

Labour Exploitation Advisory Group (LEAG)

Submission to the UN Special Rapporteur on Contemporary Forms of Slavery

Responses to questionnaire on the gender dimensions of contemporary forms of slavery, its causes and consequences

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About LEAG

The **Labour Exploitation Advisory Group** (“LEAG”) is a group of frontline organisations working with actual and potential victims of human trafficking for labour exploitation in the United Kingdom. LEAG member organisations¹ focus on migrant rights, homelessness, women’s rights, labour rights and victim support. LEAG collaborates to ensure that anti-trafficking responses in the UK are guided by the needs and experiences of vulnerable and exploited workers. Since its establishment in 2015, LEAG has published two position papers² and developed a close relationship with many key national stakeholders, including labour inspectorates, the UK Independent Anti-Slavery Commissioner, the UK Director of Labour Market Enforcement, and the Home Office.

In July 2017 LEAG set up the Working Group on Women Workers and Labour Exploitation³ (“the Working Group”), a group of experts from academia and frontline organisations supporting women workers in highly feminised sectors in the UK, including hospitality, cleaning, care and domestic work. In March 2018, Focus on Labour Exploitation (FLEX) published the guide ‘*Women in the workplace: FLEX’s five point plan to combat labour exploitation*’⁴, which was based on discussions and case studies provided by LEAG and Working Group members.

For more information: <http://www.labourexploitation.org/about-us/labour-exploitation-advisory-group-leag>

¹ LEAG members include: Focus on Labour Exploitation (Secretariat), Latin American Women’s Rights Service (Chair), Kalayaan, Unite the Union, Equality, Eastern European Resource Centre, Ashiana Sheffield, British Red Cross, Praxis Community Projects. For more information see: <http://www.labourexploitation.org/about-us/labour-exploitation-advisory-group-leag>

² FLEX-LEAG, *Labour Compliance to Exploitation and the Abuses in-Between*, 2016. Available at: <http://www.labourexploitation.org/publications/labour-exploitation-advisory-group-leag-position-paper-labour-compliance-exploitation>; FLEX-LEAG, *Lost in Transition: Brexit and Labour Exploitation*, 2017. Available at: <http://www.labourexploitation.org/publications/lost-transition-brexit-labour-exploitation>

³ Working Group members include: Focus on Labour Exploitation, Latin American Women’s Rights Service, Kalayaan, Unite the Union, Ashiana Sheffield, Unison, Maternity Action, Cathy McIlwaine and Shreene Hussein, King’s College London; Virginia Mantouvalou, University College London. *Ad hoc* contributors include: The Voice of Domestic Workers, Trade Unions Congress, Eastern Europeans Resource Centre.

⁴ Focus on Labour Exploitation (FLEX), *Women in the workplace: FLEX’s five point plan to combat labour exploitation*, 2018. Available at: <http://www.labourexploitation.org/publications/women-workplace-flexs-five-point-plan-combat-exploitation>

Consultation questions

Question 1

a. Are there any economic sectors in your country in which contemporary forms of slavery such as forced labour or bonded labour exist? If so, in which sectors?

LEAG and the Working Group, as frontline organisations and academic researchers, have extensive experience in highly feminised sectors, including **cleaning, care, hospitality and domestic work**.

These sectors are characterised by a combination of factors that interact to increase women workers' risk to exploitation and weaken their ability to raise complaints and seek justice.

Stigma surrounding 'women's work'

Much of the activities in feminised labour sectors includes that which has historically been considered 'women's work', including cooking, cleaning, domestic chores, and caring for the young, sick or elderly. In the past such labour was commonly performed unpaid and within the family unit. With the rise of female employment, such work has been increasingly outsourced, yet has continued to be undervalued both financially and socially.⁵ Members of the Working Group have highlighted that 'women's work' is often perceived as less important, which leads to a lack of recognition and value for these types of activities in the labour market.⁶

Employment structures

Zero-hours contracts

In the UK, zero hour contracts are a feature of the hospitality and care sectors in particular, with the number of care workers on zero hours contracts jumping from one in ten to one in seven in 2016.⁷ The use of zero hours contracts in the hospitality sector has also increased in recent years, to allow flexibility according to seasonal and other external fluctuations in demand.⁸ In the cleaning and hospitality sector, some firms exclusively use zero hours contracts for all staff.⁹

Employees within the care sector have reported being forced onto zero hour contracts, or face dismissal.¹⁰ Those facing long commute may end up earning less than the National Minimum Wage, since travel in-between assignments is unpaid. The high level of precarity associated with this type of contract means women workers fear complaining about abuses and are too afraid of being dismissed to demand their entitlements.

⁵ Baroness Denise Kingsmill CBE, 2014, *The Kingsmill Review: Taking Care*, p.31.

⁶ Labour Exploitation Advisory Group Roundtable on Women Workers and Labour Exploitation, 21 July 2017.

⁷ See <https://www.theguardian.com/uk-news/2016/nov/17/care-workers-zero-hours-contracts-unison-minimum-wage>

⁸ Hotel Industry Magazine, 2014. Available at <http://www.hotel-industry.co.uk/2014/09/a-guide-to-zero-hours-contracts/>

⁹ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p. 69.

¹⁰ Baroness Denise Kingsmill CBE, 2014, *The Kingsmill Review: Taking Care*, p.26.

Agencies and self-employment

Women accounted for 85% of the growth in number of agency workers between 2011-2016.¹¹ In the care sector, women agency workers have reported poor conditions and treatment, including excessive hours, pressure to work overtime, non-payment of holiday and sick pay, spurious deductions from wages, and false self-employment.¹² The Kingsmill Review into the care sector noted “a sharp increase” in the number of women in self-employment, with self-employment replacing regular employment for many female care workers.¹³ Agency workers are often paid less than employed counterparts, increasing workers’ dependency on their jobs.

Outsourcing also presents a challenge to workers, as it distances them from their employers meaning that workers are unsure who is accountable in face of labour abuses and exploitation. Outsourcing also creates commercial incentives for cost-cutting.

Low pay, underpayment of wages and deductions

Cleaning, care, hospitality and domestic work are also characterised by low wages, hovering around or slightly above the National Minimum Wage. In many cases, the paying of proper wages is avoided or undermined by common and deliberate business practices.

In the cleaning sector, a hospital contractor reportedly uses temporary agency staff to avoid paying NHS rates to cleaners.¹⁴ In the care sector, the common refusal to pay travel time to workers who spend significant time travelling between clients means those workers are frequently paid for only a fraction of the time spent working.¹⁵ As workers are frequently on zero hours contracts, cancelled appointments or last minute shift also mean that workers take home less than expected.¹⁶ In the hospitality industry, workers face frequent deductions from their wages for ‘training’, uniforms, accommodation or equipment costs.¹⁷ They are paid fixed weekly or monthly amounts that do not specify or reflect the hours worked, making it impossible to calculate whether they are being paid minimum wage.¹⁸ In domestic work, figures suggest that underpayment is endemic, with many paid less than £50 per week.¹⁹

The Government’s Low Pay Commission on the compliance and enforcement of the National Minimum Wage has noted that women are more likely to be underpaid than men and also less likely to complain.²⁰ Underpayment and non-payment can lead to risk of further exploitation as financial hardship increases women workers’ dependence on their job to

¹¹ Resolution Foundation, 2016. *Secret Agents: Agency workers in the new world of work*, p.27. Available at <http://www.resolutionfoundation.org/app/uploads/2016/12/Secret-Agents.pdf>

¹² Oxfam, 2009. *Who Cares? How best to protect UK care workers employed through agencies and gangmasters from exploitation*, p.2

¹⁴ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p. 69.

¹⁵ Baroness Denise Kingsmill CBE, 2014, *The Kingsmill Review: Taking Care*, p. 24.

¹⁶ See <https://www.theguardian.com/uk-news/2016/nov/17/day-in-the-life-of-a-care-worker-zero-hours-contracts>

¹⁷ A. Balch & G. Rankin, 2014. *Facilitating Corporate Social Responsibility in the Field of Human Trafficking: The Hotel Sector in the UK*, p.24.

¹⁸ Ibid.

¹⁹ Kalayaan, 2014, *Still enslaved: The migrant domestic workers who are trapped by the immigration rules*, p.2.

²⁰ Low Pay Commission, 2017. *Non-compliance and enforcement of the National Minimum Wage*, p.4. Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645462/Non-compliance_and_enforcement_with_the_National_Minimum_Wage.pdf

survive, making it more difficult to complain about poor treatment for fear of losing work altogether.

Part-time work

Employment in the care, hospitality and cleaning sectors is frequently part-time, with or without the use of zero hours contracts. In the cleaning sector 78% of work is part-time,²¹ while in the hospitality sector, about half of all employment is part-time.²² Part-time work and flexible working arrangements can be beneficial for women workers, allowing them to combine work with family and other commitments. However, it can also cause financial hardship, uncertainty, underemployment, and the need for women to take multiple jobs to make ends meet.

Tied visas

The tying of workers to particular employers through sponsored visas is an issue that is particularly problematic in domestic work sector, but has also arisen in other sectors using Tier 2 and other sponsor-based visas, such as care and hospitality.

Domestic workers coming to the UK with their employer are able to enter the UK on either a Domestic Workers in a Private Household (ODW) visa, or a diplomatic visa if their employer is a diplomat. Domestic workers arriving in the UK between 2012 and 2016 could stay for six months with their employer and could not change employers. They were therefore 'tied' to their employer and would be undocumented if they left. Since the passage of the Immigration Act 2016 this rule changed allowing overseas domestic workers to change employers, but only to work as a domestic worker for another employer and still only for a total stay of six months. As Kalayaan has noted, this provides very limited options for abused workers who wish to leave their employers but must also soon leave the country, leaving them with no prospect of safe, secure and long-term employment.²³

b. What is the estimated representation of men/women in the sectors indicated?

In the UK commercial cleaning sector almost 80% of the workforce is female.²⁴ In the adult social care sector that figure is higher still at 82%,²⁵ and in the hospitality sector it is 62%.²⁶ According to the ILO, 61% of domestic workers in the UK are women, though globally that figure rises to 83%.²⁷

²¹ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p.11.

²² Institute for Employment Research, 2010, *Labour Market Information Future Trends: Hospitality Sector*. Available at <https://www2.warwick.ac.uk/fac/soc/ier/ngrf/Imifuturetrends/sectorscovered/hospitality/sectorinfo/>

²³ Kalayaan, 2016, *Overseas Domestic Workers left in the dark by the Immigration Act 2016*. Available at <http://www.kalayaan.org.uk/news/overseas-domestic-workers-left-in-the-dark-by-the-immigration-act-2016-2/>

²⁴ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p. 11.

²⁵ UK Parliament, 2015, *House of Commons: Gender Pay Gap - Women and Equalities Committee*. Available at <https://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/584/58410.htm#footnote-053>

²⁶ Institute for Employment Research, 2010, *Labour Market Information Future Trends: Hospitality Sector*. Available at <https://www2.warwick.ac.uk/fac/soc/ier/ngrf/Imifuturetrends/sectorscovered/hospitality/sectorinfo/>

²⁷ International Labour Organisation, 2013, *Domestic workers across the world: Global and regional statistics and the extent of legal protection*, p.21.

The women working in these four sectors tend to be older – for example there are a larger proportion of workers aged 50-64 working in health and social care compared to the economy as a whole,²⁸ and over a quarter of those working in the cleaning industry are aged between 45 and 54.²⁹ This suggests that women may work in these sectors alongside other caring duties for children or elderly relatives. Women in this demographic are also likely to face the ‘double discrimination’ of age and gender,³⁰ and more restricted employment prospects, potentially increasing their dependence on existing employment.

The sectors of cleaning, domestic work and hospitality in particular have large proportions of migrant workers. Migrant workers constitute approximately 30% of the total cleaning workforce throughout the UK, with particularly high rates of migrant workers in London.³¹ The hospitality industry also employs high levels of migrant workers (statistics vary between approximately 24%³² and over 40%³³), with an overwhelming majority (75%³⁴) of waiting staff in the UK being nationals of the European Economic Area (EEA). Statistics on domestic workers overall are limited, however it is likely that such workers are almost universally migrants from both EEA and non-EEA countries.

c. Are the sectors indicated State controlled or private sector controlled?

The State plays varying roles in all labour sectors, however in some highly feminised sectors it plays a particular role in creating structures that have the potential to drive exploitation. For example, in the care sector, lack of resources leads care providers to cut labour costs in order to win government contracts, shortening visit times, billing per minute, and the using zero hours contracts to save on staff costs. Some Local Authorities fix a maximum price for wages, at occasionally very low levels, while many Authorities use flexible “Framework Agreements” rather than fixed and guaranteed contracts with care providers, leading to some providers passing on uncertainty to workers in the form of zero hours contracts.³⁵

The State also indirectly employs thousands of cleaners in its public buildings, including hospitals and schools. Outsourcing of cleaning work in these locations distances workers from their employers and creates commercial incentives for cost-cutting. In recent years, workers employed by multinational service companies at hospitals across London have repeatedly taken strike action to demand living wages and safe working conditions.³⁶

²⁸ UK Parliament, 2015, *House of Commons: Gender Pay Gap - Women and Equalities Committee*, available at <https://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/584/58410.htm#footnote-053>

²⁹ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p. 11.

³⁰ TUC, *Older women and the labour market: a report for the TUC Women’s Conference*, 2013. Available at <https://www.tuc.org.uk/sites/default/files/Olderwomenlabourmarket.pdf>

³¹ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p. 11.

³² People 1st, *Migrant workers in the hospitality and tourism industries and the potential impact of labour restrictions*, 2016. Available at <https://britishdestinations.files.wordpress.com/2013/10/2016-people-1st-brexite-report.pdf>

³³ Office for National Statistics, 2014, *Tourism employment summaries: Characteristics of tourism industries*. Available at <https://www.ons.gov.uk/peoplepopulationandcommunity/leisureandtourism/articles/tourismemploymentsummaries/characteristicsoftourismindustries2014>

³⁴ British Hospitality Association, 2017. Available at <http://www.bha.org.uk/hospitality-tourism-industry-announces-first-post-brexite-sector-skills-strategy-2/>

³⁵ Baroness Denise Kingsmill CBE, 2014, *The Kingsmill Review: Taking Care*, p. 35.

³⁶ See eg. <https://www.theguardian.com/society/commentisfree/2016/mar/21/hospital-cleaners-stage-one-day-strike-for-london-living-wage>

Workers for these companies report a dire lack of engagement and respect from their corporate employers, saying they are ‘treated like animals’.³⁷

Finally, one of the most powerful drivers of vulnerability to exploitation is immigration status, and in the domestic work sector this is particularly pronounced. The right of domestic workers to enter the UK is heavily controlled through the ODW visa, and the inability of domestic workers to change employers between 2012 and 2016 was an undeniable factor in their extreme vulnerability to severe exploitation. The rule changes in 2016 allowed changes to employers, but again only in a highly restrictive, and ultimately unhelpful way for most domestic workers. The regime that now exists continues to tie the immigration status of domestic workers to their employers, making them highly dependent and therefore still highly vulnerable.³⁸

d. Please provide any relevant data regarding the number of persons affected by contemporary forms of slavery in your country, if possible disaggregated by sex.

In 2017 the National Crime Agency (NCA) has identified 2,352 victims of modern slavery, from which 2,062 were male and 290 were female, including minors. In addition, the NCA identified 343 females and 145 males in domestic servitude.³⁹

Working Group members have alerted that the low rate of identification of women workers does not mean they are not exploited but that they face multiple barriers to accessing advice and reporting exploitation. LEAG research shows that migrant women in low-paid, insecure work are excluded from protection by authorities, facing obstacles to coming forward.⁴⁰ Labour market enforcement agencies not only lack resources and capacity to proactively enforce women’s labour rights but have historically deprioritised women’s labour rights with devastating impact on identification of exploitation in women workers.

Question 2

What are the main abuses suffered by men/women in the sectors identified?

Though the following risk factors may not alone amount to exploitation, they can contribute to women’s risk of exploitation where they serve to weaken the position of women workers in relation to their employers, and in doing so, make it harder to raise a complaint. Some labour abuses, such as persistent wage theft, can also directly increase a worker’s risk of exploitation where they increase her dependence on her job to survive, restricting her

³⁷ See <http://www.independent.co.uk/life-style/health-and-families/features/nhs-cleaner-strike-why-happen-hospital-healthcare-jeremy-hunt-cabinet-cuts-wages-a7823356.html>

³⁸ Kalayaan, above note 26.

³⁹ National Crime Agency, *National Referral Mechanism Statistics – End of Year Summary 2017*, 2018. Available at: <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2017-nrm-statistics/884-nrm-annual-report-2017/file>

⁴⁰ FLEX-LEAG, *Labour Compliance to Exploitation and the Abuses in-Between*, 2016. Available at: <http://www.labourexploitation.org/publications/labour-exploitation-advisory-group-leag-position-paper-labour-compliance-exploitation>

ability to leave or report abuse. Where problems like this are not addressed, they can develop into severe exploitation.⁴¹

Gendered aspects of labour abuse

Sexual discrimination and harassment in the workplace

Women are more likely to experience sexual discrimination and harassment in the workplace, and these risks are increased where there exists a significant power imbalance between the employer and the woman worker. Women may be made to feel that sexual harassment is ‘part of the job’, particularly in sectors such as hospitality or domestic work, where women workers are expected to be accommodating and servient. Women are also particularly likely to experience discrimination around pregnancy and maternity leave, when they may suffer unfavourable treatment, a reduction of pay or hours, and termination of employment.⁴²

Women experience high levels of sexual discrimination and harassment in the hospitality and domestic sectors.^{43,44} In cleaning, hospitality, care and domestic work, expectations that women should be friendly, compliant, and subservient makes it difficult for women workers to complain and they may be made to feel that sexual harassment is ‘part of the job’.⁴⁵ In domestic work vulnerability to violence and harassment is heightened by extreme isolation and dependency. Shame and fear associated with sexual harassment and assault is a strong barrier to women reporting such abuse, and may also deter them from reporting other forms of labour abuse.

Case study: sexual harassment in the hospitality industry

C is working as a waitress in a restaurant. Since she started work there, she has experienced stress and anxiety due to “jokes” made by the owner of the restaurant. C has tried, at different times, to talk to him about how uncomfortable those jokes made her feel but the situation got worse. The owner of the restaurant started to make comments about her body and touched her breast and bottom several times. C confronted him and he finally stopped, but he then started to complain about C’s “lack of interest and passion” for the job. He is now threatening her with losing the job due to a “poor” performance.⁴⁶

Loss of employment and reduction of hours

Women may also be vulnerable to exploitation due to their need to provide and care for others. Approximately 66% of single parents are in work, and the vast majority of those

⁴¹ FLEX and the Labour Exploitation Advisory Group, 2016. *Compliance to exploitation and the abuses in-between*. Available at <http://www.labourexploitation.org/publications/labour-exploitation-advisory-group-leag-position-paper-labour-compliance-exploitation>

⁴² Equality and Human Rights Commission, 2014. *The Invisible Workforce: Employment Practices in the Cleaning Sector* p.26.

⁴³ TUC, 2016. *Still just a bit of banter? Sexual harassment in the workplace in 2016*, p.4.

⁴⁴ Kalayaan, 2014. *UK Immigration Law and the position of migrant domestic workers*, available at <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/UK-immigration-law-and-the-position-of-MDWs.pdf>

⁴⁵ Jasiewicz, E., 2017. *At Your Service? Migrant Women Workers in the Hospitality Sector*. Available at <http://novaramedia.com/2017/03/10/at-your-service-migrant-women-workers-in-the-uk-hospitality-sector/>

⁴⁶ Case study provided by the Latin American Women’s Rights Service

single parents are women.⁴⁷ Where a family depends upon a woman workers' employment for survival, her ability to leave or challenge abusive working conditions is likely to be significantly reduced. In these cases, the danger of losing employment or even a reduction of hours as a result of complaining may be too significant to risk making a complaint. As one hotel worker said, "I asked for a paid break... and the next day I was sent home and told there was no work. You soon learn."⁴⁸

Insecure immigration status

Some women are also vulnerable due to their immigration status, which may be tied to their employer, as mentioned above, or to their partner. Where this dependence exists the working and living options for women are significantly reduced, and they may consequently have little choice but to accept poor working conditions.

Migrant women are often restricted as to labour sectors and jobs they can enter and often end up in most risky and under-regulated sectors and in highly gendered roles such as domestic work.⁴⁹ Necessity of taking on precarious and undervalued work to survive means women workers are highly dependent on jobs and therefore less likely to feel able to complain or leave.

Case study: vulnerability from insecure immigration status

M works for a family as a live-in domestic worker on a tied visa. Her working hours are long and she is paid minimum wage. When her visa expires, her employer tells her they will renew it, but they do not. M's wage is reduced, and when she raises this with her employer, they tell her she is working undocumented, and so they do not have to pay her the national minimum wage. M decides to leave, but her employers tell her they will report her to the authorities and she will be deported. After this her conditions worsen: she is verbally abused, and when she is sick, M's employer accuses her of being lazy and pressures her to work through her illness. M's freedom is restricted, so she eventually is not allowed to leave the house at all. If M complains about her treatment, her employers threaten to have her arrested.⁵⁰

Lack of collective representation

Finally, while women make up more than half of all union members in the UK, the majority of female members are in professional occupations. In most non-professional sectors, men are more likely to be union members than women, and amongst part-time workers, most of whom are women, union membership is low. The highly feminised sectors of cleaning,⁵¹ hospitality, domestic work, and care⁵² have low rates of union membership, particularly for

⁴⁷ See <https://gingerbread.org.uk/content/365/Statistics>

⁴⁸ See <https://www.theguardian.com/business/2015/may/30/hotel-workers-bullied-underpaid-few-rights-uk>

⁴⁹ Women in Migration Network, 2017. *Labour Migration*, GFMD Civil Society Days briefing. Available at http://womeninmigration.org/wp-content/uploads/2017/06/Berlin-2017_10-Labor-migration.pdf

⁵⁰ Case study provided by Kalayaan

⁵¹ Eurofound, UK: *The representatives of trade unions and employer associations in the cleaning activities sector*, 2012. Available at <https://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/united-kingdom/uk-the-representativeness-of-trade-unions-and-employer-associations-in-the-cleaning-activities>

⁵² See <http://www.communitycare.co.uk/2011/04/27/alarm-over-lack-of-union-membership-among-care-workers/>

unqualified or low-level workers in those sectors. In the hotel sector only 4% of workers are represented by a trade union,⁵³ and attempts to unionise can lead to outsourcing, job cuts and other repercussions. Women workers in these sectors are likely therefore not to have access to assistance or information through unions to address workplace violations.

Labour abuses suffered by women workers

Gender discrimination and pay gap

Even in sectors dominated by women workers gender discrimination and pay gaps persist between male and female workers. Issues of gender discrimination particularly arise around pregnancy and maternity leave. A number of female cleaners reported to the Equality and Human Rights Commission in 2014 that they had been dismissed, treated unfavourably or threatened with dismissal when they became pregnant or lost their employment while on maternity leave.⁵⁴

Despite the high numbers of women workers in these sectors, their organisational structures reflect wider trends, with men most often in positions of seniority. For example, in the care sector, men are more likely to hold managerial or supervisory roles (14.2% of men hold such positions compared to 10.5% of women). Even where women do occupy senior positions, they can expect to earn £1 less than men doing the same jobs – the hourly pay rate for women in Manager/Supervisor positions is £11.75, whilst for men the rate is £12.82.⁵⁵ Underpayment increases women's dependence on their jobs to survive, which makes them less likely to complain about labour abuses and exploitation. This situation increases unscrupulous employers' power to continue exploiting their workers, as they are unlikely to face repercussions.

Case study: threats of dismissal during pregnancy

L was pregnant and was working as a cleaner at night. Her employer wanted her to start maternity leave early or to change the location and time of her work. L refused because pay during the daytime was lower and she really needed money. L's GP confirmed that the work she carried out did not present any risk to her pregnancy, but her supervisor told her that the managers did not want to have a pregnant woman working.

L also notified on time about the starting day of her maternity leave. However, the company never confirmed the dates, nor the maternity pay. L sought advice and sent a letter to her employer requesting a confirmation of her maternity leave and pay and asking for a risk assessment. Her supervisor told L that she should not seek legal advice, and that she was a troublemaker. The employer threatened L with dismissal for raising "unlawful" complaints.⁵⁶

⁵³ Balch, A. & Rankin, G., *Facilitating Corporate Social Responsibility in the Field of Human Trafficking: The Hotel Sector in the UK*, 2014, p.24.

⁵⁴ Equality and Human Rights Commission, 2014, *The Invisible Workforce: Employment Practices in the Cleaning Sector*, p.26.

⁵⁵ Hussein, S., Pay in adult social care in England, *Social Care Workforce Periodical*, Issue 6, 2010, p.25.

⁵⁶ Case study provided by the Latin American Women's Rights Service

Underpayment of wages and unfair deductions

Workers in these sectors are frequently underpaid, not paid for time worked, and have their wages deducted for a range of reasons. Being paid below minimum wage is common in all four sectors. In the hospitality sector some workers are paid below minimum wage, and it is common for workers not to be paid for 'extra' time worked, such as time spent finishing required tasks (for example number of rooms per shift), waiting to start work or attending staff meetings.⁵⁷ Some staff are paid fixed weekly or monthly amounts which do not specify or reflect the hours worked, making it impossible to calculate whether they are being paid minimum wage.⁵⁸

The Kingsmill Review found that evasion of National Minimum Wage in the care sector was "rife", and came in numerous forms. In addition to low pay rates, care workers are also frequently not paid for travel time, for training time, for overtime, or for being on call. The 2013 report 'National Minimum Wage Compliance in the Social Care Sector' by Her Majesty's Revenue and Customs (HMRC) found 47% of employers investigated were not complying with NMW law and owed over £300,000 in unpaid wages. Care workers may also experience deductions from pay for uniforms or for accommodation.⁵⁹

In the sector of domestic work, figures compiled by Kalayaan suggest that underpayment is endemic, and show that at least a third of workers coming into contact with Kalayaan were paid less than £50 per week.⁶⁰

Case study: wage deductions in the care sector

Z was working as a full time carer in a care home for 3.5 months. She signed an employment contract. However, according to other documents produced by her employer she was self-employed. She was living in the accommodation provided by the care home. Her employer also provided food. Z was paid £678.23 for the entire period of her employment. Her employer said that deductions were made to cover her accommodation, food and training. However, the care home never provided any payslips nor gave her any further details about the deductions made.⁶¹

Sexual harassment and abuse

Recent research by the TUC found that more than half of women workers surveyed had experienced some form of sexual harassment, and more than one in ten had experienced unwanted sexual contact.⁶² Women in the hospitality sector were significantly more likely to have experienced sexual harassment, with 67% of women surveyed reporting some form of sexual harassment from colleagues, managers, customers and hotel guests. The common expectations that women in this sector be friendly, compliant, and subservient makes sexual

⁵⁷ Balch, A. & Rankin, G., *Facilitating Corporate Social Responsibility in the Field of Human Trafficking: The Hotel Sector in the UK*, 2014, p.24.

⁵⁸ Ibid.

⁵⁹ Baroness Denise Kingsmill CBE, 2014, *The Kingsmill Review: Taking Care*, p.24.

⁶⁰ Kalayaan, *Still enslaved: The migrant domestic workers who are trapped by the immigration rules*, 2014, p.2.

⁶¹ Case study provided by the East European Resource Centre

⁶² Trade Unions Congress, *Still just a bit of banter? Sexual harassment in the workplace in 2016*, 2016, p.4.

harassment particularly problematic and difficult for women workers to raise.⁶³ Domestic workers have also reported sexual harassment and sexual abuse, that is heightened by the extreme dependency and isolation that many domestic workers experience.⁶⁴

Case study: sexual abuse in the hospitality sector

F an undocumented migrant worker experienced an attempted rape from a hotel guest when she went to clean his room. She reported the attack to her supervisor but he accused her of lying and reprimanded her for not finishing the room. She was scared of taking the complaint further because of her immigration status.⁶⁵

Case study: barriers to reporting sexual harassment

J is working as a cleaner in one of the main buildings at the City of London. She was told by her manager that if she wanted to receive more hours in the rota she needed to have sex with him. She refused. J was also told several times, that if she wanted to receive a promotion she must give sexual favours to her employer.

J's colleague got the promotion. This new supervisor is verbally harassing J and threatening her with losing her job. J's hours have been reduced. She tried to raise a complaint to stop the bullying and unfair treatment but she only has the contact details of the two people that are causing the harassment.⁶⁶

Health and safety

Workers in highly feminised sectors are frequently overworked, and given insufficient rest breaks. In the hotel sector, cleaners are required to clean a set number of rooms per shift, and given just minutes to clean each room.⁶⁷ Similarly in the care sector, workers are given a list of appointments to be completed in a set amount of time, sometimes allowing just 15 minutes for appointments, including travel time between appointments.⁶⁸ Rest breaks in both sectors are rarely given or paid.

In the domestic work sector, excessive work hours are very common, and workers are frequently not given breaks or days off. At least a third of workers assisted by Kalayaan reported working more than 16 hours a day, with some expected to be on call 24 hours a day. Some workers were also not provided with their own bedrooms, and so slept in children's bedrooms or in the kitchen or living room, meaning that their sleep was often

⁶³ Jasiewicz, E., *At Your Service? Migrant Women Workers in the Hospitality Sector*, 2017. Available at <http://novaramedia.com/2017/03/10/at-your-service-migrant-women-workers-in-the-uk-hospitality-sector/>

⁶⁴ Kalayaan, *UK Immigration Law and the position of migrant domestic workers*, 2014. Available at <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/UK-immigration-law-and-the-position-of-MDWs.pdf>

⁶⁵ Case study provided by the Latin American Women's Rights Service

⁶⁶ Case study provided by the Latin American Women's Rights Service

⁶⁷ See <https://www.theguardian.com/business/2015/may/30/hotel-workers-bullied-underpaid-few-rights-uk>

⁶⁸ See <https://www.theguardian.com/uk-news/2016/nov/17/day-in-the-life-of-a-care-worker-zero-hours-contracts>

poor and disrupted.⁶⁹ It is estimated that as many as 21,000 pregnant women per year leave their jobs because health and safety risks are not addressed.⁷⁰

Question 3

- a. Please specify whether reporting mechanisms or institutions are available for victims/survivors of slavery.**
- b. If applicable, please indicate to what extent the existing avenues are used by women/men.**

UK's advice and reporting mechanisms

The National Referral Mechanism

In the UK support for male and female victims of trafficking is provided through the National Referral Mechanism (NRM). NRM referral requires the consent of a potential victim of trafficking. At present access to support is provided following a decision by the two UK Competent Authorities, either the Modern Slavery Human Trafficking Unit or the UK Visas and Immigration that there are 'reasonable grounds' to believe that a person is a victim of human trafficking. This decision should be made within five days from referral at which point a potential victim can be allocated funded accommodation and related support. Cooperation with police or judicial proceedings is not a condition of NRM entry. Support through the NRM is provided for a minimum of 45 days with the stated aim of offering a period of reflection and recovery. During this time evidence for a conclusive grounds decision as to whether or not someone is considered to be a victim of trafficking will be gathered and assessed and a determination will be made by a Competent Authority.

This system is currently being revised following the publication of a Government review⁷¹ which noted, amongst other recommendations that: there should be a 'professionalization' of those referring victims in to the NRM; a multi-disciplinary decision making process should be introduced to the modern slavery decision; and that case management should be streamlined and decisions more timely. FLEX has raised serious concerns about the UK Home Office's decision to place all NRM decision-making within a single decision-making unit in the Home Office.

The UK has three main helplines for workers to report abuse or seek advice:

Acas helpline

The Advisory, Conciliation and Arbitration Service (Acas) helpline provides information on employment rights and is generally considered the main gateway for advice on labour rights in the UK. In 2016-17, 886,929 calls to the Acas helpline were registered.⁷² While this is a

⁶⁹ Kalayaan, *Still enslaved: The migrant domestic workers who are trapped by the immigration rules*, 2014. Available at <http://www.kalayaan.org.uk/documents/tied%20visa%202014.pdf>

⁷⁰ UK Government & Equality and Human Rights Commission, 2015. *Pregnancy and Maternity Related Discrimination and Disadvantage: Summary of key findings*, p.6

⁷¹ Home Office, *Interim Review of the National Referral Mechanism for Victims of Human Trafficking*, 2014. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360482/Interim_review_of_the_NRM_for_victims_of_human_trafficking.pdf

⁷² Advisory, Conciliation and Arbitration Service (Acas), *Annual Report and Accounts 2016-17*, 2017, p.27. Available at <http://www.acas.org.uk/media/pdf/e/s/Acas-annual-report-2016-2017.pdf>

considerable number, there are notable differences between the numbers of calls made within each category of issues noted by Acas.

LEAG members have raised that the Acas helpline is inaccessible to workers with little understanding of the UK employment rights system and poor English language skills. The main barriers to vulnerable migrant workers seeking advice through this service are the opening hours, which make it challenging for those who work long hours to call, and the difficulty of accessing advice in languages other than English. LEAG members have also raised concerns about incorrect information being provided by Acas to the migrant workers they support. There is considerable variation in the service provided, and differences in the level of detail of the guidance provided is of particular concern.

There appears to be a lack of awareness of the Acas helpline amongst migrant workers. A 2016 evaluation of pay and rights calls to the Acas helpline found that 92% of respondents stated English to be their first language, showing that only a small number of non-English speakers are able to access this service.⁷³

GLAA hotline

The Gangmasters & Labour Abuse Authority (GLAA) operates a confidential reporting hotline for cases of labour abuse and exploitation. The GLAA has specialist knowledge of labour abuses, combined with a remit to act on suspicions of exploitation. The GLAA hotline, however, is not widely advertised in migrant communities and members of LEAG reported that the helpline is not commonly used by their clients. This is confirmed by the low number of calls currently received by the GLAA hotline. There is currently no separate budget or staff allocated to the hotline.⁷⁴

Modern Slavery Helpline

The Modern Slavery Helpline is 24-hour service commissioned by the UK Home Office and operated by a national NGO. In 2017, the Modern Slavery Helpline received 1,784 cases of modern slavery. 31% of the reported cases of modern slavery related to forced labour.⁷⁵ The helpline is critical for victims of trafficking or for those who suspect modern slavery. However, it does not cover workers facing labour abuses that lead to severe exploitation. However, it is important to recognise that the helpline is not specifically targeted at the spectrum of labour abuses that lead to severe exploitation.

Barriers to reporting abuse and exploitation

Lack of access reporting mechanisms

Where workers know they are being abused and wish to report, not knowing where to complain to and how to enforce their rights is a barrier. This may be because they don't

⁷³ Advisory, Conciliation and Arbitration Service (Acas), *Research paper: Evaluation of pay and work rights calls to the Acas Helpline*, 2016, p.27. Available at http://m.acas.org.uk/media/pdf/p/3/Helpline_PWR_calls_evaluation_Final_Report.pdf

⁷⁴ FLEX correspondence with GLAA, September 2017

⁷⁵ Unseen, *Modern Slavery Helpline Annual Assessment*, 2018, p.28. Available at: <https://www.unseenuk.org/uploads/20180413150810356.pdf>

know who they work for, or because they don't know what mechanisms are available for reporting.

Mechanisms for reporting abuse and achieving remedies are slow, difficult to access and may achieve no outcome or undesirable outcomes for victims. LEAG has raised that the Acas helpline service was considered to be inaccessible to those with little understanding of the system and poor English language skills. Anonymity was also cited as an issue: workers are afraid of facing their employers or of losing their job as a result of reporting, if their details are disclosed in the process. For some victims of labour exploitation, the National Referral Mechanism (NRM) was not seen as offering enough in terms of long-term protection and support to make it worth pursuing this route.

Lack of self-identification

Migrant workers face discrimination and stigmatization in the UK due to social attitudes and politics increasingly emphasising an anti-immigration agenda. This causes many migrants to believe they are 'second class citizens' and as a result to expect poorer treatment and fewer rights, even where they are entitled to the same rights as UK citizens, like EEA nationals. Migrant workers can also be willing to accept low wages, poor conditions and abuses if they perceive their situation to be better than what they might otherwise have in their country of origin. They may not identify as victims of abuse or exploitation, either because they are unaware of their rights in the UK, or because they expect poor working conditions and low pay. This was viewed by participants as a major barrier to intervention.

Unwillingness to report abuse

Many LEAG members mentioned workers' unwillingness to report abuse. Fear is a huge barrier to reporting. Reasons people do not want to report include fear of losing work, fear of coming to the attention of immigration authorities, cultural reasons (stigma), and belief that reporting won't achieve anything.

LEAG member Latin American Women Rights' Service (LAWRS), supported by over 30 UK and European academics and NGO representatives, launched the campaign *Step Up Migrant Women* to demand secure safe reporting mechanisms and work towards the establishment of a firewall at the levels of policy and practice to separate reporting of crime and access to support services from immigration control.⁷⁶ Their work shows that women with undocumented or insecure status are unable to report abuse and exploitation due to the vulnerability of their immigration status. LEAG has shown that unscrupulous employers often threaten workers with deportation if they complain about their working conditions and pay.⁷⁷

The UK government's 'hostile environment' policies and data sharing between government agencies and immigration enforcement are putting women workers at risk of exploitation. The lack of safe-reporting mechanisms creates a barrier for women workers seeking support and allows unscrupulous employers to get away with abusing their workforce.

⁷⁶ See <https://stepupmigrantwomen.org/>

⁷⁷ FLEX-LEAG, *Labour Compliance to Exploitation and the Abuses in-Between*, 2016. Available at: <http://www.labourexploitation.org/publications/labour-exploitation-advisory-group-leag-position-paper-labour-compliance-exploitation>

Case study: fear to report abuse

M works as a cleaner in a well-known high street fashion shop, employed through an agency. She says that the agency does not pay for holidays even though employees are entitled to paid holidays. The agency does not respond to any letters. M said that most of her colleagues are from Eastern Europe and afraid they will lose their jobs if they try to enforce their holiday pay.⁷⁸

Fear of disbelief and dismissal

During a roundtable with all UK labour inspectorates in March 2018, the Working Group raised that women workers are often discouraged from reporting sexual harassment and abuse at work for fear of backlash, including disbelief from managerial staff or even dismissal. Even if workers chose to report gender-based violence at work, they are often unsure which agency to contact due to the lack of a centralised national reporting mechanism.

Case study: sexual harassment at work led to dismissal

V works as a cleaner in a car park. She continuously had shifts where she was alone with a male colleague who sexually harassed her and performed lurid acts. She complained to the company but was told there was not enough evidence, even though she had eyewitnesses. The company offered to relocate her to a workplace 2 hours away from her home. Since she refused reallocation she was dismissed.⁷⁹

Question 4

Please indicate if in your country there is legislation on labour standards available and if so, please reference the specific provisions.

In UK law, there are various acts and regulations that set out the rights of workers. The most fundamental is the *Employment Rights Act 1996* which established the rights of employees, including the rights to have a statement of their working conditions, not to have unauthorised deductions of their wages, and to bring claims in the Employment Tribunal.⁸⁰ In addition to this Act, the *National Minimum Wage Act 1998* establishes that a person is entitled to the national minimum wage if they are a worker, who works or ordinarily works in the UK, and is above compulsory school age.⁸¹

The *Working Time Regulations 1998* create a number of specific rights regarding working hours and days off, which are enforceable by all workers.⁸² The *Health and Safety at Work Act 1974* establishes that employers have a duty to provide their employees with a safe working environment, appropriate job safety training, and protective equipment, where necessary.⁸³ The *Equality Act 2010* establishes that workers and employees cannot be subjected to unlawful discrimination in recruitment or during the course of employment⁸⁴.

⁷⁸ Case study provided by the East European Resource Centre

⁷⁹ Case study provided by the Latin American Women's Rights Service

⁸⁰ Employment Rights Act 1996, <http://www.legislation.gov.uk/ukpga/1996/18/contents>.

⁸¹ National Minimum Wage Act 1998, Section 1 <http://www.legislation.gov.uk/ukpga/1998/39/section/1>.

⁸² Working Time Regulations 1998, <http://www.legislation.gov.uk/uksi/1998/1833/contents/made>.

⁸³ Health and Safety at Work etc. Act 1974, <http://www.legislation.gov.uk/ukpga/1974/37>.

⁸⁴ Equality Act 2010, <http://www.legislation.gov.uk/ukpga/2010/15/contents>

These laws provide a number of rights that victims of trafficking for labour exploitation may seek to enforce against their traffickers, either in civil courts or in an employment tribunal.

Table: UK labour standards and modern slavery indicators⁸⁵

LAW/REGULATION	MODERN SLAVERY INDICATORS ²⁴
National Minimum Wage Act 1998; National Minimum Wage Regulations 2015	Low or no salary; wage manipulation; withholding of wages.
Gangmasters (Licensing) Act 2004; Gangmasters (Licensing Conditions) Rules 2009	Threat to impose worse working conditions; confiscation of documents; violence on victims; withholding of wages; isolation; bad living conditions.
Employment Rights Act 1996	No respect of labour laws or contract signed; No social protection; very bad working conditions.
Equality Act 2010	Violence on victims; Abuse of lack of education/information; Abuse of undocumented status; Threat of denunciation to authorities; confiscation of documents.
Employment Agencies Act 1973; The Conduct of Employment Agencies and Employment Businesses Regulations 2003	Debt Bondage; withholding of wages.
Health and Safety at Work etc. Act 1974; Management of Health and Safety at Work Regulations 1999	Hazardous work; very bad working conditions.
Working Time Regulations 1998; Maternity and Parental Leave Regulations 1999; Statutory Sick Pay Regulations 1982	Excessive working days or hours; withholding of wages.

⁸⁵ FLEX, *Combatting Labour Exploitation through Labour Inspection*, 2015, p.8. Available at: http://www.labourexploitation.org/sites/default/files/publications/FLEXImmBillBrief_I.pdf