 'mostly', or 'mainly', which are not well defined, making enforcement in this area difficult.

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



Social Care

With the introduction of the UK's Health and Care Visa, the UK Government has signaled an intention to address supply side labour shortages in the social care sector, at least in the short term, by encouraging migration. The global repercussions of the Covid-19 pandemic may lead to recession even in developed economies, and it seems likely that more migrant workers will be attracted to seek employment in relatively well-paid UK live-in care work. Our research confirms that such live-in care workers may be drawn from long-haul destinations, including countries such as Zimbabwe and South Africa.

Our research found individual migrant care workers with the legal right to work in the UK could be vulnerable to exploitation and there is evidence in other European countries of the organised exploitation of live-in migrant home care workers by networks of umbrella recruitment and staffing agencies operating in Eastern Europe^{xvi}. We have heard separate reports from members of our live-in migrant care workers in London stakeholder group that some agencies, including those operating in Eastern Europe, are requesting that care workers sign contracts which include financial penalties should they wish to terminate their employment before a certain term. These clauses may be designed to minimize labour churn and ensure that sponsoring employers benefit from the overseas recruitment expenses that they have incurred. In a more sinister vein, other stakeholders report that sponsoring employers are well aware of their restrictive effects and use such clauses to restrain care workers from leaving an exploitative situation. Some commentators have likened it to a situation of debt bondage.^{xvii} Should this practice become normalised within the sector, questions related to contract fairness are raised and the research stakeholders have raised the legality of such clauses under UK law with the Employment Agency Standards (EAS) Inspectorate.

Fishing

Non-compliance remains a significant risk to the sector, and effective labour standard enforcement continues to be a problem. Movement towards a single enforcement body has the potential to harmonise cross-agency working. Rights Lab engagement has recognized the lack of statistics on migrant fishers and the need to develop base level data from which to make evidence based policy, to identify and address issues of labour standard non-compliance, including the need to close the loopholes exploited within the Transit Visa system.^{xviii xix}

The evidence of labour abuse in UK fisheries^{xx} speaks to a broader trend within fisheries, of a 'race to the bottom' culture of labour. In an industry which is already structurally precarious, in that it catches a moving and living resource in changeable environmental conditions, UK fisheries speak to an emergent body of international evidence (Ireland^{xxi} and Thailand, the most notable) which evidence the political economic and structural problems preventing effective labour standard enforcement in fishing, driven by growingly difficult commercial conditions.

In the UK context, a significant challenge impacting enforcement improvement is access to effective grievance channels for exploited fishers. This necessarily must go beyond disclosure hotlines and state-facilitated pathways. **Findings from Rights Lab research suggests that immigration concerns pose significant practical barriers for fishers seeking help.** In a context where migrants may have overstayed their visa, doing so with little choice or capacity to meet their conditions onboard a boat, the fear of industry blacklisting and state-based deportation make disclosure problematic. At the moment, immigration enforcement frames culpability of the infringement of visa conditions to the person whose visa it is. This poorly reflects the conditions of the infringement, which in the case of migrant fishers, can



almost entirely be out of their control. Current deportation rules can result in the migrant fisher being returned home and barred from fishing the UK for five years. Coupled with this, **research also highlights how recruitment agencies can resultantly blacklist ‘offending’ fishers, and also their kin networks from future employment opportunities. This has resulted in a culture of fear for disclosure^{xxii}, where abused fishers lack real access to remedy and recourse, without fear of repercussion.** Significantly, state enforcement agencies which may be able to intervene and assist abused fishers were not seen trusted disclosure routes for fishers, because of their link to, and fear of deportation.

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

Social Care

EAS Inspectorate and union representatives from our stakeholder group have met to examine the legality of contracts with exit penalty clauses, evidence of which is emerging in social care.

Fishing

Research on labour standards and their compliance in UK fishing suggests that whilst the sector is highly regulated, in practice these regulations are poorly enforced. This is a result of multiple dynamics which coalesce around three key structural characteristics:

- Vessels represent mobile and hard to reach workplaces, upon which standards are difficult to monitor and enforce.
- Enforcement and jurisdiction are complex; flag states, port states, and waters can represent competing jurisdictional authorities and UK labour enforcement powers are spread over multiple agencies, and therefore requires highly coordinated agency working to act and intervene; often in a time limited way within ports when vessels land their catch.
- Fishing labour is intense, highly precarious, diversely remunerated, exceptionalised within wage legislation, and exploits growing numbers of migrant workers. These dynamics add complexity to labour market experience, and fuels highly differentiated experiences of work exacerbating certain worker vulnerabilities over others (chiefly migrant fishers).

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.

Social Care

Our stakeholder group believes that **there is a real and growing risk of employing undocumented workers in care.** Some undocumented migrants already work in the sector. One stakeholder reported agency-facilitated fraudulent use of National Insurance numbers to enable undocumented workers to work in care homes. Reports were also received of social care staff working in residential care and nursing home settings on Tier 5 volunteer visas, on unknown rates of pay.



Even EU migrant workers with the legal right to work in the UK reported instances of exploitation. Our research among Hungarian live-in migrant care workers in London included evidence from one care worker who described how, although she had not signed an 'opt out' form for the European Working Time Directive, she was working over the stipulated number of hours each week. She was charged rent for her accommodation, the rate of which was unclear. She later found out that she was also liable for council tax and received a debt collector's letter at her home address in Hungary. Since she lived on site, she was expected to cover staff sickness absences at short notice. She felt that the company had tried to prevent her opening a bank account to delay payment of her wages by making deliberate errors on the confirmation of address form that she needed. Perhaps of most concern, her contract also included an exit penalty clause if she left her employer within 3 months.

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

Fishing

Of high priority is resolving the issue of the transit visa^{xxiii} loophole, which presents the biggest structural vulnerability for migrant fishers as it provides conditions for exploitation and labour standard non-compliance to flourish.

Additional Comments

Our research regarding access to work for survivors of modern slavery finds that non-British victims of modern slavery are not automatically eligible to work.^{xxiv} Employment-related support is stated to be a type of support available to survivors of modern slavery in the National Referral Mechanism (NRM), the government-funded system of support in the UK, however it is currently unclear the extent to which sub-contractors provide this support due to gaps in data collection. Pathways to employment for survivors of modern slavery are based on the individual's immigration status rather than their status as a recognised victim: being conclusively identified as a survivor of modern slavery confers no automatic grant of leave to remain, and therefore no right to work, challenging the recovery and re-integration process for a victim. Rights Lab also supported evidence towards the anti-slavery sector's response to the Nationality and Borders Bill earlier this year. Part 5 of the Act in particular will create extra barriers to the identification of victims, exclude significant numbers of victims from receiving protection and support, and narrow the support victims will receive.^{xxv}

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

Social Care

There are distinct differences within the sector between the experiences of the live-in migrant care worker described in answer to question 2a and workers entering the NHS. Longer periods of work and higher exit penalty fees among NHS nurses were reported by another of our project stakeholder group. Three cases of non-EU migrant workers, all registered nurses, were reported where the nurses had run up charges of up to £10,000 before they could leave. And this was not for a minimum stay of 3 months, but for years. A member of our stakeholder group reported that contracts which include terms and conditions that require



the worker to pay back a certain amount of money if they left within a couple of years were regularly included in NHS contracts, where workers were free to move position within the service. The number of roles available within the NHS meant that this produces fewer acute problems than in social care, where a fragmented industry structure makes it much more difficult to move within an organisation. However, when migrant nurses arrive to take up positions in social care, they find that although their skills mean that they are suitably qualified for NHS work, they find their freedom of labour market movement restricted by exit penalty charges. Another of our research stakeholders believes that similar problems exists in relation to restriction of movement between agencies supplying home-based personal assistants for the UK labour market.

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?

Social Care

In Italy, a voluntary Christian association has introduced a training and development programme to support the professionalisation of domestic care workers. The programme includes modules on physiology, elderly care and individual employment rights. Though small in scale, this programme has been funded through a grant from a national research body and represents an attempt to improve labour conditions by increasing domestic workers agency. In France, reliance is placed on self-reporting and whistle-blowing, with procedures and a helpline in place at municipal government level.

Fishing

Our research shows that the most effective actor of fisher resilience against labour exploitation and standard non-compliance is port welfare charities, particularly port chaplaincy services. In cultivating community amongst fishers, chaplains are routinely visible actors in ports nationwide, and have become independent, trusted and accessible actors for disclosure and reporting, outside of the state, but also complimenting the effective coordination of support, and intervention of state agencies. Although entirely informal, port chaplains are increasingly the first responders to instances of labour abuse and standard non-compliance in ports and have the infrastructure and reach within them to effectively coordinate evidence and intervention. More generally, as new disclosure and grievance structures are created, the most important dynamic is that they centralise fisher voice, so to deliver effective change. Worker Driven Social Responsibility provides important learnings of effectively mobilising voices of labour to enhance enforcement efficacy and disclosure mechanisms.

4. Business Engagement

Various initiatives by 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.



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

Social Care

The planned changes announced in this month's Queen's Speech to the Transparency in Supply Chain (TISC) duty, and the extension of this duty to include to public authorities, signals a greater role for local authorities as the procurers and commissioners of publicly funded residential, nursing home and home-based care. One example of an existing initiative that could be extended is that of the UNISON, 'Fair Price for Care' Scheme to which some local authorities have already signed up. Though they have no legal powers, local authorities can encourage contracted residential care and nursing home providers to adopt the scheme.

The involvement of business initiatives to embed good practice in the delivery of live-in and home-based care are more problematic since many care workers in these roles are either employed by the individual in receipt of support, or via a highly fragmented network of introductory and staffing agencies, of which the former are unregulated by the CQC. Our evidence suggests that such extended labour supply chains create a risk of modern slavery^{xxvi}. In the case of transnational labour intermediaries, migrant care workers in other European countries have been found to be particularly vulnerable to abuse.^{xxvii}

5. Recruitment

5a. What changes have you observed to recruitment patterns and practices. For example, online recruitment and offshore recruitment.

Social Care

The Independent Anti-Slavery Commissioner reports^{xxviii} increasing interest by long-haul, overseas recruitment firms in all parts of the UK labour market, with growing numbers of migrant workers from source countries such as the Philippines and Vietnam expected.

One member of our live-in migrant care workers in London project stakeholder group reported on practices of agencies operating in both the Philippines and in the UK. Recruitment in both countries was described as a 'pyramid scheme' where candidates were recruited through personal referrals. Recruitment agencies took advantage of the implicit trust of these individuals. Agencies became responsible not only for employment, but also for immigration – which increased the individuals' dependency upon them.

5b. Do any of these trends you observe raise concerns about compliance?

Social Care

Yes, though most workers came to the UK on a Tier Two Visa, one of our live-in migrant care workers' stakeholder group members reported that Filipino visitors on Tier 5 volunteer visas had also been recruited to work in a care home for the disabled, and it was not clear whether or how much they were being paid.



6. Employment models

What evidence can you present as regards compliance of newer models of employment – for example gig economy workers, employment through umbrella companies, joint employment models

6a. Do you have evidence of these being associated with worker exploitation?

Social Care

The report in the Amsterdam newspaper *De Groene Amsterdammer* describes the case of a Bulgarian agent who provided live-in home care for the elderly in Belgium and The Netherlands via a network of nine companies, of which one was 'Care4You'.^{xxix} This employer network contracted with their clients via a Belgium-based 'front' company, which focused upon service marketing and customer introductions. Contracts with the care-workers were held by Bulgarian-based providers.

One Care4You worker described how she had agreed to work for an elderly lady as a live-in domestic worker. When she met the client, she was surprised to find that she had a disability that meant she was confined to a wheelchair, requiring the sort of assistance for which she had neither training nor experience. This illustration provides evidence of both potentially deceptive recruitment practices and a lack of training. When the domestic care worker expressed a desire to terminate her employment, the agent pointed out a clause in the contract that she had signed that included a severance clause that required payment of a 10,000 Euro fine should she give notice of her intention to leave within the first six months. This illustrates practices akin to debt bondage. Additionally, she received lower pay than had originally been promised.

In the same article, another employee, referred to as Rositsa, reported physical abuse, withholding wages and the same excessive severance clause in her contract. A further domestic care worker, named Valeria, had experienced withholding wages and too little pay, and another worker reported excessive working hours. Fear of reprisal for mentioning dissatisfaction with these working conditions was commonplace. These live-in care-workers reported punitive severance conditions and wages up to a third below the gross statutory minimum wage.

6b. Do you have evidence of other employment models that might give rise to compliance concerns?

Fishing

Migrant fishers are overwhelmingly recruited through a recruiter or crewing agency outside of the UK. Our research^{xxx} notes that 92% of migrant fishers in their sample were recruited in this way. The use of a third-party crewing agency is not illegal; and has some advantages to migrant fishers. They simplify what is a complex process of navigating visas, contracts, travel, and immigration, across multiple jurisdictions. However, **there is emergent evidence that suggests crewing agencies exploit fishers, and are often deceptive about the employment conditions they will work in.** They also construct conditions of coercive debt for the fisher, which limits their ability to walk away from exploitative conditions^{xxxi}. Whilst there has been a long distinction between non-EEA and EEA fishers in the sector, given the particular protections EEA workers had as part of the EU, Rights Lab research also found that growingly the distinction is less meaningful; whereas previously, EEA fishers were often included as part of share fishers, a growing proportion of them now also use agencies or recruiters (45%). This raises concerns that post-Brexit, European nationals now also have a heightened risk of exposure to exploitative recruitment practices in



the UK. In general, migrant workers were noted to use third-country crewing agencies (agencies neither from their source country, or destination country). This added a level of opacity and complexity to the recruitment of the fishers, and results in migrants less likely able to seek remedy or recourse, because their agreement is in a country they have not worked, nor have citizenship.

Of the migrant fishers interviewed and surveyed as part of the *'Letting Exploitation off the Hook?'* study, 84% of migrants paid a placement fee in contravention of ILO Convention 188, which requires the skipper to pay. This was a significant source of debt for fishers – which ranged from £730 to £2,700 for a work placement of up to 12 months. This was considered by those sampled as a significant debt, a debt which one third of fishers claimed would make them unlikely to leave their job even if they were being treated unfairly. Fishers with debts equal to or more than £2,000 were three times more likely to report they felt unable to leave exploitative work situations. Should a fisher return earlier, and not fulfil the conditions of their employment, this debt will not have changed, and they may not be in a position to fulfil this debt to the agency.

Informal, unauthorised, and unlicensed crewing agencies were increasingly used by migrant fishers as a way of reducing upfront costs and debts associated with employment in the UK. These crewing agencies often had better flexibility in their repayment plans. Whilst some migrant fishers reported that this route allowed them greater oversight over their payments, it also made them more likely to incur unexplained deductions, and more likely to face deceptive, coercive, or forced labour situations, because these agencies were unregulated. **It is imperative that the UK addresses these informal routes to meet the obligations of ILO Convention 188.**

7. Enforcement resourcing

7a. What assessment do you make of how these 3 bodies operate?

Fishing

Fishing labour standard enforcement is currently highly fractured and uncoordinated; spread over multiple agencies. Enforcement is also spread practically over hundreds of disparately located ports around the coastline of the UK. Each agency works within differently defined geographies of jurisdiction, different organisational structures, and have different remits of jurisdiction and influence, which can prove difficult to complimentary co-enforcement resourcing. Rights Lab research suggests how inter-port dynamics (such as if a port is proximate to larger ports of influence) and in-port dynamics (e.g. mixed commercial and public use) shape port vulnerability, and influence enforcement resourcing. This fundamentally shapes the risk and priority profile and enforcement practices within each port; and governs the extent of the enforcement resources likely dedicated to each port; such as if the port has a full time enforcement presence or not, or if fishing is viewed as a priority inspection sector (over oil and gas, for example).

As it stands, educational activity within fishing primarily has targeted health and safety compliance, a longstanding core competency of the Maritime and Coastguard Agency, and a well enforced dynamic of the organisation's inspectorate. Significant resources have gone into highlighting the new ILO C188 requirements of skippers, as well as trying to translate these expectations into practice. In spite of this, a significant proportion of the industry remains informalised; formalised risk assessments and work agreements are often absent, or poorly understood. Further resource is necessary to enhance educational



activity in this area, as well as to improve the pre-departure/arrival information provided to migrant fishers on their working rights, including language learning/proficiency.

7b. Provide evidence and examples of best practice to address labour market non-compliance that you would like to highlight to the Director?

Social Care

The Dutch Fairwork model^{xxxii} encourages the development of ‘cultural mediators’ with social capital within the respective migrant communities known to be at greater risk of exploitation.

8. Other issues

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.

Social Care

The stakeholder group for our research into paid, migrant, live-in care workers in London identified the following policy priorities to reduce vulnerability to labour exploitation, including severe forms such as modern slavery:

- Remove the obligation for care workers to update their visas when they change employer to provide greater freedom to move without risk to immigration status – since we believe that falling into an irregular migration status greatly increases a workers’ vulnerability to exploitation.
- Reduce or remove related visa fees for both the worker and the sponsoring employer. Our evidence suggests that the imposition of exorbitant immigration fees creates a perverse incentive whereby sponsoring employers use the threat of debt in the form of restrictive financial exit penalty clauses to protect them against incurring high sponsorship, immigration and recruitment costs and then losing the employee.
- As recommended earlier by Matthew Taylor, implement a firewall between the Home Office and labour enforcement so that people feel safe about coming forward if they are experiencing labour exploitation without fearing immigration enforcement or deportation.
- Introduce registration, by the Single Enforcement Body, GLAA or EAS, of approved social care recruitment, staffing and immigration agency sponsors. This would enable the GLAA to provide information on fair and safe recruiters to the social care providers. Adopting a system of registration would also enable those who violate employment legislation to be removed from the register.
- Legislate for the regularisation of currently undocumented migrant workers, including those in the social care sector.

Sponsoring employers recruiting migrant workers through the Health and Care Visa scheme should be required to show that their employees’ contracts are legal under UK law. The Border Agency could be required to ensure that everyone who enters the country has a contract prior to their arrival, given to them in their own language, which details fees, deductions and accommodation charges. Employment



law opinion on fair contracting, specifically in relation to the legality of exit penalty clauses in contracts signed outside the jurisdiction of English law would also be valuable.

In Sweden, the Social Insurance Agency (*Forsakringskassen* in Swedish) has conducted detailed investigative data analysis to identify suspicious recruitment and migration agency activity in home-based personalised care. This has led to the identification of a small number of high value benefit fraud cases which include the labour exploitation of victims caring for disabled family members.

Fishing

We wish to highlight the importance of harmonising enforcement efforts, which demands consensus amongst multiple agencies. The current plans to introduce a Harbours (Seafarers' Remuneration) bill suggests that improving the efficacy of labour standard and minimum wage enforcement for seafarers is a Governmental priority. However, early suggestions that ports themselves are able to help this enforcement, through surcharges, suspension of port access and fines, as largely privatised entities, is a concerning dynamic. The enforcement of minimum wage is not a port authorities core competency, but instead belongs to the MCA and HMRC. A reliance on port authorities risks further splintering an already fractured enforcement regime even further, undermining its efficacy.^{xxxiii}

Additional comments

As submitted to the Good Work Plan consultation in 2019, the Rights Lab still supports the proposal of the Single Enforcement Body (SEB), bolstering the great work of the GLAA to identify and support victims, to increase data sharing between current bodies addressing workplace issues, and to encourage greater collaboration from business with the government for a more effective and holistic approach to tackling a range of employment issues.

- Mandates increased to other sectors
- Better integration
- Single point of contact for violation reporting and case processing
- Across the labour exploitation spectrum

While for workers and businesses it would be easier to raise concerns or complaints to a SEB, in general we recognise a challenge for those identified as potential victims of exploitation and slavery accessing immediate support and protection. 'Places of Safety', proposed by the Home Office in 2017, a concept of an initiative to meet the early support needs of victims, would have been a good way for this to occur for Labour Enforcement but it isn't in place, so Duty to Notify and NRM (National Referral Mechanism) are the only options. Principles of this were outlined by a group of NGOs in 2018.^{xxxiv} As part of this, we would like to understand what figures are kept by LME in relation to potential victims and those who do or do not access the support systems such as NRM, and what the knock-on effects are on people who are being exploited if and when bodies under the Labour Enforcement step in.

The Rights Lab would welcome the opportunity to further discuss any of the issues raised in this submission. For queries regarding this submission, please contact Lois Bosatta, Rights Lab Business and Research Impact Lead: lois.bosatta@nottingham.ac.uk.



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- ⁱⁱⁱ Emberson, C. (2021) *How do we reduce domestic servitude in the developed world?* Available at: <https://blogs.nottingham.ac.uk/business/2021/12/10/how-do-we-reduce-domestic-servitude-risk-in-the-developed-world/> (accessed 13 May 2022).
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