All Party Parliamentary Group – Human Trafficking and Modern Slavery

GLA Briefing

January 2016
1. **Introduction**

1.1 The Chair and Chief Executive of the GLA appeared before the All Party Parliamentary Group, Human Trafficking and Modern Slavery, on 1 December 2015 and were requested to provide some supplementary information on the following topics:

(a) GLA Performance (section 2)

(b) Current trends of labour exploitation (section 3)

(c) Possible extension in GLA powers (section 4)

(d) Scope for GLA to be more effective:
   (i) at no extra cost (section 5)
   (ii) with modest increase in resources (section 6)

(e) Impact of additional resources (section 7)

(f) Alternative funding models for GLA (section 8)

(g) Use of victim compensation orders and Proceeds of Crime Act (section 9)

(h) Matters pertaining to the judiciary (section 10)

2. **GLA performance - Statistics and Trends**

2.1 The GLA is headquartered at Nottingham with half of its 69 staff home-based and working as Enforcement/Compliance officers investigating reports of exploitative practice in the agricultural and food sectors of the labour market. The Investigators are supported by an intelligence function through which staff are deployed on an ongoing assessment of risk, threat and potential harm to workers whilst also disrupting and pursuing those responsible for labour exploitation. In issuing and ‘policing’ its licensing regime, compliant businesses can flourish whilst irregular and abusive practice can be identified at an early stage thus preventing minor breaches from becoming grossly exploitative and also refuse or revoke those licences where modern slavery type issues are identified.

2.2 A summary of key GLA activity in the last two years shows that:

- 5,062 workers were protected from further exploitation
- Involvement in the rescue of 138 PVOT’s
- 42 organised crime groups identified/disrupted
- £6.8m Proceeds of Crime identified
- 27 persons convicted with a further 15 pending trial for 75 offences
- 200 compliance inspections and 200 application inspections
- 100 refusals/revocations
- There are currently 980 GLA licences in existence which seek to protect 500,000 to 700,000 workers
From April 2015 there has been an increase of 30% new licences issued from last year. 93% of members of the Association of Labour Providers (primary GLA trade body) agree the GLA licensing is necessary, which is supported by key stakeholders including British Retail Consortium, Ethical Trading Initiative, Major Retailers, and Trades Union Congress etc.

3 Current trends of labour exploitation

3.1 Analysis identifies that currently within the UK, and no doubt overseas, there are four key criminal ‘business models’ operating within the sphere of labour exploitation, all of which require a differing approach to prevention, protection, pursuance and preparedness.

3.2 The ‘Chancer’ starts as a legitimate business that seeks to adhere to regulation and legislation but over time then revert to irregular or exploitative practices which then, if unchecked, result in physical, financial and psychologically abusive behaviour towards workers. GLA licensing has proven to be effective as a preventative measure in the early identification of low level exploitation before it escalates.

3.3 The ‘Employer’ is that company or individual who sets out to supply products using forced or compulsory labour and other unscrupulous methods from the outset. This has been identified in parts of the apparel industry in the East Midlands (ETI report 2014) and most notably the Rana Plaza tragedy, Bangladesh, where over 1,100 people were killed.

3.4 The ‘Intermediary’ is that of a translator or representative of newly arrived non English speaking workers who present themselves to legitimate recruitment agencies acting as the friend to help them find work. Typically they will retain passports for ‘safekeeping’, control mobile phones and bank accounts as the only English speaker and access traditional supply chains through food processing, car washes, agriculture, warehousing. The ‘intermediary’ may have a network of tens of ‘workers’ in several supply chains in small numbers.

3.5 The ‘Organised Criminal’ will control a number of intermediaries across a number of legitimate supply chains and multiple locations across the UK, making identification of this type of offending more challenging.

3.6 Another key trend is the increase in bogus self-employment. Recent analysis shows there are 4.5 million self-employed persons in the UK. Carers, cleaners and cooks are amongst the self-employed occupations that have been expanding since 2009. Bogus self-employment occurs when workers are told they are self-employed when the legal tests would likely define them as employees.

3.7 Citizens Advice Bureau (CAB) has seen a steady increase in the numbers of people who are seeking advice because they have tried to take holiday, apply for benefits or vary their hours of work only to be told that they are not entitled to do any of these things as they are self-employed. This appears to be a growing but mostly hidden problem.
3.8 CAB suspects that one in ten of the people that they surveyed for the report are bogusly self-employed. This could translate into as many as 460,000 people nationwide, £592m in unpaid holiday pay and unpaid taxes of £314m annually.

4. **The possible extension and framing of additional powers**

4.1 The GLA can only prosecute for offences contrary to the requirements laid out in the Gangmasters (Licensing) Act 2004. All other crimes outside of the current GLA remit, both in terms of modern slavery offences and irregularities in other industry sectors, are referred onto other partner agencies for consideration of investigation.

4.2 Over the past decade, the profile of exploitation has changed dramatically presenting a more complex environment for the GLA. Serious and organised crime has always had the dynamic capacity and motivation to infiltrate legitimate labour supply chains inside and outside of the GLA’s regulated sectors with increasing numbers of gross abuse and enslavement of workers being uncovered. This rise in identified cases of exploitation can, in part, be attributed to an increase in reporting due to the Modern Slavery Act, positive presence of the GLA and the raised public awareness. Increased forced labour in the sectors regulated by the GLA requires the ability to directly investigate the forced or compulsory labour offence contained within the Modern Slavery Act 2015 (as other European Inspectorates).

4.3 To maximise the disruption of offenders, and minimise the threat risk and harm posed to victims and vulnerable workers, the following proposal to extend GLA powers were tabled in the recent Labour Market Enforcement public consultation:

- The ability to enter and search premises with a warrant authorised by a Justice of the Peace (under section 8 of the Police and Criminal Evidence Act (PACE))
- The power to enter premises to execute an arrest warrant or for the purpose of arresting someone for an indictable offence (under section 17 PACE)
- The power to search premises controlled by person under arrest (under section 18 PACE)
- The powers to search a person at time of arrest and, when a person is arrested for an indictable offence, to search premises in which person was immediately prior to arrest (section 32 PACE)
- The power to use reasonable force in exercise of PACE powers, (section 117 PACE)
- The ability to seize evidence and then sift through it under section 50 of the Criminal Justice and Police Act.

4.4 All these powers can be invoked by adding the Gangmasters Licensing Authority to the list of agencies to which PACE applies (or relevant legislation in Scotland and Northern Ireland).

4.6 The introduction of civil sanctions for non-compliance to enable appropriate non-compliant licence holders to be controlled by sanction rather than revocation is being considered within the Immigration Bill.
5. Additional impact at no extra cost

Pursue

5.1 The GLA has kept data since its inception in April 2006 and since 2006, 2,532 licences have been issued, 200 revoked, 176 refused, 253 appeals received and over 100 prosecutions. Had the proposed new offence of aggravated labour law breach and associated improvement notices been in existence when revoking and refusing licences, approximately 75% could have resulted in parallel criminal prosecutions for forced labour, fraud or other deception type offences.

5.2 Since 2010, there have been 83 GLA licence revocations. Upon review, again, 75% of those revocations contained elements of forced labour which were not pursued because the GLA has no power to bring about a prosecution for this offence but in the worst cases, despite working jointly with a police force, there was no prosecution.

5.3 In addition, since 2010, 261 warning letters for minor breaches have been issued, which may have constituted a prosecution or police style criminal caution.

5.4 By way of further indication in 2013-14 there were 20 licence revocations of which at least 15 could have been prosecuted for forced labour by GLA investigators if such legislation allowed. In the same period, there were 15 policing prosecutions for forced labour across the UK.

Protect

5.5 The GLA regulated sector, the trade associations and trade unions that operate within and also the wider supply chain advocate licensing as a proven crime prevention tool which detects minor irregularities and exploitative practices prior to them becoming widespread and thus preventing high volumes of grossly abused workers.

5.6 Securing the protection of the wider labour market could be considered through adopting a GLA type licensing scheme for those recruitment agencies who wish to be assessed against the GLA licensing standards – voluntary accreditation. This voluntary scheme would examine and test procedures and practices against a number of proven indicators including labour exploitation, modern slavery, health and safety, minimum wage etc.

5.7 Government approval, due process and public consultation would be required to implement voluntary accreditation but, by doing so, suppliers and retailers would have added assurance about their supply chain and those who did not engage may provide law enforcement with opportunities to establish if exploitation was a contributory factor.

5.8 A voluntary accreditation scheme, limited in the first instance to other high risk sectors, could be paid for by the industry itself. The high risk sectors include: construction, hospitality and catering, cleaning, care homes, car washes. The total cost to administer this function would be circa. £3 million.
Prevent

5.9 An alternative or addition to the above would be for a GLA model to be adopted internationally within and financed by the global food and retail supply chains that operate within the UK. This could be achieved by GLA officers, working alongside NCA international liaison officers, making visits to the retailers’ suppliers and conducting ‘compliance inspections’ ensuring there is no exploitation in that particular supply chain.

5.10 This would be a very effective way of validating an exploitation-free supply chain concerning goods into the UK paid for by the supply chain. Overseas inspection findings would enrich the global intelligence picture and assist international law enforcement. Evidence and sanctions would lie with the source country but the UK retailer may decide to review their contractual arrangements in light of the inspection findings. Initial projected costs to locate officers overseas would be circa £100,000 per liaison officer per year.

5.11 Other agencies, including the Food Standards Agency and Health and Safety Executive, charge for compliance inspections where adverse findings are determined. The GLA is exploring this concept, but also that the GLA could offer voluntary ‘without prejudice’ compliance inspections to willing businesses. There is a market for this and subject to policy agreement to charge for this service and retain the revenue, over time this would become self-financing and significantly reduce the opportunity for exploitative practices.

5.12 There appears to be industry appetite for the above concepts but would be subject to policy agreement to charge for this service and retain the revenue. Anyone or all of the above ideas would significantly reduce the opportunity for exploitative practices.

6. Extra impact with some investment

6.1 The GLA understands the nature and scale of labour exploitation in its own regulated sector which comprises a third of the UK temporary labour market, (the vast majority of which is minimum wage), and which is also a fifth of the entire UK minimum wage labour market.

6.2 Therefore, using these determinants as the baseline for labour exploitation, the following table estimates the projected number of organised crime groups operating within the UK labour market, profit being made and the number of victims involved. This table also assumes that the nature and scale of labour exploitation in the UK is based upon the widely accepted fact that wherever low skilled, low pay highly fluctuating demand for work exists there is a significant risk of labour exploitation allowing criminality to flourish.

<table>
<thead>
<tr>
<th>Sector</th>
<th>OCG’s</th>
<th>Profit</th>
<th>Victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>GLA sector</td>
<td>32</td>
<td>£32m</td>
<td>1,280</td>
</tr>
<tr>
<td>Total temp sector</td>
<td>96</td>
<td>£96m</td>
<td>3,072</td>
</tr>
<tr>
<td>Min wage sector</td>
<td>160</td>
<td>£175m</td>
<td>6,400</td>
</tr>
</tbody>
</table>
6.3 The end state to address exploitation in all its forms across the entire labour market would involve an enhanced GLA enforcement and intelligence capability at a total cost of circa 90 staff or £5.2m. This is an approximate figure and one which could be built up over time, with a reduced or phased financial approach still having a significant impact.

6.4 An incremental approach may involve funding to address high risk sectors only (agriculture, food processing, catering, cleaning, warehousing, social care, car washes, restaurants, construction, and renovation) and could be scaled accordingly. This would involve an investment of £2.61m and 44 staff. This resource injection could be phased in over two years (e.g. £1.3m 16-17 & 17-18) achieving optimum impact and output by April 2018.

6.5 The below chart identifies how some other overseas labour market enforcement agencies are resourced. Impact is measured by output, prosecutions and disruption to labour abuse and the remit of those illustrated is closely aligned to that of the new Authority with additional powers but no expanded licensing remit.

<table>
<thead>
<tr>
<th>Country</th>
<th>Resources</th>
<th>Budget</th>
<th>Generated for Exchequer 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Netherlands (SZW)</td>
<td>1,100</td>
<td>£70m</td>
<td>£300m</td>
</tr>
<tr>
<td>Belgium</td>
<td>300</td>
<td>£12.7m</td>
<td>£80m</td>
</tr>
<tr>
<td>Romania</td>
<td>2,402</td>
<td>£100m</td>
<td>N/K</td>
</tr>
<tr>
<td>Eire</td>
<td>105</td>
<td>£10m</td>
<td>£20m</td>
</tr>
</tbody>
</table>

6.6 The GLA works closely with the above Authorities and specifically the Netherlands who will take up presidency of the EU in January 2016 and wish to pioneer new ways of addressing modern slavery.

7. Impact of enhanced resourcing

7.1 Of the 214 GLA compliance inspections carried out in a two year period, 408 licensing standards breaches were uncovered which, when comparing these with the proposed new Immigration Bill offence of aggravated labour law breach (Agg. LLB), 201 offences would have been committed and a further 121 improvement notices could have been issued.

7.2 Hence, using a formula that assumes (conservatively) that exploitation outside of the regulated sector is at the very least at the same levels as within, the following projections of annual offending/prosecution could be deduced.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Workers</th>
<th>Modern Slavery</th>
<th>Agg. LLB/Imp N.</th>
</tr>
</thead>
<tbody>
<tr>
<td>GLA</td>
<td>0.5m</td>
<td>21</td>
<td>226</td>
</tr>
<tr>
<td>Total temp sector</td>
<td>1.6m</td>
<td>63</td>
<td>678</td>
</tr>
<tr>
<td>Total min wage sector</td>
<td>2.5m</td>
<td>105</td>
<td>1,130</td>
</tr>
</tbody>
</table>
8. Alternative funding models

8.1 GLA Licence fees are remitted to the Government. The GLA is funded by Government grant in aid and enforcement income from Home Office. Treasury rules permitting, all GLA licensing activity, could be funded by the regulated sector. Clearly a sterile corridor between enforcement activity and those being investigated would need to be created but rather than the recruitment agencies financing GLA activity which would create conflicts of interest, the wider supply chain, that of retailers and other bodies not within the GLA remit, have expressed an interest in doing so.

8.2 The GLA has already secured agreement in principle for private sector funding for an enhanced intelligence hub encapsulating the entire labour market (£300,000 per annum for 3 years) which could be implemented in advance of the inception of the LMEA. It is expected that this intelligence hub would be self-funded thereafter through the proceeds of crime. It is yet to be determined as to how such a budget increase could impact upon LMEA Immigration Bill proposals (which include the power of the GLA to investigate modern slavery across the entire labour market) as the scale and nature of overall labour exploitation is not yet established.

8.3 Such an increase would have a significant positive impact on legitimate business in the UK, directly creating much fairer competition for ethical companies and would assist to deliver the Prime Minister's mandate to address labour exploitation, illegal working and organised criminality.

8.4 The GLA brand is sought after and held in very high regard nationally and internationally. As such there is a ready market for training and awareness as to the symptoms of labour exploitation, how modern slavery can be identified and prevented. Accordingly a pilot with a major retailer has recently concluded where industry auditors and product technical managers received University accredited GLA training. Hence the organisations will enter into a formal ‘GLA/Derby University’ academy whereby the University will deliver the GLA approved training package, supplemented by continuous GLA validation of the training and officer input as required. Therefore the GLA retains control of the course material, generates full cost recovery but isn’t burdened by the administration.

8.5 Subsequently, approaches have been made by industry and local authority chief executives, law enforcement chief officers, senior leaders and investigators and NGO staff to train their staff to GLA standards. This could provide substantial income generation should the rules, applicable to Home Office Arm’s Length Bodies regarding managing public money, be relaxed.

9. The use of compensation orders and POCA in victim reparation

9.1 Upon conviction, being an unlicensed gangmaster carries a maximum term of imprisonment of 10 years. This is also a Proceeds of Crime Act lifestyle offence. The GLA has its own financial investigation function but also utilises the police asset recovery teams situated within the regional organised crime units (ROCU). There has been a rise in the proceeds of crime identified by the GLA for the last three years, £3m, £6.8m and £10m respectively however there remains a gulf between ‘identified’ and ‘realised’ assets. In addition, current Treasury rules dictate that the
realised assets should be divided equally between the court, CPS and law enforcement meaning that if £1m is realised, only £160,000 goes to the GLA as law enforcement must split its third of the total amongst the law enforcement agencies involved. If three or more police forces plus GLA, NCA, Immigration Enforcement etc. are involved the costs of administrating the realised assets can outweigh that recovered. It is suggested that consideration be given to reallocating the court proceeds to law enforcement as their part in the entire process is minimal.

9.2 The GLA has previously applied for compensation orders in 25% of its suitable prosecution cases but to date has not had such an order awarded. It is fact that the prosecution of offenders under GLA legislation, until the advent of the Modern Slavery Act, has not generally been seen as exploitative in nature and a number of inadequate sentences have been given.

10. Matters pertaining to the Judiciary

10.1 The GLA has seen some curious results in the magistrates, crown and corresponding courts in Northern Ireland and Scotland. With the exception of those cases heard in Crown Court in England, sentencing outcomes have been inconsistent, including absolute and conditional discharges for using an unlicensed gangmaster, a summary offence. Two particular examples are:

(i) a £500 fine imposed by a district Judge in Northern Ireland for being an unlicensed gangmaster which involved at least 18 workers from agencies in Romania and Bulgaria each being charged an unlawful ‘finding fee’ for their employment of between £300 and £500 each;

(ii) a Wiltshire-based recruitment consultant - who systematically exploited around 60 Filipino workers and illegally supplied them to dairy farms across the UK, received 12-months imprisonment suspended for two years for each of four counts of acting as an unlicensed gangmaster.

10.2 The Scottish and English Magistracy and Judiciary have declined to respond to offers to brief them regarding GLA type offences including modern slavery whilst Northern Ireland have formally declined the request citing ‘independence’ as the reason. The GLA is currently working with the Independent Anti-Slavery Commissioner to address this issue jointly and expeditiously.

20. Section 16 (or new legislation) could also be revised to ensure access to supply chain information. Access to information on supply chain companies, from the top down (i.e. supermarkets, and industry accreditation schemes) can assist the GLA in identified high risk activities (e.g. meat processing). By analysing supply chain information the GLA can proactively target areas and companies that have not come to their attention, filling an intelligence gap, and improving its knowledge of the extent of activity within its sector, and informing its assessment of the volume of companies that should be licensed, levels of workers, and extent of exploitation. This could be achieved by the provision of a statutory power to require information from supply chains by an expansion of the definition of “relevant person”.