



## REPORT: Forced Labour's Business Models and Supply Chains

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# FORCED LABOUR'S BUSINESS MODELS AND SUPPLY CHAINS

Jean Allain, Andrew Crane, Genevieve LeBaron and Laya Behbahani

**This report** demonstrates how businesses profit from forced labour. It considers the construction industry, the food sector and cannabis 'grow-ops' to demonstrate where and how their labour supply chains may be vulnerable to forced labour.

The United Kingdom is at the forefront in creating new responsibilities for businesses to ensure that their supply chains are free of forced labour. This report assists by examining vulnerabilities in hiring practices, social auditing and government policies. It maps how forced labour may find its way into legitimate supply chains.

The report demonstrates that:

- the UK economy creates a pool of people vulnerable to forced labour;
- forced labour in the UK is not hidden;
- informality and the informal market are associated with forced labour;
- within construction, food and the cannabis industries, sector-specific conditions create the possibility of forced labour.

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# CONTENTS

Executive summary	04
Introduction	07
1 Context of forced labour	13
2 Business models of forced labour	24
3 Supply chains and forced labour	39
4 Combating the business of forced labour	54
Conclusion and recommendations	63
References	68
Appendix A	72
Appendix B	73
Acknowledgements	75
About the authors	76
List of tables	
1 Food sector at a glance	20
2 Construction sector at a glance	21
3 Commercial cannabis at a glance	22
4 Current proposals to address forced labour in the UK	61
List of figures	
1 Proportion of workforce in temporary agency work in selected EU countries	17
2 From a dyadic to a triangular employment relationship	27
3 Business models of forced labour	29
4 From a triangular to a networked employment relationship	35
5 Simple product supply chain	40
6 Illustrative subcontractor product supply chain	41
7 Simple labour and product supply chains with forced labour by producer	45
8 Simple labour and product supply chains with forced labour by intermediary	45
9 Illustrative supply chains giving rise to forced labour in cannabis	46

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10 Illustrative supply chains with intermediaries giving rise to forced labour in the food industry	48
11 Illustrative supply chains with subcontractors plus intermediaries giving rise to forced labour in construction	50
12 Networked model with forced labour across food and construction supply chains	53
List of boxes	
1 The Connors case	08
2 Gangmasters Licensing Authority and the 'Red Tape Challenge'	14
3 Low Pay Commission – zero hours contracts	19
4 Homeless construction worker	30
5 Latvian farm worker	32
6 Worker subverts control	36
7 Making money from ancillary services	37
8 The Swedish Derogation	44
9 Vietnamese gardeners and the cannabis supply chain	47
10 Exploitation by construction subcontractors	51
11 Challenges to policing forced labour	55
12 Forced labour in a food warehouse	59

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# EXECUTIVE SUMMARY

In spite of growing awareness of forced labour within the United Kingdom (UK), there remains a need for a better understanding of the business dynamics that surround and underpin forced labour. This report analyses the cost structures, forms of organisation, and revenue streams that facilitate forced labour, as well as the business pressures and processes that give rise to it. Focusing on the sectors of commercial cannabis cultivation, construction and food, this report develops a conceptual model of the business of forced labour to deepen our understanding of its *modus operandi*, expanding knowledge about how the use of forced labour allows businesses to turn a profit.

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## Vulnerability to forced labour

- There are broad structural conditions that give rise to vulnerabilities that can be exploited. These include immigration status, and forms of labour market inequality and immobility rooted in the government's light-touch regulation of business.
- Vulnerability to forced labour is not an inherent quality of the person subjected to it, but rather is rooted in structural vulnerabilities established within the UK economy. These result in denying effective protection of workers' rights, particularly at the lower rungs of the labour market.
- There are also specific sector conditions that give rise to a context fertile for forced labour and exploitation. These include illegality of product (cannabis), volatility and self-regulation of labour providers (construction) and seasonality (food).

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## Business models of forced labour

- Forced labour will only be used when it makes business sense to do so.
- There are two broad types of businesses conducting forced labour: direct, private producers and intermediaries (e.g. labour agencies). These businesses will exhibit various degrees of informality.
- Businesses make money from forced labour in one of two main ways: either using it to minimise costs and/or to generate additional revenue.
- There are two main ways in which costs are reduced: minimising labour costs, and minimising risks.
- There are also two main ways in which revenue is generated: by charging for ancillary services and/or theft of benefits.
- These features give rise to four broad business models of forced labour: cost-minimising producer; revenue-generating producer; cost-minimising intermediary; and revenue-generating intermediary.

## Labour and product supply chains

- To understand the business dynamics at play, we also need to understand how these perpetrators are linked with other business actors through the supply chain.
- Understanding forced labour in the context of supply chains helps us map the relationships between relevant economic actors.
- Focusing on supply chains also assists in identifying where and how the formal business sector intersects with the informal sector, the locus of forced labour.
- Forced labour in the UK is almost always associated with some degree of informality, whether it is associated with producers or intermediaries, in product supply chains or in labour supply chains.
- The product and supply chains involved in forced labour in the UK illustrate the way in which informality becomes the gateway to forced labour.

## Combating the business of forced labour

- As awareness of forced labour in the UK has grown, various systems have been developed to combat the business of forced labour.
- The three most prominent interventions designed to identify or disrupt forced labour are regulatory enforcement, licensing of labour providers and social auditing.
- Our research suggests that these current approaches are limited in their effectiveness at preventing, detecting, and prosecuting forced labour.

## Conclusions and recommendations

- While it is often considered that forced labour is hidden, our research demonstrates that there are links to the formal economy through supply or labour chains.
- While product supply chains in the UK are relatively short, labour supply chains have a greater propensity to become complex. This complexity allows forced labour to thrive.

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- The complexity in labour supply chains is most evident in time-sensitive situations, such as agricultural harvest or looming construction deadlines.
  - Recognising that our recommendations encompass possible trade-offs, and challenge freedoms normally associated with 'doing business', we recommend that:
    - the government take the lead in regulating forced labour out of the market by establishing a multi-stakeholder action plan (MSAP) and putting in place a UK-wide advisory panel to better coordinate activities, including the implementation of MSAP;
    - forced labour is disrupted by targeting interventions within both the formal and informal economies. Interventions should recognise that forced labour is not hidden, and that somewhere along the supply chain informality intersects with the formal economy;
    - the cost of recruiting vulnerable people into forced labour be priced out of the market. That the government put in place the legislation and support the mechanisms in place, which can eliminate the structural elements of the UK economy that allow for forced labour and labour exploitation;
    - the cost of work force flexibility be borne by the producers (such as farmers, factory owners and construction companies) who ultimately make use of flexible labour. Rates paid to labour providers by companies must include an accurate account of the costs within the formal economy of recruiting and retaining a flexible workforce;
    - intermediaries be held accountable for the introduction of sub-contracted labour into supply chains where the costs of flexibility have been borne by producers. Intermediaries should include appropriate awareness raising and training of labour providers by companies, as well as incentives for compliance;
    - intermediaries in the supply chain of labour at or near the national minimum wage are regulated. The mandate of a Gangmasters Licensing Authority (GLA)-like regulator should thus be extended to other industries at risk, starting with construction;
    - regulatory oversight over audit firms is instituted; a professional body to ensure standards throughout the industry is established; and a widely accepted, publicly available professional code of conduct is developed;
    - social audit firms are required to share data on incidences of suspected exploitation or criminality with other interested parties, including other auditors, their clients and the police. A watch-list of high risk producers and labour market intermediaries should be established;
    - in cases of cannabis-growing operations, law enforcement agencies and prosecutors recognise that gardeners may be in situations of forced labour and thus treated in the first instances as victims.

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# INTRODUCTION

There continues to be a growing awareness within the United Kingdom (UK) that workers are being subjected to forced labour. This is made most evident by the criminalising of forced labour, by a number of recent studies that have identified forced labour in various sectors of the UK economy, and by the increasing number of people identified by the Serious Organised Crime Agency (the predecessor of current National Crime Agency) as potential victims of trafficking for labour exploitation (National Crime Agency, 2012, 2013). In spite of this growing awareness, there remains a need for a better understanding of the business dynamics that surround and underpin forced labour.

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While a great deal of attention has rightly been paid to the experiences of victims of forced labour, and to the role and dynamics of the criminal justice system, very little thought has gone into considering the mechanisms of profitability of forced labour, or the way in which people actually make money from it. Addressing this gap, this Report analyses the cost structures, forms of organisation, and revenue streams that facilitate forced labour, as well as the business pressures and processes that give rise to it. The Report develops a conceptual model of the business of forced labour to deepen our understanding of its *modus operandi*, expanding our knowledge about how the use of forced labour allows businesses to make a profit.

The first successful prosecution of individuals for compelling forced labour under Section 71 of the Coroners and Justice Act 2009 (*Connors and Ors v. R.* (2013)) clearly demonstrates that an individual's vulnerabilities may be taken advantage of when demanding work which is exploitative. Our findings suggest that such vulnerabilities are not inherent qualities of the person, but rather are rooted in structural vulnerabilities established within the UK economy. These have been taken advantage of so as to exploit workers and,



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in some cases, to exact forced labour from them. Significantly, vulnerabilities to forced labour and exploitation are dynamic and result in denying effective protection of workers' rights at the margins of the UK economy.

### **Box 1: The Connors case**

Five members of the Connors family were convicted of conspiracy to require a person to perform forced or compulsory labour in December 2012. The Connors family ran a business that involved paving, tarmacking, and roofing. The Court found that over a 20 year period, the Connors family travelled throughout England and Scotland and picked up men who were 'down and out' – either homeless or addicted to alcohol or both – to work for them as labourers and moved them around the country. The workers were often enticed by the offer of free accommodation and food. The workers were paid as little as five pounds a day for hard labour, and were subjected to violent punishment and discipline. The judge observed that “the exploitation of vulnerable men through forced labour” had brought the family “rich financial rewards” including a Rolls Royce and many other luxury vehicles, and millions of pounds in property.

Source: *Connors and Ors v. R.* (2013)

In particular, our study demonstrates that these structural vulnerabilities result from a UK economy which emphasises a light-touch, employer-friendly regulatory framework in which to do business; the use of agency workers; varying employment status set by immigration policy; and sector specific attributes which create a precarious segment of the workforce that is open to exploitation and, more seriously, forced labour.

## **Scope and approach**

This consideration of forced labour from a business perspective takes place within the context of a number of studies commissioned by the Joseph Rowntree Foundation (JRF) which have both provided evidence of forced labour in the UK and considered its underlying causes. Building on these studies, consideration turns to conceptualising, from a business perspective, how and why forced labour emerges and is sustained within UK based businesses. Although we have developed our analysis in relation to three industries – commercial cannabis grow-ops (growing operations), construction, and food – we see no reason why the business models included in this Report are not applicable in other contexts in the UK.

To develop and explain the relevant business approaches to forced labour, we present a framework for delineating the business models that enable different types of perpetrators to make money from forced labour. We then consider the relevant supply chains that feed into these business models. We distinguish between and document the intersections of two types of supply chains: those of *products* and *labour*. In the first instance, an understanding of product supply chains – i.e. the stages of economic activity that are involved in transforming raw material into finished goods – enable us to determine the amount of value that can be captured at any particular

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stage. In the second case, a specification of the labour supply chains helps us to understand the dynamics that enable exploitation and the capturing of value from workers, and minimise the threat of detection or disruption from outsiders.

In this way, this business perspective allows for the identification of fundamental features of forced labour to come to the fore, commonalities with regard to who might employ forced labour, how an organisation makes money from forced labour, and where, along the supply chains of production and labour, forced labour might emerge or become prevalent.

The findings were developed through research conducted on three economic sectors where forced labour had previously been identified. Thus the organisational structures of illegal, commercial cannabis grow-ops were considered against the backdrop of an exponential increase, between 2007 and 2010, in the number of arrests and prosecutions of ‘growers’ in combination with claims of trafficking of Vietnamese children and adults who had been locked into urban houses and required to tend commercial cannabis plants.

Food processing and agriculture were examined in the light of a number of reports into exploitative practices and claims of forced labour which prompted the creation of the Gangmasters Licensing Authority so as to oversee standards in the farming, food processing and shellfish sectors.

Finally, the construction industry was selected as a result of a number of factors, including a growing awareness of exploitative practices; its being a sector that has developed a self-regulatory system and thus avoided governmental oversight; and the suggestion in previous reports that exploitative labour providers were seeking to migrate from other sectors, including food.

This first stage of the research involved sector specific secondary data collection and analysis and the development of a basic conceptual framework based on published sources, including court documents and cases, newspaper articles, academic studies, and business and governmental reports.

The second stage involved more than 30 stakeholder interviews conducted in March 2013 with those actively engaged in the issue of forced labour both generally and more specifically with regard to the commercial cannabis cultivation, construction, or food sectors. The collected data was in part analysed using NVivo (a qualitative data analysis software designed to examine large volumes of data), resulting in the development of our key frameworks and findings. These findings were then introduced and discussed at a round-table held at the JRF offices in London in April 2013, leading to a final round of refinement and revision. See Appendix A for a full description of the methodology and Appendix B for details of sources and participants in the research.

## Definitional issues

A number of terms utilised in this Report require some introductory remarks to provide clarity to the concepts and precision to the language used.

### Forced labour

The Coroners and Justice Act 2009 for the first time criminalised the compelling of forced labour in the UK. That Act notes that forced labour should be construed in accordance with the provisions relating to forced labour found in the European Human Rights Convention (see Section 72(2) Coroners and Justice Act 2009: [www.legislation.gov.uk/ukpga/2009/25/](http://www.legislation.gov.uk/ukpga/2009/25/)

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[pdfs/ukpga\\_20090025\\_en.pdf](#)). For its part, the European Court of Human Rights has used as its starting point for interpreting forced labour the definition established in the International Labour Organisation's (ILO's) 1930 Forced Labour Convention:

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

The European Court has only considered the issue of forced labour a handful of times, but has noted that such labour 'brings to mind the idea of physical or mental constraint' (see *Siliadin v. France* (2005), para 117). In essence forced labour requires two elements, the first is that workers face the menace of a penalty and the second is that they have not offered themselves voluntarily for the work undertaken. The Court has said in the *CN and V v. France* (2013) that the notion of a penalty should be interpreted broadly to include the 'loss of rights and privileges', but also in 'its most extreme form involves physical violence or restraint, or even death threats addressed to the victim or relatives'. Beyond this, the European Court notes that there 'can also be subtler forms of menace, sometimes of a psychological nature', including 'threats to denounce victims to the police or immigration authorities'. Where the issue of voluntariness is concerned, the Court has had little to say, but for an evidentiary ascertaining as to whether consent was sought or given to the work undertaken.

In the UK context, the relatively short period of time since the coming into force of the Coroners and Justice Act 2009 means that there remains a long arc of activity which might be criminalised under the heading of forced labour. This could stretch from an agricultural worker being threatened with redundancy for failing to accept less than the minimum wage all the way to a case of slave labour taking place against a backdrop of violence. The European Court provides guidance as to where to draw that line as to violations of its provisions, making reference to cases that would fail to meet the threshold of forced labour where the burden was not 'excessive or disproportionate to the advantages attached to the labour undertaken' (*Van der Musselle v. Belgium* (1983)).

Beyond those elements specific to forced labour, the requirement for the UK to follow the lead of the European Court of Human Rights means that there are positive obligations on the Government to ensure that an effective system is in place to maintain the prohibition against forced labour (*Siliadin v. France* (2005); and *Rantsev v. Cyprus and Russia* (2010)). As a result, law enforcement agencies must investigate allegations and the Office of the Public Prosecutor must pursue cases where the evidence points to the use of forced labour (*OOO and others v. Commissioner of Police for the Metropolis* (2011)). Such positive obligations, however, go beyond the criminal justice system and require the UK to have legislation in place to effectively address situations of forced labour, be it through criminal, civil, or employment law.

## Exploitation

The term 'exploitation' lacks a legal definition. However, it has gained currency as one of the three elements required to constitute the crime of trafficking in persons. The United Nations and European Conventions (United Nations, 2000; Council of Europe Convention, 2005) establish that trafficking is present where a person is moved, without their consent, 'for the purposes of exploitation'. These conventions do not define exploitation, instead they provide examples, such as forced labour, servitude, and slavery.

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While exploitation should be understood as being categorical rather than definitional, it should be emphasised that the possible types of exploitation were set out in an open-ended manner which has allowed countries to introduce other activities under the banner of 'exploitation'. In 2013, the UK became party to the EU Directive on trafficking that establishes that exploitation for the purpose of trafficking also includes begging and 'the exploitation of criminal activities' (European Union Directive, 2011).

For the purposes of this Report, exploitation is understood as taking unfair advantage of another person in a work situation, where the element of 'unfairness' is established against a benchmark established in law (Allain, 2013). Thus, a person will be exploited where they have been taken unfair advantage of by another person acting unlawfully – be it by reference to criminal, human rights or employment law – for example by deducting unlawful charges from a payslip or demanding hours of work in excess of what is legally prescribed. The reverse is also true, that an employer who is acting lawfully is not exploiting his or her employee. Where exploitation is concerned, there exists a continuum ranging from decent work to severe exploitation, characterised by distinctive forms and degrees of immobility, devaluation, and coercion (Skrivankova, 2010; LeBaron and Ayers 2013). Where exploitation in this grey area grows darker still is where it becomes, in law, forced labour.

### Informality

It is in the grey area of informal work where forced labour can emerge. The line to be drawn between formal and informal work is the legal threshold. Formal employment requires respect for the ILO standards of decent work which have been translated into UK law, that is to say: workers' rights touching on minimum wage, legal deductions, hours worked, and health and safety standards. Where a working relationship, be it direct or through an intermediary, circumvents employment law or other legal obligations, such as tax and immigration requirements, the work is deemed, for this Report, to be informal.

This informal working relationship should not be confused with the informal economy, as in numerous cases informal working relationships exist within the formal economy. A construction site may include not only full-time workers, but also part-time, and casual workers. Within the casual workforce, some workers may have a formal working relationship with a subcontractor, while others may find themselves in an informal working relationship, thus open to exploitation, or worse, forced labour.

Within the sectors considered for this Report, informal agents and informal labour are often present within the business models of forced labour. That said, it must be acknowledged, as Phillips notes, that employment in the informal sector 'cannot be taken always and necessarily to be synonymous with an idea of 'un-decent' work and exploitative labour relations' (Phillips, 2011). At the same time, it is important to recognise that not all informal agents or organisations are criminal, and not all criminal activity is conducted by informal agents or organisations. Thus, while there is a need to conceptualise informality as a crucial part of the ways that supply chains are organised and forced labour takes place, informal activity and agents should not be assumed always to be the rotten part of the supply chain.

While informality is a necessary condition for forced labour, much informality does not lead to forced labour. Similarly, forced labour always intersects somewhere with formality, but most formality is not associated with forced labour. The informal sector constitutes a significant part of the

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UK economy of which, our research suggests, certain forms of informality are intentionally cultivated by businesses.

### Regulatory framework

The UK's regulatory framework should be understood in a rather expansive manner, as the rules of governance in place, manifest in both hard and/or soft law, which affect a given situation.

Thus, with regard to work, the UK regulatory framework includes UK employment law, but includes in any specific situations other forms of regulation, such as further legal obligations (immigration, European or international law – including human rights and international labour standards – whether or not they are incorporated into UK law), as well as the powers of regulatory agencies, and their standards and guidelines.

Furthermore, in this Report, the UK regulatory framework should be understood as denoting the governance of a situation in real terms, rather than those prescribed. In other words, the extent to which legal obligations and other standards are actually respected and enforced in the breach.

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# 1 CONTEXT OF FORCED LABOUR

Since 2009, JRF has undertaken a significant number of studies related to forced labour in the UK. These studies reveal that forced labour is not only the product of individuals taking advantage of the vulnerability of others so as to extract material gain, but that the underlying causes are the result of structural elements of the regulatory framework, which often create the very vulnerabilities that place people at risk of being victims of forced labour.

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While the UK has a well-developed regulatory framework regarding employment, employment law historically exhibits the countervailing tendencies towards regulating in detail the activities of trade unions and employees, while limiting and reducing regulation and oversight of employers.

This limitation of employer oversight is most evident with regard to the lack of an overall system of workplace inspection. While the UK is formally party to the 1947 ILO Labour Inspection Convention (ILO, 1947), its undertakings do not reflect its spirit, as that instrument was meant to allow labour inspectors to play a much larger role in the oversight of conditions of employment such as hours, wages, and welfare of workers. Instead, the only general labour inspectorate in the UK is the Health and Safety Executive, which is limited to ensuring that health and safety standards are enforced in the workplace. Beyond this, the system meant to protect rights of workers has 'become increasingly complex and atomised' wherein HMRC, the Department for Environment, Food and Rural Affairs, the Employment Agency Standards Inspectorate, and the Gangmasters Licensing Authority all have limited, sector and/or employment rights specific, mandates (Balch, 2012).

The lack of commitment to enforcement within a UK regulatory framework can be seen with regard to the national minimum wage, where no prosecutions have taken place since June 2010 and, despite the introduction

of a policy from 1 January 2011 to 'name and shame' violators who disregard the minimum wage, only one person has been so named, a situation that the Low Pay Commission deems 'very disappointing' (Low Pay Commission, 2013).

### **Box 2: Gangmasters Licensing Authority and the 'Red Tape Challenge'**

While there have been calls for the Gangmasters Licensing Authority (GLA) type organisation to regulate intermediary or labour providers in all sectors of the economy, consultations in 2011 and 2013 regarding the mandate of the GLA are taking place as a result of the 'Red Tape Challenge', which seek to reduce regulation, as this makes 'it difficult for business to create new jobs'.

Among areas of focus, the Challenge specifically targets compliance and enforcement. The consultation is skewed toward deregulation. Beyond asking as a last alternative whether the inspections systems should be left as they are, the other alternatives emphasise less to no oversight over employment conditions. Thus, feedback is requested on the following basis:

These regulations relate to government's direct enforcement of employment rights, including the national minimum wage, 48 hour working week and employing agency workers... .

Tell us what you think should happen to these regulations and why, being specific where possible:

- Should we scrap them altogether?
- Could their purpose be achieved in a non-regulatory way (e.g. through a voluntary code?) How?
- Could they be reformed, simplified or merged? How?
- Can we reduce their bureaucracy through better implementation? How?
- Can we make their enforcement less burdensome? How?
- Should they be left as they are?

([www.redtapechallenge.cabinetoffice.gov.uk/](http://www.redtapechallenge.cabinetoffice.gov.uk/))

As a result of the Red Tape Challenge, GLA is poised to lose certain areas from the remit and the licensing system is meant to be improved 'in a manner that reduces the costs and burdens for the applicants' (DEFRA, 2013).

Our research indicates that the GLA is moving towards a 'soft-touch' enforcement regime with more emphasis on education rather than sanction.

### **Issues of exploitation of workers result from vulnerabilities**

People's vulnerability is often a manifestation of larger societal issues, such as poverty, drug abuse or social exclusion. This is made plain in the only conviction to date on charges of forced labour under the Coroners and Justice Act 2009, where the Lord Chief Justice of England and Wales noted that the perpetrator in the Connors case had:

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helped to persuade, cajole and bully vulnerable men to join their small work force ... They were chosen deliberately. Usually they were homeless, addicted to alcohol, friendless and isolated, and for one reason or another, or more than one reason, effectively 'down and out' ...  
*Connors and Ors v. R. (2013)*

The Connors case relates to the type of vulnerabilities often seen in situations of exploitation and forced labour, yet our research indicates that the vulnerabilities which are taken advantage of most often are, in the main, the result of structural elements within the UK regulatory framework which create a precarious workforce that, in its darkest forms, allows for forced labour.

The precariousness of workers in the UK is most evident at or near the national minimum wage, and is rooted in market forces created by the dynamics of globalisation and a constant pressure to reduce production costs, which have reshaped the bottom rungs of the labour market (Lalani and Metcalf, 2012).

### Globalisation

Globalisation, as it has impacted on the supply chains of both product and labour, has dramatically transformed international divisions of labour, and the nature and availability of employment in many countries. While globalisation has provided millions with decent work, unemployment and job insecurity at the lower end of the economy have also increased in many countries, resulting in working terms and conditions deteriorating for large swathes of the world population (ILO, 2009).

The creation of this structural labour market imbalance has meant that certain groups face high levels of exclusion from formal labour markets. Over one billion people – disproportionately women and people from ethnic minorities – are concentrated in informal labour market activities strongly correlated with the 'expansion of particular kinds of labour relations premised on enhancing the vulnerability, flexibility, and disposability of workers' (Phillips, 2011). The ILO estimates that up to 75 per cent of employment in the global South is now informal, while up to 30 per cent of employment in the US and Europe is now 'non-standard' (ILO, 2002). Importantly, while globalisation has meant the removal of restrictions on the movement of capital and goods, the labour market mobility of large segments of the global population has been severely constricted (Dauvergne, 2008; Fudge and MacPhail, 2009).

The expansion of informal labour, high levels of unemployment in many countries, and restrictions on access to labour markets in Europe and elsewhere have created a large and growing population lacking a viable and secure means of subsistence. These broad structural conditions give rise to vulnerabilities that can be exploited, creating a ready supply of workers that can be subjected to forced labour.

As Europe has increasingly restricted unskilled workers' access to its labour markets – granting only relatively small numbers of unskilled workers temporary access through foreign migrant work programmes – many have attempted to migrate through irregular channels and ended up vulnerable to being trafficked and exploited through debt bondage or forced labour. Others, including a large number of the cases covered by our study, enter and work in the UK legally, but either are made to believe they are illegal by their employer, or become vulnerable due to restrictions placed on their right to work. That vulnerability is compounded by issues of language, social



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exclusion and isolation, and cultural differences, which often accompany migrant labour.

Poverty, unemployment, and restrictions on access to remunerative labour markets combine to create systemic vulnerability to labour exploitation among certain sectors of the population. As one of our informants, David Arkless of Manpower Group stated, the “under-class that we have inadvertently developed through globalisation and the global economy, and exacerbated by the recession, is an ideal target market for illegal use of labour, the illegal movement of labour, the trafficking of people”.

Beyond the overarching dynamics caused by globalisation, two structural elements of the UK regulatory framework have created a space in which individuals can be exploited in the workplace and become susceptible to forced labour. These are immigration policies and the growth of labour market intermediaries, particularly labour providers. It has been noted that:

The UK labour market has been trumpeted by some as the ‘free-est in Europe’ with job creation facilitated by immigration policies and the largest temporary agency sector in Europe. However, as the work of the Gangmasters Licensing Authority and others has shown, groups vulnerable to exploitation in the UK labour market, and therefore at risk of forced labour, are often immigrants and/or agency workers. Evidence suggests that these groups are often over-represented in economic sectors characterised by poor working conditions and a lower level of protection in terms of employment rights  
Balch, 2012

### Migrant workers status

A fundamental gap in the regulatory framework emerges from immigration policy which creates structural vulnerabilities. That is to say, that the governance of immigration in the UK is such that the various laws which are in place and the manner in which they are enforced create a precariousness for those following many of the different routes of migration into the UK. These vulnerabilities can then be taken advantage of to exploit a working relationship. Such structural vulnerabilities created by immigration policy, such as restrictions on work or access to benefits, establish a pool of workers often destined for the informal sector as a result of government policy which restricts or excludes them from playing an active and full role in society. The situation of migrant workers in the UK is governed by their immigration status, which allows free movement of EU workers, while, for instance, ‘simultaneously promoting the destitution’ of asylum seekers and others by removing their right to work (Dwyer *et al.*, 2011). Beyond those seeking refugee status and asylum, further examples of immigration policies which create structural vulnerabilities are those which have been applied to nationals of Central and Eastern Europe during the various waves of EU accession, and with regard to seasonal agricultural workers.

For nationals of Eastern and Central European States whose countries joined the European Union, transitional provisions were established wherein the UK limited access to public welfare. It is clear that during these transition phases – the first having ended in April 2011, the second, related to Bulgarians and Romanians, ended in December 2013 – these nationals were the main targets of exploitative practices. The vulnerability caused by the registration system imposed on nationals from these accession countries include the requirements to be bound to one employer for a year, and to hand over documents for registration; and the inability to access welfare if there was a failure to register, to stay with the same employer for 12 months

as a result of unemployment, or if there was a change of employer (Dwyer *et al.*, 2011).

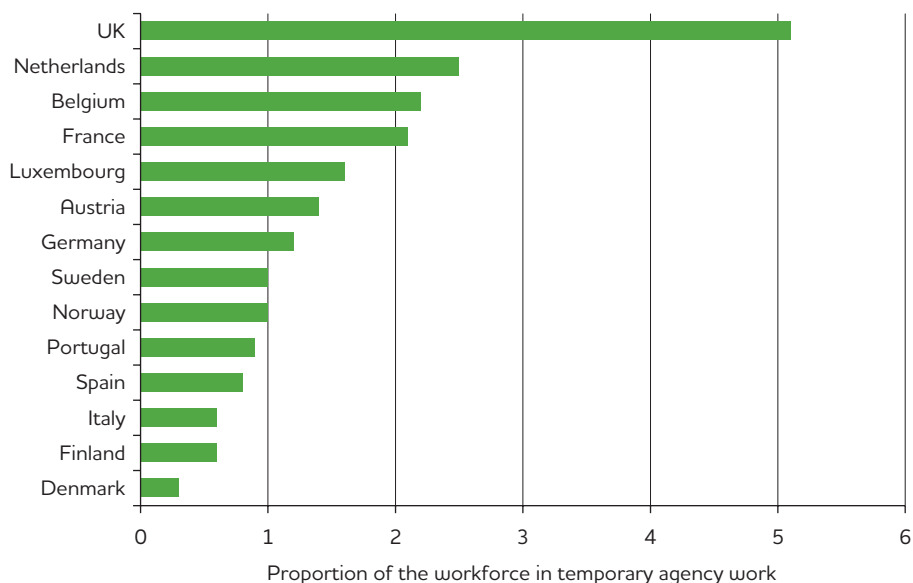
With regard to foreign agricultural workers, the Seasonal Agricultural Workers Scheme (SAWS) creates a structural vulnerability by tying workers to one employer. The SAWS workers are open to the possibility of exploitation at the hands of an unscrupulous employer, as their only recourse in cases of employer abuse is, in leaving employment, to leave the UK, as being illegal.

The context in which structural vulnerabilities associated with immigration status transpire must be understood in the light of the limited obligations which the UK has undertaken, as it has forgone the possibility of becoming party to treaties that would protect the rights of foreign workers such as the 1975 ILO Migrant Workers (Supplementary Provisions) Convention, the 1990 UN Convention on the Protection of the Rights of Migrant Workers, the 1996 revised European Social Charter and the 2011 ILO Domestic Workers Convention. The structural vulnerability of foreign workers in the UK was made most evident by the 2011 conclusions of the European Committee of Social Rights. The Committee found that the UK was not in conformity with its rather limited obligations under the now dated 1961 European Social Charter in extending protection and assistance to foreign workers with regard to 'remuneration and other employment and working conditions' in the same manner applicable to UK nationals (European Committee of Social Rights, 2011). For its part, a 2011 JRF Report concluded that immigration policy 'plays a key role in increasing the vulnerability of migrants to forced labour when their basic rights are compromised or nonexistent' (Dwyer *et al.*, 2011).

### Labour market intermediaries

A further element of the UK regulatory framework which creates structural vulnerability is related to the light-touch regulation of business which has encouraged the growth of third party labour providers. The UK has the largest agency sector in the EU (Gallagher and O'Leary, 2007), with more than double the number of agency workers compared with the second

**Figure 1: Proportion of workforce in temporary agency work in selected EU countries**



Source: Arrowsmith (2006)

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largest market. The UK agency sector is also one of the most fragmented, 'with a significant proportion of small, local operators ... supplying mainly low-status workers as well as a few international operators supplying both high- and low-status workers' (Balch and Scott, 2011).

The growth of agencies has been driven by the wish of producers to increase flexibility and reduce their labour costs. The use of agencies lowers labour costs by allowing producers to pay only hourly rates for workers and, in so doing, reduces their obligation to pay other costs normally associated with the standard employment relationship, such as pension and national insurance contributions. Neal Evans from the trade union Unite described the appeal of labour agencies for large-scale construction contractors:

First of all because their workflow will fluctuate, and second, because there is an add-on cost in terms of tax and national insurance contributions, which the employer can get around by approaching an agency and asking the agency, on a particular project, to supply fifty electricians or twenty scaffolders, or whatever the occupation is. Then they will pay the agency a fixed hourly rate for the worker, which may be more or less than what the collective agreement stipulates, but it is still cheaper for the contractor because they do not have the pension cost, the national insurance, tax, and all the costs that go along with employing people directly.

As noted in this Report, the uneven power relations between producers and smaller labour agencies is a key factor in shaping agency workers' vulnerability. Labour market intermediaries have faced a challenging economic environment during the recession, seeing revenue decline annually in the past five years (IBISWorld, 2012). So in situations where, for instance, large producers are placing continuous pressure on intermediaries by tendering contracts at or near the national minimum wage, this means that intermediaries are being placed in a position where they must exploit their workforce if they are to make a profit. In such cases, some 'agencies have then used unfair deduction schemes for accommodation and transport to reduce costs further while the most unscrupulous will hold their workers in situations of forced labour' (Lalani and Metcalf, 2012).

Where low-skilled work is required in time sensitive situations or in volatile industries, the need for additional workers generally means that labour agencies will fill the gap. Where there is high demand for labour within a short period of time, the labour supply chain will be extended, with subcontracting being the norm. Within this context, where intermediaries are charging costs for their services, when the amount of subcontracting creates a deeper labour supply chain beyond the knowledge of the principal contractor, the risks of exploitation escalate. Thus, the use of employment finder fees, zero hour contracts, excessive productivity targets, compulsory overtime, work on demand, payment of less than minimum wages, and bogus deductions have all been part of the landscape of exploitation at the hands of intermediaries (Kagan *et al.*, 2011; Lalani and Metcalf, 2012; Scott *et al.*, 2012).

The UK regulatory framework – the space in which working relationships are forged – has evolved so as to prescribe a limited number of rights to workers. These have then been circumscribed so as to apply rather narrowly. The result is the creation of a number of structural vulnerabilities which place

### Box 3: Low Pay Commission – zero hours contracts

The term ‘zero hours contract’ does not have a statutory definition. It refers to an arrangement where the worker’s contract does not specify hours that they are required to work, but – within parameters which may vary according to the contract – they must be ready to work when asked by the employer.

Our sense from visits around the UK, from oral evidence sessions and from comment in the media was that there was increasing use of zero hours contracts. This was supported by official data which showed that from the end of 2007 to the end of 2011 the total number of workers on zero hours contracts increased by 10.8 per cent across the whole economy to 152,000. In the low-paying sectors the number of workers on zero hours contracts rose by 38.4 per cent, driven by large increases in hospitality, social care and leisure.

Workers expressed concerns to us that uncertainty about income and time commitments made it difficult to budget or to arrange childcare. It also made for difficulty in committing to any other employment. We heard on our visits how zero hours contracts can cause severe problems for workers who are also entitled to benefits, given the unpredictability of hours and income and the risk that benefits calculations will be based on over-optimistic assumptions about average income.

Employers told us that zero hours contracts were an important and necessary tool for some sorts of employer, and that some workers valued their flexibility.

Low Pay Commission (2013) *National Minimum Wage*. [www.lowpay.gov.uk/lowpay/report/pdf/9305-BIS-Low\\_Pay-Accessible6.pdf](http://www.lowpay.gov.uk/lowpay/report/pdf/9305-BIS-Low_Pay-Accessible6.pdf)

For its part, the Chartered Institute of Personnel and Development made international news in August when it reported that the research it had carried out suggested that “there could be more than a million zero hour workers in the UK” (Chartered Institute of Personnel and Development, 2013).

workers in a precarious position, open to exploitation and even forced labour. These structural vulnerabilities, not inherent in the individual but created by the UK regulatory framework, allow, for instance, for university graduates to find themselves in a situation of forced labour, not because they are ‘down and out’, but simply because they are migrant workers with limited rights to work in the UK. When these structural vulnerabilities are then mapped onto issues of gender, race, ethnicity, language, and lack of familiarity with life in the UK or its employment framework, they further loosen the safety net that would ordinarily protect individuals from exploitation.

### Sector specific vulnerabilities

In addition to these broad structural conditions, there are conditions specific to those areas under consideration that give rise to a context fertile for exploitation and forced labour.

## The food sector

Dominated by a handful of global food retailers and their large suppliers, the food industry provides insights into how the business of forced labour operates in a highly concentrated industry. Furthermore, as labour provision within the agricultural sector has been licensed by the Gangmasters Licensing Authority (GLA) since 2006, a study of the food industry also provides crucial insights into how forced labour functions differently among legal and illegal labour providers, as well as shedding light on the roles of permanent and temporary informal organisations and agents.

The UK food industry was worth over £96.1 billion in 2011, and consumers in the UK spent over £179 billion on food, drink and catering that year (DEFRA, 2012: 16). The UK's largest food retailers – Tesco, Asda, Sainsbury's and Morrisons – commanded over 75 per cent of market share in 2012, and the food supply chain is made up primarily of large suppliers, including in food manufacturing and agriculture. However, there were also approximately 2,260 small and medium sized enterprises in the food chain in 2012, accounting for about 100,000 employees, and various studies have documented hyper-competition among smaller producers. Some studies, such as a 2010 Equality and Human Rights Commission investigation of the meat processing sector, have argued that smaller producers in the food industry sometimes face 'a stark choice between trading as ethically as they wished and obtaining contracts' (Equality and Human Rights Commission, 2010, p 31).

With over 3.7 million workers, the food industry employed over 13 per cent of the UK workforce in 2012. Over 50 per cent of food sector jobs are part-time, and low-wage migrant work is increasingly common (DEFRA, 2012; Scott *et al.*, 2012). Employment in agriculture is especially precarious, with seasonal, casual or gang labour representing almost 40 per cent of total workers employed by farmers (DEFRA, 2012). This precariousness is related to time sensitivity of a number of food commodities – particularly fresh produce – as well as the seasonal nature of agriculture.

These dynamics drive firms' choice for labour flexibility. The UK has attempted to address this need in part through SAWS, which allows 'farmers and growers in the UK to recruit low-skilled overseas workers to do short-term agricultural work' (United Kingdom Border Agency, 2013). Over 20,000 Bulgarian or Romanian SAWS workers have been admitted into the UK and are provided accommodation by the farmer or grower who employs them (United Kingdom Border Agency, 2013).

**Table 1: Food sector at a glance**

Value	<ul style="list-style-type: none"><li>• Agri-food sector contributed £96.1 billion in 2011</li><li>• 7.3% of total UK Gross Value Added (GVA)</li></ul>
Workers	<ul style="list-style-type: none"><li>• 3.7 million workers in food production in 2012</li><li>• 400,000 in food and drink manufacturing, 15% of overall manufacturing workforce</li><li>• 50% of jobs are part-time</li></ul>
Firms	<ul style="list-style-type: none"><li>• Four food retailers – Tesco, Asda, Sainsbury's, and Morrisons – control over 75% of market share</li><li>• Over 1,200 GLA licensed labour providers</li></ul>
Stability	<ul style="list-style-type: none"><li>• Manufacturing is relatively stable: food is the least volatile of UK's manufacturing industries</li><li>• Agriculture is much more volatile: beyond natural phenomena, farm profitability is dependent on global food prices</li></ul>

Employers have also achieved labour flexibility through the use of labour providers. As of December 2012, the GLA had given out 1,147 full licences to labour providers and revoked 14. In the face of budget cuts, inspections have significantly declined recently (GLA, 2012), but in comparison to the majority of industries where agencies are not regulated, labour provision in the food industry is formalised, but with limited traceability.

### The construction sector

Comprised largely of small firms and with labour supply chains characterised by flexibility and some degree of informality, the construction sector provides insights into how the business of forced labour operates when high numbers of subcontractors are involved. Over 50 per cent of the construction industry's 250,000 firms have just one employee, 80 per cent have 1–3 employees, and more than 90 per cent are micro firms employing fewer than 10 workers (Office of National Statistics, 2011).

With over 2 million workers, the construction industry currently employs 6.4 per cent of the UK workforce, approximately 40 per cent of whom are part-time (Maer, 2012). The industry is highly volatile – output fell much faster than GDP during the recession and has risen considerably faster in the upturn (Maer, 2012). This volatility has led to a long-standing reliance on contingent forms of labour such as self-employment, agency working and subcontracting (MacKenzie *et al.*, 2010).

The sector's small businesses typically face pressure to reduce labour costs, particularly in the light of market volatility and economic downturn, which means that employment tends to be precarious and insecure (Fitzgerald, 2010). There is evidence to suggest that the practice of false or 'bogus' self-employment is commonly used by employers to 'evade taxes and engage workers without having to respect employment rights and entitlements such as holiday pay, sick pay, and pensions' (UCATT, 2012). The Union of Construction, Allied Trades and Technicians estimates that 'over 50 per cent of those working in the industry are falsely self-employed' due to misuse of the Construction Industry Scheme by employers and payroll companies. Migrant workers within the construction industry are largely from European accession countries (Balch and Scott, 2011).

As with the food industry, labour providers play an important role in the supply of workers to firms. Agencies have been used in the UK construction industry since the 1960s, predating most other industries. Growth in agency labour has continued apace since this time, largely to enhance flexibility but also increasingly to reduce costs (Forde *et al.*, 2008). However, because the

**Table 2: Construction sector at a glance**

Value	<ul style="list-style-type: none"> <li>• £89.5 billion in 2011</li> <li>• 6.7% of total UK Gross Value Added (GVA)</li> </ul>
Workers	<ul style="list-style-type: none"> <li>• Over 2 million construction workers in 2012</li> <li>• As many as 400,000 bogus self-employed workers (large numbers from the A8* countries)</li> </ul>
Firms	<ul style="list-style-type: none"> <li>• 250,000 firms in 2012</li> <li>• 90% employ fewer than 10 workers</li> <li>• Labour providers are fragmented, informal, and unregulated by GLA</li> </ul>
Stability	<ul style="list-style-type: none"> <li>• Highly volatile: fell faster than GDP during recession, rose faster in the upturn</li> </ul>

\* The original eight Eastern and Central European countries which accede the European Union.  
Note: The sector has a history of day labour, cash-in-hand payment, and tax avoidance.

GLA's remit does not extend to the construction industry, labour provision in this sector tends to be left to self-regulation.

### Commercial cannabis cultivation

Commercial cannabis is classified as a Class B drug, and is the most widely used illegal drug in the UK. Historically an imported commodity, the Association of Chief Police Officers reports an increase in the number of cannabis grow-ops detected at 7,865 in 2012 compared to 3,032 in 2008 (Association of Chief Police Officers, 2012, p 2). The UK is now an exporting nation of cannabis.

The minimum threshold for grow-ops considered to be 'commercial cultivation' is 25 plants. A crop can typically be harvested every 11–13 weeks, allowing up to 4 crops per annum. Sites chosen for cultivation have in the past shifted from residential to commercial and industrial property and back again. The purchase of seeds and equipment from legally established local hydroponics (i.e. soilless, water-based, plant growing) businesses is deemed to be on the increase (Association of Chief Police Officers, 2012).

Of the large Vietnamese and Chinese populations living in the UK, a relatively small proportion of those who are involved in organised criminal groups (OCGs) are believed to be dominating commercial cannabis cultivation in the UK (EUROPOL, 2012; interview with Stephen Holme). These groups, while maintaining cannabis grow-ops, are also involved in legitimate commercial businesses, such as nail bars or restaurants, using these sites to launder the proceeds from their harvests. It is not unusual to see these OCGs that operate the cannabis grow-ops also being responsible for the smuggling of children and adults into the UK, using the journey to condition the growers for their role, while creating a situation of debt bondage. The debt is a result of the amount paid to be smuggled, and the bondage often results in compliance brought on by threats made against family members of the victim.

Forced labour in cannabis grow-ops appears to transpire with regard to Vietnamese children and adults who are smuggled into the UK, but then find themselves exploited as so-called 'gardeners' in commercial cannabis grow-ops. Police have discovered that when cannabis grow-ops are detected, they find the gardeners locked into the flats, where they have been provided with a bed and food and some form of entertainment such as a television or a laptop.

**Table 3: Commercial cannabis at a glance**

Value	<ul style="list-style-type: none"> <li>• Street price of £134 per ounce</li> <li>• Estimated value of £207,368,447 seized in 2011/12</li> <li>• Market estimated to be worth £1 billion a year</li> </ul>
Workers	<ul style="list-style-type: none"> <li>• Often illegal migrants</li> <li>• Growers of Vietnamese origin subjected to exploitation</li> <li>• Adult victims originally smuggled but may end up as victims of trafficking</li> <li>• Child victims typically trafficked by family members into debt bondage</li> </ul>
Firms	<ul style="list-style-type: none"> <li>• 7,865 commercial cannabis cultivations disrupted in 2011/2012</li> <li>• Organised Criminal Groups (OCGs) of Vietnamese and more recently, Chinese descent</li> <li>• Contracted foremen, site-procurers, electricians, debt enforcers and packagers/producers on monthly or commissioned wages</li> </ul>
Stability	<ul style="list-style-type: none"> <li>• Approximately 270 tonnes of cannabis is needed to satisfy UK users annually</li> <li>• Industry has grown rapidly in recent years; the UK is now a cannabis exporter</li> </ul>



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Law enforcement agencies in some parts of England have begun to see gardeners with limited mobility, where a single gardener is responsible for the maintenance of multiple sites of cannabis cultivation. They reported that the gardeners were travelling from one operation to another, all within close proximity, returning to their quarters at sunrise so as to avoid detection by the police. When police disrupt the cultivation and the gardeners are taken into custody, police find that they are scripted (to the extent that post-it notes were found telling the gardener verbatim what to say to the police) by the OCG to prevent any information leading to their own identification.

The fear instilled in the gardeners and the conditioning that their OCGs use to keep them under their control, combined with their illegal status in the UK, language barriers, and poor past experience with law enforcement in their home countries which prevents possible approaches to authorities, create the conditions for exploitation, while the OCGs remain, for their part, undetected (Association of Chief Police Officers, 2012). As a response to the absence of attention given to trafficking in people specifically for the purposes of criminal activities however, a 2013 directive from the European Parliament and Council amended the Criminal Law (Human Trafficking) Act 2008, entitled the *Criminal Law (Human Trafficking) (Amendment) Bill 2013*. In the latest amendment, the directive provides for the criminalisation of two additional forms of exploitation not covered by existing legislation (i.e. trafficking for the purposes of forced begging and trafficking for criminal activities). The Criminal Law (Human Trafficking) Act 2008 already criminalises human trafficking for the purposes of sexual exploitation (including subjecting a person to forced labour) and exploitation for the removal of human organs. The new Bill expands the definition of human trafficking to ensure that people are not exploited for the purposes of forced begging and trafficking for criminal activities. Despite these efforts however, according to EU Commissioner Cecilia Malmström, no more than 5 out of 27 Member States of the EU have implemented the new and stronger EU legal framework for addressing trafficking in human beings (European Commission, 2013).



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## 2 BUSINESS MODELS OF FORCED LABOUR

In this section we consider the use of forced labour in the context of its underlying business models – namely, who looks to make money from forced labour and how. Identifying these business models is important as it helps us to see forced labour from the perspective of the perpetrator as an economic actor. That is, we can examine the business rationale for forced labour in terms of how it helps to increase revenues or reduce costs for particular types of organisations. As will be demonstrated, there is no ‘one size fits all’ model of forced labour in the UK. Different enterprises use different means for different economic reasons. That said, we are only concerned here with this economic rationality, not with the ethical decision a person or firm may make when using forced labour. This is a no less important question, but one which is outside the scope of our analysis.

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### **What is a business model?**

A business model ‘describes the rationale of how an organisation creates, delivers, and captures value’ (Osterwalder and Pigneur, 2010). That is, it concerns the specification of the relevant organisational resources, revenue streams and cost structures that give rise to profitability. Put simply,

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a good business model answers ... the fundamental questions every manager must ask: How do we make money in this business? What is the underlying economic logic that explains how we can deliver value to customers at an appropriate cost?  
Magretta, 2002

In many organisations, the business model is quite simple: you make a product or provide a service in such a way that the revenues gained are greater than the costs of production. However, in recent decades, business models have become more complicated as firms have sought to deliver and capture value in different ways:

**Changing activities:** Many firms have realised that some parts of their business are more valuable than others and so have developed new business models by outsourcing lower value-adding activities (such as manufacturing) to third parties and focusing only on higher value-adding activities (such as design and marketing). This is particularly evident in the fashion and sporting goods industries, where companies like Gap and Nike no longer operate a business model oriented around manufacturing (which is seen primarily as a cost to minimise) but instead focus more on branding and advertising.

**Changing products:** Some firms do not look to generate revenue through their traditional 'core' products but through 'ancillary' products and services that are more profitable to produce and which can be bundled with or sold alongside the core product. Such firms may even give away the core product or offer it at below cost to encourage the sale of ancillary products. This approach can be seen among razor companies (which make money from razor blades not razors), banks (which make money from everything except current accounts), low-cost airlines (most notably Ryanair which offers a vast array of ancillary services including insurance, gambling, and food service), and many others.

**Changing customers:** Various IT companies, such as Google and Facebook, do not charge for their services to end consumers. Instead revenue is generated through advertising and analytics services provided to other businesses. It is these businesses that are the real 'customers' in the business model of IT companies, even though they still have to focus on satisfying the non-paying varieties of customers.

**Changing costs and revenue streams:** Free newspapers such as *Metro* operate a business model distinct from conventional newspapers in that their revenue is generated from advertisers not from end consumers, and they largely repackage existing news rather than produce new journalism. Hence their business models emphasise very different cost structures and depend on distinct streams of revenue.

In any given industry there may be a variety of business models that could be adopted, depending on the industry structure and the relative strengths and weaknesses of competitors. New business models also might emerge over time.

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## Applying business models to forced labour

How does the idea of a business model relate to the practice of forced labour? The key point here is that forced labour is only used when it makes business sense. This is not to say that forced labour is always used just because it makes business sense (in fact, most of the time individuals and firms are likely to seek to remain within the law), but that where it is used, forced labour has to fit into a business model that is profitable for the organisation concerned, given the revenues generated and the costs involved. These costs include those of recruiting and retaining workers, and enforcement and concealment of forced labour, and risks such as those of exposure and arrest.

So how do we understand these business models? In our view, there are three key issues to consider:

- Who employs forced labourers – is it organisations directly involved in primary activities (for example agriculture, processing and construction) or intermediary organisations providing labour for these organisations?
- How do organisations make money from forced labour – what is its impact on costs and revenue?
- What business models do these arrangements give rise to?

## Who employs forced labour?

There is considerable variety in the organisations perpetrating forced labour in the UK. Many existing accounts of forced labour do not seek to make any clear distinctions between these different types of perpetrators. However, a useful way of categorising these organisations from a business perspective is to identify whether they are producers directly involved in the production of goods or services or intermediaries operating in the specific sector of labour provision.

### Producers

A producer is engaged in the production of a specific product and provides direct employment to workers in this activity. The producer creates value by transforming a product from one state to another in such a way that it becomes more valuable to a buyer. A producer using forced labour could be active in a wide range of potential business sectors, although evidence suggests that forced labour is most commonly associated with labour intensive, poorly mechanised activities, requiring a low-skilled labour force. In the UK, producers using forced labour are likely to be small enterprises (typically employing fewer than ten workers), operating in the informal or illegal sector. They may also be subcontractors to other primary producers, or sub-subcontractors, as is typically found in the construction industry. Forced labour by producers has been documented in all three of the sectors considered in this Report.

### Intermediaries

Another set of organisations that perpetrate forced labour in the UK are labour market intermediaries. These individuals or organisations 'mediate between individual workers and the organisations that need work done, shaping how workers are matched to organisations, how tasks are performed, and how conflicts are resolved' (Bonet, Cappelli, and Hamori, 2013). So intermediaries are not directly engaged in production, but provide labour

and labour-related services to producers. Examples of intermediaries are temporary agencies, recruitment agencies, labour providers, gangmasters, and payroll companies.

Intermediaries create value by conducting activities such as finding, selecting, hiring, deploying, training, firing, or administering workers for producers more efficiently or effectively than they could achieve themselves. That is, they either save producers money, or offer additional value, for example by providing them with a flexible workforce, training workers, or taking care of (and sometimes avoiding) labour standards.

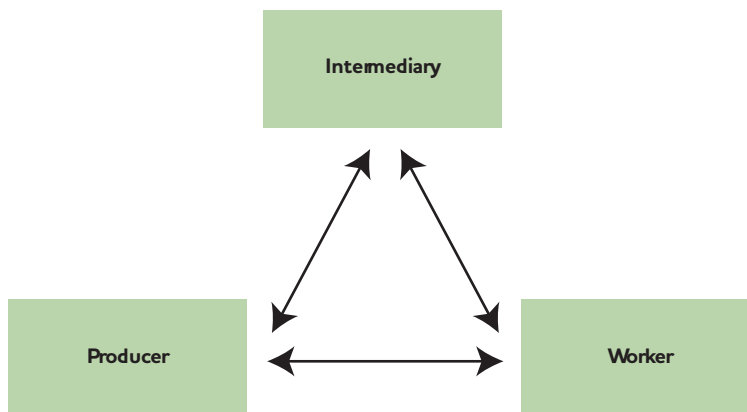
Intermediaries are used to varying degrees in all three of the sectors studied in this Report. Their use has significant implications for how we think about the workplace and the employment relationship. Intermediaries are associated with a shift from a dyadic employment relationship between employer and worker to a triangular relationship where employer responsibilities may be shared (Vosko, 1997). This is shown in Figure 2. In the context of forced labour, this makes it difficult to allocate responsibility for perpetrating the offence. However, when we talk about models where the intermediary perpetrates forced labour, we are specifically concerned with situations where the intermediary rather than the producer has primary responsibility for the terms and conditions of employment of the worker.

**Figure 2: From a dyadic to a triangular employment relationship**

a) Dyadic employment relationship



b) Triangular employment relationship



## Making money from forced labour

Perpetrators make money from forced labour in the UK in one of two main manners – using forced labour either to minimise costs and/or to generate additional revenue.

### Minimising costs

The most obvious way in which enterprises make money from forced labour is from the reduction in costs. There are two main ways in which costs are reduced.

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**Minimising labour costs:** The reduction of labour costs to their minimum level is a key business driver for forced labour. This is not to suggest that the deployment of forced labour is 'free' for any enterprise in the UK, in that workers usually have some remuneration (although below the legal minimum), and employers incur other costs of deployment such as accommodation and subsistence (if these are not charged to the worker), as well as the costs of recruiting and retaining the workers ('retaining' here might involve the costs of violence or coercion). However, if the total cost of the worker to the employer using coercion (after these additional expenses have been accounted for) is below the rate that would otherwise be possible through a free arrangement, there is a rational business incentive to use forced labour. At times, this means that forced labour perpetrators can reap considerable rewards, although our evidence suggests that some perpetrators may also be using extreme exploitation as the only way to make even relatively small profits in a low margin business.

**Minimising risks:** Forced labour can also make business sense where it helps to reduce risks for perpetrators. That is, employers that have control over workers through forced labour can leverage this control to reduce the risks of detection of their informal or illegal practices. This is partly because forced labourers, unlike free workers, are less likely to inform on the shady practices of their employers. Forced workers, as we discussed earlier, experience considerable vulnerability and this vulnerability often prevents workers from contacting authorities out of fear of reprisal, loss of work, further precariousness, or even deportation.

### Revenue generation

Forced labour is not just about reducing costs. Many perpetrators in addition to, or instead of, deriving a benefit from cost reductions use forced labour to generate additional revenue. There are two main ways in which this can happen:

**Ancillary services:** Many forced labour operators take advantage of their control over workers to turn them into captive 'customers' for a range of ancillary services. These services might vary, but the most common are accommodation, food, local and international transport, and immigration services. Although the provision of such services might also be a feature of free labour relationships, in a forced labour context, workers typically have little option but to pay for these services and often do not even know whether or how much they have been charged. As such, employers effectively acquire a monopolistic position in supplying ancillary services and so they can charge exorbitant prices far in excess of normal market rates. Ancillary services can be an important and relatively stable revenue stream for perpetrators. Charging for these services also has the effect not just of generating revenue but also of enabling perpetrators to create greater indebtedness (i.e. debt bondage) and hence vulnerability on the part of workers.

**Benefit theft:** A second common strategy that forced labour operators use to generate revenue is benefit theft. In this situation, employers leverage their control over workers to force them to give up part or all of the work entitlements they claim (or more commonly that employers claim on their behalf) from the welfare system. Benefits may or may not be legitimately due to workers (i.e. they may be involved in fraudulent

claims) but either way workers see little of the proceeds since these are diverted by employers through coercion directly into their own pockets. Other forms of theft may also arise in forced labour situations as part of revenue generation, but to date these have not been documented in the three sectors considered in this Report.

These reductions in costs and increases in revenues also, of course, have to be considered in the context of a risk–reward calculation that any criminal enterprise has to make regarding the likelihood of detection and the potential consequences of that detection (Becker, 1968). As such, perpetrators 'rationally decide whether to engage in criminal activities by comparing the expected returns to crime with the returns to legitimate business. Hence crime is less attractive if government increases the probability (certainty) and severity of punishment' (Garoupa, 2000).

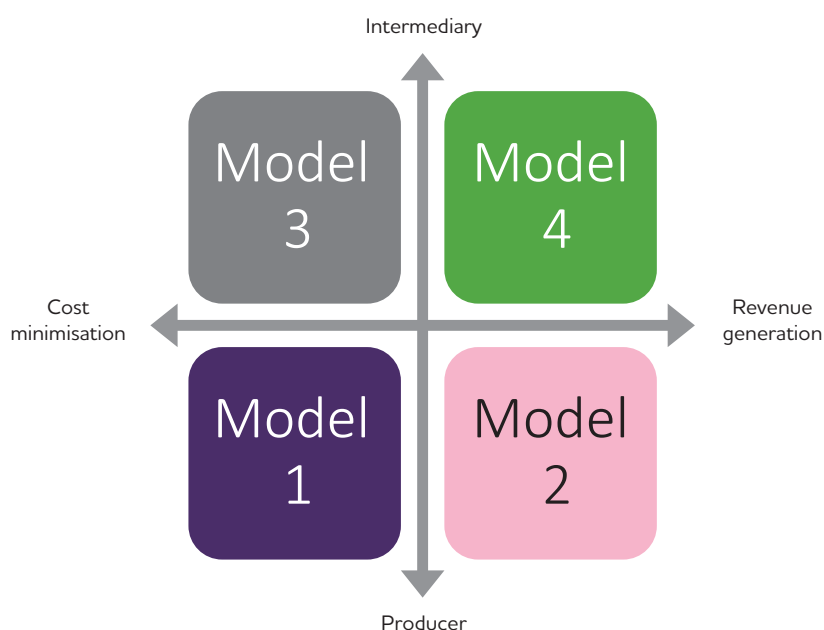
### Basic business models of forced labour

These two dimensions – the type of employer, and the way in which they make money from forced labour – help us understand the business of forced labour. Combined, they illustrate the four essential business models that can be found for forced labour in the UK (as shown in Figure 3).

These models have been primarily developed from our research focused on the sectors of commercial cannabis grow-ops, construction and food. However, we have sought to develop a framework that is as generalisable as possible to other sectors where forced labour has been documented in the UK. As such, we have reason to expect that it will be possible to incorporate practices in these other sectors into the framework.

It is also important to note that although we have discussed the two dimensions of the framework in Figure 3 in terms of two main forms (producer–intermediary, and cost minimisation–revenue generation), different business models and the employment relationships they describe are likely to exhibit different degrees along these dimensions. For instance, some employment relationships have greater degrees of intermediation than others, such as when multiple intermediaries are involved. Similarly, some business models exhibit a high degree of revenue generation while others

**Figure 3: Business models of forced labour**



involve only limited amounts. As such, these should be seen as continua, not discrete categories – and hence we have represented them as axes pointing outwards.

### Model 1: Cost minimisation by producer

**How it works:** In this first model, producers are directly employing workers in their own operations and are seeking to reduce these costs of employment through coercion.

In labour intensive industries such as construction and farming, wages and other non-wage costs (such as benefits) paid to workers constitute a major driver of profitability for producers. That is, these variable costs represent a large proportion of total costs and so reducing them is the single best way to increase profitability. Therefore, firms may look to minimise direct labour costs through coercion in order to undercut competition and maximise profitability.

**Role of ancillary services:** In this model, there is no attempt to charge for any ancillary services, so non-wage costs will usually be kept to a minimum, although ‘free’ accommodation may be offered as a lure to recruit the vulnerable, such as those who are homeless, fleeing the law, or recently arrived in the country (see Box 4).

Ancillary services may, however, be provided (for profit) by third parties such as agents or traffickers who are connected in some way to the producer through an existing network. These networks are sometimes based on national, ethnic or economic ties which link workers to service providers and producers. These third parties generate revenue from the ancillary services,

#### Box 4: Homeless construction worker

Having become homeless, Michael, from Poland, was approached outside a tube station by a man who had his own building firm. “I was dressed in old and dirty clothes and I think he could see that I didn’t have anywhere to live,” said Michael. “He asked me if I was looking for work, and when I said yes, he offered me accommodation along with a job doing ground work and laying paving slabs. I was a bit suspicious at first and told him I didn’t want to go with him straight away, but I felt I didn’t have much choice as the other option was sleeping on the streets.”

Michael joined a number of foreign workers at the site where they slept in old caravans and a barn. “I felt like a slave,” recounted Michael:

The boss was very intimidating and did not like us going off the site on our own. He was always asking where I was going and what I was doing. I had no private life. If I wanted to go to the local shop, he would insist on driving me there and back. He was threatening and would say ‘I’ll kill you’ or ‘I’ll beat you up’, half joking but in a frightening way. ... One of the Irish guys he employed was mentally ill and another one was fleeing the law .... I felt like a virtual prisoner and wanted to escape from the situation but felt I couldn’t.

Source: Elliot and Lucio, 2011

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which in turn may fuel the supply of forced labourers (as the providers look to grow their business).

For instance, some informants suggested that traffickers (providing services such as transit and documentation) drive the supply of forced labour in the UK. In the GLA CEO Paul Broadbent's words, "You can traffic a kilo of heroin only once. Trafficking people you can do countless times and there are entrepreneurs up at the top who are doing this" (presentation at the Association of Labour Providers Roadshow, London, March 2013).

**Where it works:** We found examples of Model 1 in each of our three sectors. In cannabis production, this appears to be the dominant model for forced labour. In the construction industry, the model appears to be deployed most extensively at private residences in the 'tarmacking and block paving industries by crime groups comprising of UK travellers' (Serious Organised Crime Agency, 2012: 7). In food, we found evidence of this model being used in small farming operations and in minority ethnic group restaurants.

Model 1 is particularly well illustrated by operators in the cannabis cultivation industry. This can be explained by a number of factors related to the nature of employment in illegal businesses:

**Illicit enterprises need to compensate workers for the greater risks faced in employment.** In drug markets, this includes the risks of arrest and violence – for example, one study estimates that 50 per cent of the costs of hard drug businesses are accounted for by compensation to workers for risks of incarceration and physical harm (Caulkins and Reuter, 1998). Although the market for cannabis (as a Class B drug in the UK) does not exhibit the same economic structure as hard drug markets (Class A), the risks of arrest and violence are considerable. For example, police raids uncovered some 7,000 cannabis farms in the UK in 2011–12 (Summers, 2013), while the number of arrests of cannabis 'gardeners' in the UK between 2007 and 2010 rose by 128 per cent (Association of Chief Police Officers Report, 2012: 10). A forced labour arrangement enables employers in cannabis cultivation to avoid any additional compensation for such risks which would otherwise arise in a free market for labour into illicit enterprises. In this way, labour costs are minimised.

**Forced labour can also offer risk reduction benefits to employers in the cannabis cultivation industry and other illegal enterprises.** By bringing in illegal workers to act as gardeners, high vulnerability will make workers unlikely to inform on their employers. Lack of documentation, absence of English skills, and an inability to form social networks (because they cannot leave the growing site) further contribute to a critical layer of opacity for the business which impedes detection and prosecution. For instance, in the case of *R. v. N*, the appellant, who did not speak English, was found to have been locked up in the cannabis farm with brick-covered windows and doors, guarded by gun-carrying security guards. He was found to be unpaid and threatened to be killed upon attempting to escape once.

## Model 2: Ancillary services by producer

**How it works:** As with Model 1, the worker in this model is directly employed by a producer, which may also reap the kinds of cost reductions discussed in relation to that model. However, the key difference here is that the producer also generates additional revenue from charges for ancillary services such as accommodation, food and transportation. Model 2 typically



enables employers to leverage their existing assets (perhaps a barn for accommodation or a van for transport) to drive additional revenue, especially where profitability from the main business is relatively low.

In forced labour contexts, these charges for ancillary services are typically involuntary and often hidden or only deducted at a later stage. This means that they need bear little or no relation to market rates, and rarely meet statutory quality standards. Sometimes up-front deductions may also be made, creating further indebtedness which can be leveraged to force extra labour time from workers. Overall, charging for ancillary services creates greater potential for opacity in the debts accrued by workers, which provides increased control for employers. In order to maximise returns on ancillary services, producers impose obstacles to workers leaving, such as threats, withholding of wages, or confiscation of documents, as the following case illustrates:

#### **Box 5: Latvian farm worker**

Having been recruited to work on a farm, a Latvian farm worker found that his passport was confiscated by his employer. “Oh, they took my passport and after three weeks they did not return my passport. I went to ask for it,” he recounted. The farm worker then noted:

They always were coming up with good excuses. At the beginning, they said that they were completing the paperwork, that they will send it next week. Then they told me that they sent my passport, but I have to wait for a long time to get it back. I was trying to get my passport back for a year, but they would not return it to me. It was until they found out that someone was coming to inspect the farm. That same evening they returned passports to all of us ... We had wanted to leave for some time, but we could not without our passports. We realised that it could not be like this, that we work hard and do not earn much. We could not go anywhere without our passports, but when they returned our passports three of us (me and two friends who I met on the farm) we run away from the farm. We owed farmer about £100 for the caravan and food. We did not want to work there, so we run away from the farm.

Source: Scott *et al.*, 2012

**Where it works:** We found some evidence of this model in small-scale farming and construction. In farming, for instance, the prevailing economic logic in the UK is that small operations struggle to survive in the face of industry consolidation which creates larger and more powerful competitors that can reap economies of scale. Food processors and retailers are also mainly large players that can dictate prices down through the supply chain, which leaves farmers at the bottom tier of the supply chain with narrow margins. “If you are looking at what the bottom tier gets as a comparator to what the retail price is,” suggested Effie Marinos at audit firm SGS, “then you know, you are looking at probably less than 10%”. So typically, small

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farmers will look to capitalise on their assets by expanding their portfolio of operations. This would normally (in a legitimate business) involve diversifying into value-adding processes, for example packing, tourism (such as opening a Bed and breakfast (B&B)) or retail (such as a farm shop or selling through farmers' markets). However, forced labour operators will diversify into offering ancillary services to workers in order to generate additional revenue and drive greater indebtedness among the workers (which in turn can fuel further labour cost reductions).

### Model 3: Cost minimisation by intermediary

**How it works:** Agents, agencies and other intermediaries generate revenue by charging producers (or other intermediaries) for their services. In the case of labour providers, this essentially involves charging the client a rate per employee that is greater than the rate paid to employees; this margin is the intermediary's revenue. Thus, the price ( $P$ ) for temporary labour (incurred by the client) can be represented by the following equation (Forde and Slater, 2011):

$$P_t = P_w + P_{nw} + M$$

Where  $t$  is total cost to hirer,  $w$  is wage cost,  $nw$  is non-wage cost and  $M$  is the margin gained by the agency. For the agency, the aim therefore is to maximise  $P_t$  and to minimise  $P_w$  and  $P_{nw}$  in order to maximise  $M$ , the agency's margin. Our research suggests that agencies actually have little control over  $P_t$  since this is typically dictated by the client. Therefore, the agency will reduce their non-wage costs by keeping their overheads low and driving down wages ( $P_w$ ). This can lead to exploitation and even forced labour when the client dictates a client cost ( $P_t$ ) close to or at minimum wage levels. As Effie Marinos notes, if in the main, workers are not being "paid the minimum wage, it is very frequently because the company itself is not paying sufficient to that agent".

The tendency for clients to dictate rates near the national minimum wage is rooted in the fact that producers themselves are operating on narrow margins. As Darryl Dixon at the GLA noted, "the further down the supply chain you go, the lower the profit margins are. And therefore the way in which you can maximise your profits is by cutting corners." Similarly, the retailers' "relentless drive to push down prices of their products means the money has to come from somewhere," suggested Martin Cooke of the Ethical Trading Initiative.

The pressure to go below the minimum wage leads to various responses from intermediaries which provide a fertile context for exploitation and may, in certain circumstances, give rise to forced labour:

- Some agencies seek to achieve labour cost minimisation by outsourcing to other agencies with lower labour costs (who may in turn outsource to other labour providers, including informal and independent operators).
- Another approach used by intermediaries is to offer clients alternative ways of reducing labour costs such as bogus self-employment schemes (where workers are officially designated as self-employed, but are effectively employed by payroll companies), which enable the bypassing of various controls regarding immigration and working conditions.
- Some agencies develop strategies to offset wage reductions involving ancillary services including 'travel and subsistence' and 'salary sacrifice' schemes which then involves a shift to Model 4 as discussed below.

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**Role of ancillary services:** While the intermediary employing forced labour does not make deductions for ancillary services in Model 3, there are still non-wage costs associated with labour market intermediation (for example finding and selecting workers, organising documents, and transport) which need to be offset with fees to clients. Many clients are unwilling to cover these costs, as David Arkless of Manpower, a US-based, multinational firm, suggests:

So I put in my unit price for finding these people, ... familiarising them, preparing them, getting their visa, transporting them, making sure they've got decent accommodation, and boarding them. And then making sure that, over the two-year assignment, they get treated correctly, then taking them back to their home country. So my cost would be \$500 to provide you, Mr Customer, with that person. A local agent, between \$50 and \$100. Guess which bid the customer accepts? The agent that is operating illegally. They will not take my cost. It is five times higher than somebody else's because I'm acting ethically.

The low-cost intermediary might also rely on further intermediaries (such as agents or traffickers) which they are connected with to supply some of these services. This will expand the typical 'triangular' employment relationship noted above (producer, worker, intermediary) to a more networked form of arrangement where several intermediaries may be simultaneously involved in worker exploitation (see Figure 4). In the words of Anti-Slavery International's Joanna Ewart-James:

In recent history there have often been concerns raised about triangular relationships between the worker and the agency and employer, but I think that is getting increasingly more complicated and I am aware that there can be four, maybe five different actors involved in that relationship.

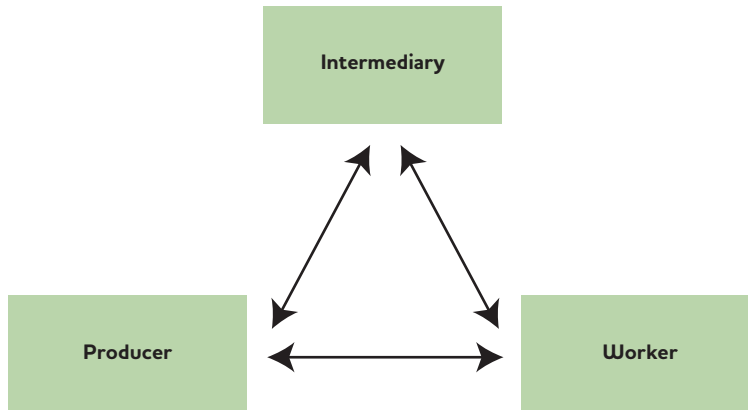
These types of network arrangements are particularly fertile contexts for worker exploitation because they diffuse responsibility and legal liability. As Ewart-James describes, "that added complication certainly facilitates exploitation because it is much harder to really understand in terms of the conditions that somebody's employed and contracted under." However, it is not clear whether this distributed responsibility arrangement is more or less likely to turn exploitation into forced labour. That is, forced labour typically requires a more direct employment relationship in order for high levels of explicit control to be exercised.

**Where it works:** Our research suggests that intermediaries are associated with forced labour in both food and construction. Indeed, there is evidence to suggest that some of the same workers and intermediaries at times move between the food and construction industries in order to take advantage of particular opportunities that open up.

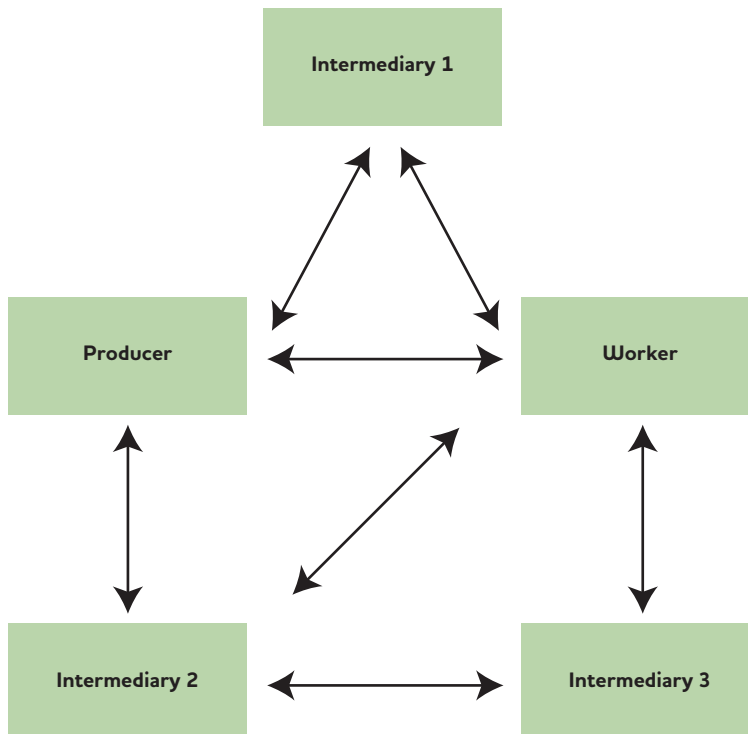
Although serious levels of exploitation can be found among a range of such intermediaries, forced labour typically emerges where an intermediary is operating at some level of informality, at least for some period of time. The more legitimate the intermediary, the less likelihood there is that they

**Figure 4: From a triangular to a networked employment relationship**

a) Triangular employment relationship



b) Networked employment relationship



engage directly in forced labour, suggesting that forced labour (at least in its strict sense) is more likely to be conducted by relatively small operators. However, that is not to say that larger and more formal intermediaries are not associated with forced labour since they may, for example, knowingly subcontract to an informal operator, or allow one of their workers to exert control over a subset of workers. This is illustrated in the following case.

It is important to note that the use of intermediaries, and agency workers in particular, is most commonly associated with large and medium sized client companies (Employment Markets Analysis and Research, 2008). Although the intermediary is likely to be relatively small, the worksite is more likely to be relatively large – and forced labour is only one part of the overall labour mix which may be present.

### Box 6: Worker subverts control

Darius, a Lithuanian employee in a medium-sized British company, recruited other Lithuanians to work for the company and arranged their travel and accommodation. He was not doing so for free, however. Rather, the company discovered that Darius was charging the workers £50 a week to live in overcrowded accommodation as well as making additional deductions for unspecified reasons. Furthermore, “Darius would take each person to the bank, acting as a translator to enable them to open a bank account. He then took control of their bank cards and, each time their wages were paid into the account, withdrew them from a cash machine. He would then pay the worker a small amount and keep the rest of the wages.” The company was unaware of these dynamics. As Darryl Dixon of the GLA explained in an interview, “Sometimes ... workers are being exploited, but they are being exploited by somebody who works for the same company that they do. ... In that situation you find that it’s either, for example, Lithuanian workers exploited by a Lithuanian who works for the same company, or, for example, a Slovak Roma exploited by a Czech Roma who are in the same company.”

Source: The Centre for Social Justice, 2013; Dixon, interview, 2013

### Model 4: Ancillary services by intermediary

**How it works:** In Model 4, rather than just earning a margin on the revenue earned from supplying labour to clients, the intermediary also generates revenue by providing services to the workers (see Box 7). Charges for such services are typically involuntary and/or tied to employment opportunities – that is to say, offers of work are contingent on paying for other services.

This dual income stream model may give rise to a paradoxical situation of forced labour through underemployment. That is, intermediaries may look to make more money from charging their employees for ancillary services than they do from their client fees, and so maximise the number of workers under their control but minimise the amount of work given to those workers.

Here is how this typically works: the intermediary deliberately takes on more workers than it needs for the work it expects to get from its clients. This oversupply leads to underemployment for the workers involved, perhaps only a few hours or one or two days a week. At the same time, the intermediary is charging these same workers for accommodation and other ancillary services, which they are not earning enough to pay for. So the workers get deeper into debt which in turn is financed by the intermediary through loans, often at super-premium (and frequently undisclosed) rates of interest. In this situation, workers are prevented from gaining financial independence from the intermediary and are open to continued exploitation, often coercive in nature. Therefore, unlike in Model 3, the intermediary is less concerned with maximising its margin charged to clients, and more concerned with maximising the number of workers under its control and maximising the margin earned from services supplied to its workers.

**Where this works:** Our research found Model 4 being used in both food and construction, typically by intermediaries either involved in, or closely connected with, relocation of groups of immigrant workers from source countries. This enables the degree of control over the supply of workers necessary to make this business model work.

### **Box 7: Making money from ancillary services**

Thirty Lithuanian workers in Kent 'were subjected to slave-like conditions and controlled through the use of violence' by D J Houghton Catching Services – a licensed gangmaster who supplied workers to Nobel Foods, one of the UK's largest processors of eggs and chickens. The gangmaster charged workers excessive recruitment fees, deducted £40 a week from workers' wages to live in a damp and infested house, charged workers high amounts for transportation from worksite to worksite, and sometimes stopped paying them entirely, forcing workers into a situation of debt bondage. 'The workers said they had been charged a fee of around £350 for what they had been promised back in Lithuania were good jobs. £50 a week was then deducted from their wages each week, so they were debt bonded on arrival. They allege they would be told to bring food to last five days and were then bussed around the country from job to job, from Monday to Friday, sometimes being driven for five or six hours at a time between farms before working a night shift.'

The GLA's investigation found these 'workers suffered exploitation so extreme that the Authority had to order the firm to stop supplying workers to farms and food factories immediately' and called the case 'one of the worst cases of exploitation the GLA has ever uncovered in the food supply chain'. Nobel Foods supplies eggs to companies including McDonalds, Sainsbury's, and Marks and Spencer.

D J Houghton Catching Services had their licence revoked by the GLA. They have appealed; their case will be heard in 2014.

Source: Lawrence, 2012; GLA, 2012.

## **Dynamics of business models**

It is important to recognise that there is not one 'best' business model for any given industry. They tend to be adopted according to the strategy of the organisation concerned, its resources and opportunities, as well as the prevailing ways of operating among their immediate peers. Business models tend to be somewhat 'isomorphic' in that organisations in a given field tend to copy each other, resulting in a degree of similarity over time.

That said, there are various dynamics built into the forced labour context (as outlined in Section 1) that are likely to result in organisations changing their business models. Most notably, the structures that give rise to vulnerability, such as immigration policy, are constantly shifting, giving rise to what we might term 'dynamic vulnerabilities'. These in turn give rise to changes in business models, since individuals and organisations seek to adopt those models which most effectively take advantage of exploitable vulnerabilities.

A good example of these shifts is provided by the cannabis cultivation industry, where our research suggests that there may be a change occurring in the modus operandi of OCGs. Model 1 forced labour appeared to be the business model of choice for OCGs during the emergence and growth of Vietnamese gangs as principal players in the industry. However, now that these OCGs have become more established, the need for a compliant, opaque workforce has reduced somewhat in the face of greater collaboration

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with other OCGs (and therefore less risk of violence and detection), and the efficiencies that can be gained in deploying a single free worker to tend multiple sites rather than trafficked forced workers in each individual site. As a result, some law enforcement personnel interviewed noted a lower incidence of forced labour as the business model evolves over time.

## Conclusion

Clearly there is no one way in which forced labour is operationalised as a business model in the UK. In this section we have set out the basic models in evidence in the UK. There is considerable diversity across these business models, and our framework identifies four main types. These involve different actors (producers v. intermediaries) exerting control over workers, and different ways of making money (reducing costs v. generating revenue) through the business of forced labour.

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## 3 SUPPLY CHAINS AND FORCED LABOUR

The business models discussed in the previous section focus on the perpetrators of forced labour. However, to understand the business dynamics at play, we also need to understand how these perpetrators are linked with other business actors through supply chains. This section therefore turns to the issue of supply chains, and in particular the intersection of the *product* supply chain with the *labour* supply chain.

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### Product and labour supply chains

Understanding forced labour in the context of supply chains helps us do two things. First, it enables us to map the relationships between relevant economic actors. This is important because only through discovering these relationships can we develop interventions designed to identify or disrupt forced labour. Second, focusing on supply chains helps us to see where and how the formal business sector intersects with the informal sector, and eventually emerges as illegal forced labour practice. As we will show, informality is typically the gateway to forced labour. To do this, we set out in this section some generic product and supply chains, as well as some specific chains that can be identified in the cannabis cultivation, construction and food industries where forced labour has occurred.

#### Product supply chains

A product supply chain describes the discrete stages that a product goes through to transform it from raw materials to a finished product. Each of these stages comprises one or more activities that process the product and add value to the inputs received into that particular stage. This processed product then forms the inputs to another stage of production until the product reaches the final consumer. For example, a laptop moves through



several stages (and numerous companies) in its supply chain, consisting of raw materials extraction, component manufacturing, assembly, marketing, wholesaling and retailing.

It is now commonplace to frame analyses of forced labour in the context of such product supply chains. This is most evidently the case for global supply chains, and the incidence of forced labour in developing countries (Phillips and Sakamoto, 2012). Because each stage involves the deployment of labour, forced labour can, in principle, arise at any of the stages in the product supply chain. However, forced labour is usually associated with activities towards the beginning of these supply chains such as agriculture, fishing, mining, brickmaking, charcoal production and others. Thinking about forced labour in the context of supply chains enables us to consider the connection between these primary activities and the activities of companies and consumers further along the chain. For instance, forced labour in cocoa farms in the Ivory Coast can be conceptually linked to Western confectionary companies and their customers (Berlan, 2012).

Turning to the business of forced labour in the UK, it is similarly useful in most cases to describe the phenomenon in terms of the product supply chain, albeit often within the context of somewhat shorter chains. For instance, the connection between primary activities and end consumers was highlighted in the well-documented case of 60 forced labourers rescued from a Lincolnshire leek farm in 2008 which was claimed by activists to be farming products 'destined for our supermarket shelves' (Anti-Slavery International, 2009). Previous JRF Reports have also pointed to the importance of supply chain dynamics in explaining forced labour in the UK food industry (Scott *et al.*, 2012). A typical supply chain, such as that evident in the Lincolnshire leek farm episode, can be represented as shown in Figure 5.

**Figure 5: Simple product supply chain**



Identifying the various stages in the product supply chain enables us to determine the producer companies that wittingly or otherwise are part of the business of forced labour. Our research suggests that the product supply chains relevant to forced labour in the UK are relatively short, with a few, relatively large, players involved.

For instance, the food industry is dominated by four large retailers, as noted earlier. The production, processing, and distribution of food commodities such as carrots, leeks, chickens, and eggs also typically involves only 3–4 large firms. As described by the British Retail Consortium,

contrary to popular belief, our supply chain is not dominated by small businesses and farmers. Our main suppliers are large, often multinational companies. Very few farmers supply supermarkets as their produce is processed by much larger companies, such as dairies, who sell to retailers  
British Retail Consortium, 2012

A typical food product supply chain unfolds as follows: 'farmers generally supply intermediaries, such as processors and dairies, who then supply retailers and other parts of the food sector such as catering and manufacturing (British Retail Consortium, 2012).

These product supply chains are short compared with the global supply chains typically associated with forced labour in international business operations that have received the majority of media, business, non-government organisation (NGO) and academic attention over the past decades. Hence, there should, in principle, be less of a problem with tracing the up- and down-stream actors involved in product chains using forced labour – at least compared with those involving global operations, and developing country labour.

It is also notable that, in contrast to the prevailing logic around forced labour, we do not find too much evidence of wide disparities in power between actors at different stages in the product supply chain in the UK, except when it comes to farmers at the bottom end of the food supply chain, who, because of their smaller size, tend to be squeezed on margins. However, the industrial structure of the cannabis growing and construction industries shows many fewer of these types of features, and even in food processing, a different dynamic is at play. In the UK, then, the product supply chain is rarely more than a small but significant part of the forced labour story, and we have to look elsewhere for the supply chain drivers of forced labour.

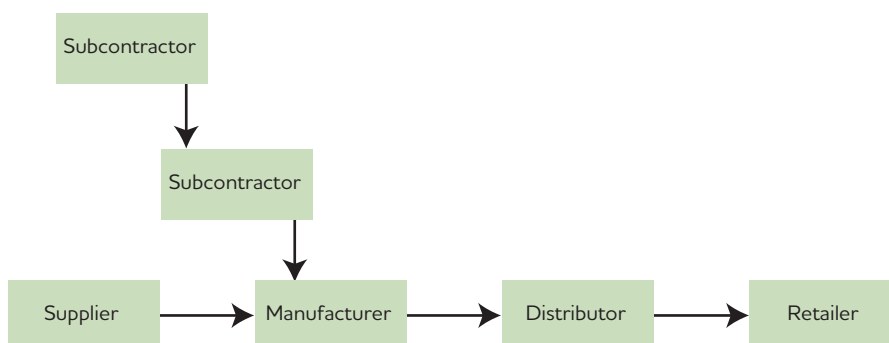
### Subcontracting production activities

The product supply chain maps the firms that take custody of a product as it goes from extraction to consumption. However, to understand the real significance of these business dynamics we need to break these individual stages down into more discrete activities. That is, a particular stage in the supply chain (for instance, food processing) will consist of a variety of value creating activities, including operations, marketing, and procurement.

As we discussed briefly in Section 2, many firms have looked to outsource those activities within their own stage of production that they deem not to be core to their business, less important to the process of value creation, and crucially, which make less of a contribution to profitability. These low value-adding activities are therefore typically contracted-out to other producers. In some industries, these contractors further subcontract the lower value-adding activities of *their* businesses, and so on. This can give rise to a more complex product supply chain structure characterised by several levels of subcontracting, as depicted in Figure 6.

Our research suggests that forced labour in the UK is most likely to be associated with low value-adding activities at any given stage in the product supply chain. A number of informants pointed to the importance of distinguishing between different types of activity and the likelihood of forced labour and other forms of exploitation emerging at the more basic levels of activity, such as with cleaners in a food processing plant, dishwashers in a restaurant, or land clearing in construction.

**Figure 6: Illustrative subcontractor product supply chain**



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For instance, in the case of the meat processing industry, slaughtermen and butchers are considered skilled workers and forced labour does not appear to be at issue. However, because a slaughterhouse may subcontract the lower value added processing of meat by-products (such as into sausages or pet food), the workers associated with these tasks often work “in the bowels of the building, often with the bowels of the cattle” as Martin Cooke from the Ethical Trading Initiative stated. Such workers are rarely included in social audit inspections. Similarly, cleaners responsible for disinfecting the slaughterhouse at night “always get exploited,” Cooke suggested, because “nobody is there to inspect them”.

Similarly, another informant described, reflecting on the business model of forced labour in farming, “we are talking here not about tractor drivers, we’re talking about seasonal labour for harvesting, or planting, so very, very labour intensive short periods of time in fields miles away from anywhere” (Rosey Hurst, Impactt Limited).

Reported incidents of forced labour appear to be concentrated among these low value added activities. For instance, from 2009 to 2010, 215 trafficked children (aged 9–16) were found to be picking onions in a field in Worcestershire (Kleiderman, 2010). Similarly, in the case of *R. v. Khan, Khan* (2010), nine men working at a family owned restaurant – deceived by promises of attractive wages and working conditions in the UK – were subjected to conditions of neglect, abuse, deprivation and economic exploitation.

Low value-adding activities are more likely to be associated with forced labour for a number of reasons:

- Low value-adding activities generally require very low skills, which attracts a low-paid and frequently vulnerable workforce.
- Such activities are also more likely to be subcontracted, which means less oversight by the primary producer, and more scope for informality and unscrupulous behaviour.
- Low value-adding activities tend to happen ‘backstage’, sometimes at night, and are generally less visible to observers, including other workers, managers and auditors.

### Labour supply chains

It is much less commonplace to talk of labour supply chains compared with product supply chains, yet the concept of a supply chain is also applicable to labour where intermediaries are involved. A labour supply chain consists of the sequence of employment relationships that a worker goes through in order to be deployed in a productive capacity. These labour supply chains might be short, for instance in a direct employment relationship between a producer and a worker, where the worker has found the position independently. However, some chains become extended because labour market intermediaries are present. These intermediaries may either facilitate a direct worker–producer relationship (for example by helping the worker find employment) or substitute for a direct relationship by employing or controlling the worker directly.

In the context of the business models of forced labour, understanding the different stages involved in the supply of labour from its source to its final place of deployment is critical. To date researchers interested in labour exploitation have primarily couched these supply chains in the language of agency labour (and various synonyms such as ‘labour market intermediaries’, ‘labour contractors’, and ‘contingent labour’) or human trafficking. Missing so far from these analyses has been a clear delineation of the different

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intermediaries and stages involved and their intersections with each other and with the product supply chain.

Labour supply chains in the UK primarily involve formal, regulated intermediaries such as employment agencies and gangmasters. At times, they might also involve less formal intermediaries such as unregulated agencies or gangmasters or individuals operating outside any formal organisational context. These chains might also include actors outside of the UK involved in recruiting and transporting workers to the UK, either legally or illegally, and with varying degrees of volition on the part of the workers.

Industries such as construction and food use a considerable amount of temporary, casual and other forms of contingent labour, the supply of which is often outsourced to third party labour providers. These intermediaries may in turn also source some of the required labour from further intermediaries. This can stretch to several tiers in the supply chain, potentially even as many as five or six. According to our research, where forced labour arises in the context of intermediaries, the labour supply chain is likely to be relatively long and complex, and the forced labour component is likely to be several steps removed from the core labour force at the producer company.

For instance, Louise Grey, Sector Manager for Construction and Utilities at Achilles Group described that her company's database suggests that most instances of forced labour within the construction sector's supply chain occurs among subcontractors in Tiers 4 and 5. These tiers tend to be comprised of smaller producers and intermediaries facing high pressure to cut labour costs, as these can comprise high proportions of the costs of doing business. Neal Evans at Unite estimated that for some smaller intermediaries, labour comprised 100 per cent of their costs of doing business.

Similarly, within the food industry, informants suggested that forced labour often enters the labour supply chain in the face of multiple subcontracted labour agencies. This tends to occur when a time sensitive crop needs to be harvested, and intermediaries experience a sudden need for more workers. As Effie Marinos from SGS described, on a sunny day

the phones will have been buzzing back at the salad packers and the sandwich companies, saying you need to double production because people are going to be in, wanting more product. How are they going to do that? Well, they are going to do that by having everyone work extra hours and by bringing extra people in.

As she described, the extra people tend to come through multiple layers of informal and untraceable subcontracting, and may only be present on the work site for a matter of days or weeks, making it difficult for producers to detect abuses within labour supply chains. Martin Cooke, from the Ethical Trading Initiative, for his part, notes that factory owners "may seek to avoid responsibility for working hours and remuneration through the use of subcontracting and mechanisms such as the Swedish Derogation".

### Box 8: The Swedish Derogation

The term 'Swedish Derogation' originated with an opt-out clause gained by the Swedish delegation during the negotiations of the 2008 EU Directive on Temporary Agency Work.

A manifestation of the Swedish Derogation has been incorporated into UK law through an exception within the *Agency Workers Regulations 2010*, that allows for a contract to be signed between a temporary work agency, as an intermediary, and an agency worker in which the worker forgoes his or her right to equal pay (including holiday pay) in return for pay during non-work periods.

Under the exception to the Regulations, after the 12 week qualifying period, the temporary work agencies have an obligation to pay workers between assignments and to ensure that reasonable steps are taken to find suitable work, though if this is not possible, that any available work be offered to the worker. The agency worker is to receive a minimum wage of no less than 50% of what would normally be the worker's basic pay, as long as this is above the national minimum wage. When a worker is not on assignment, he or she is to be paid. That minimum pay must, in the aggregate, amount to four weeks' pay before an agency worker functioning on the basis of the Swedish Derogation model may be terminated.

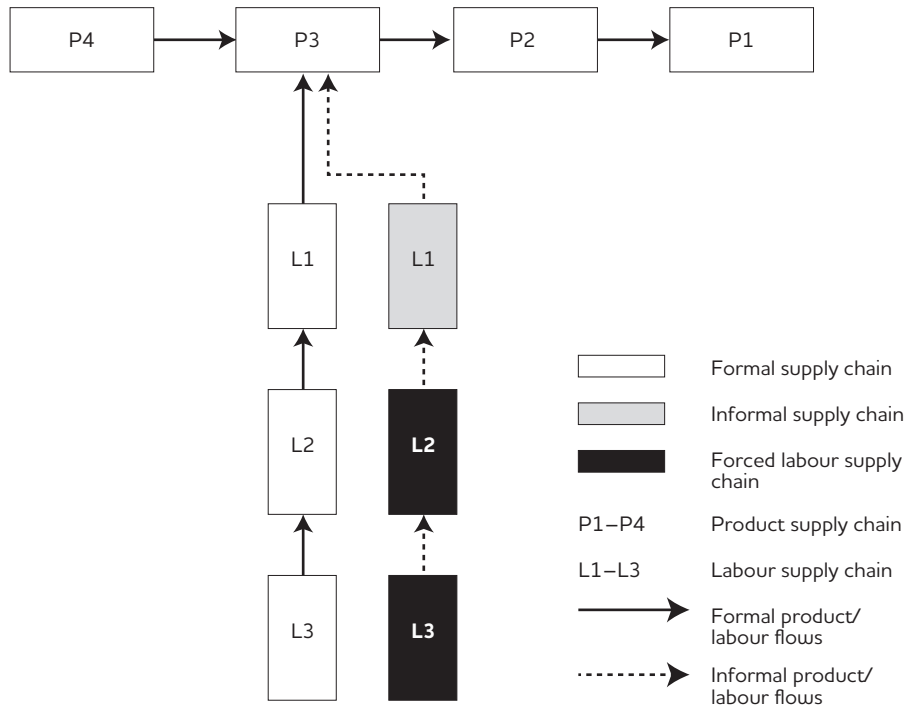
In December 2012, an employment tribunal in *Bray and others v. Monarch Personnel Refuelling (UK)* – related to a dispute involving tanker drivers who had been providing their services to BP, then forced to sign Swedish Derogation contracts – provided guidance on the application of this exception. The tribunal established that the *Agency Workers Regulations* must be followed to the letter while determining that such Swedish Derogation contracts may be superimposed on existing working relationships and need not be confined to contracts which might be established as a result of temporary work agencies having gained new clients.

### Formality and informality in supply chains

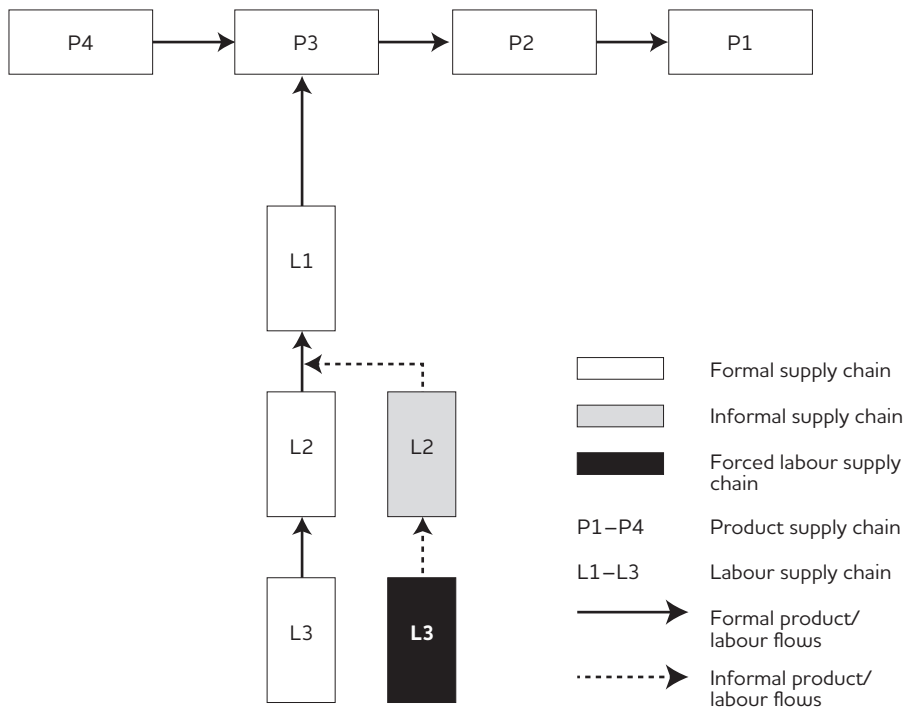
Forced labour in the UK is almost always associated with some degree of informality whether it is associated with producers or intermediaries, in product supply chains or labour supply chains. According to our research, informality is the gateway to forced labour. This is because informality enables the evasion of oversight and legal obligations that would otherwise prevent forced labour from occurring.

For the sake of clarity, in the supply chain figures that follow, we depict informality as a grey area, forced labour and other illegal practices as black areas, and formal, legal practices as white areas. We represent the product supply chain horizontally (e.g. P1–P4), and the labour supply chain vertically (e.g. L1–L4). To begin with, in Figures 7 and 8, we show some basic models of how product and labour supply chains intersect, and where formality, informality, and illegality might emerge in relation to forced labour. Figure 7 reflects forced labour by a producer, while Figure 8 reflects forced labour by an intermediary. These figures are generalisations that provide a broad overview.

**Figure 7: Simple labour and product supply chains with forced labour by producer**



**Figure 8: Simple labour and product supply chains with forced labour by intermediary**



## Supply chains in specific industries

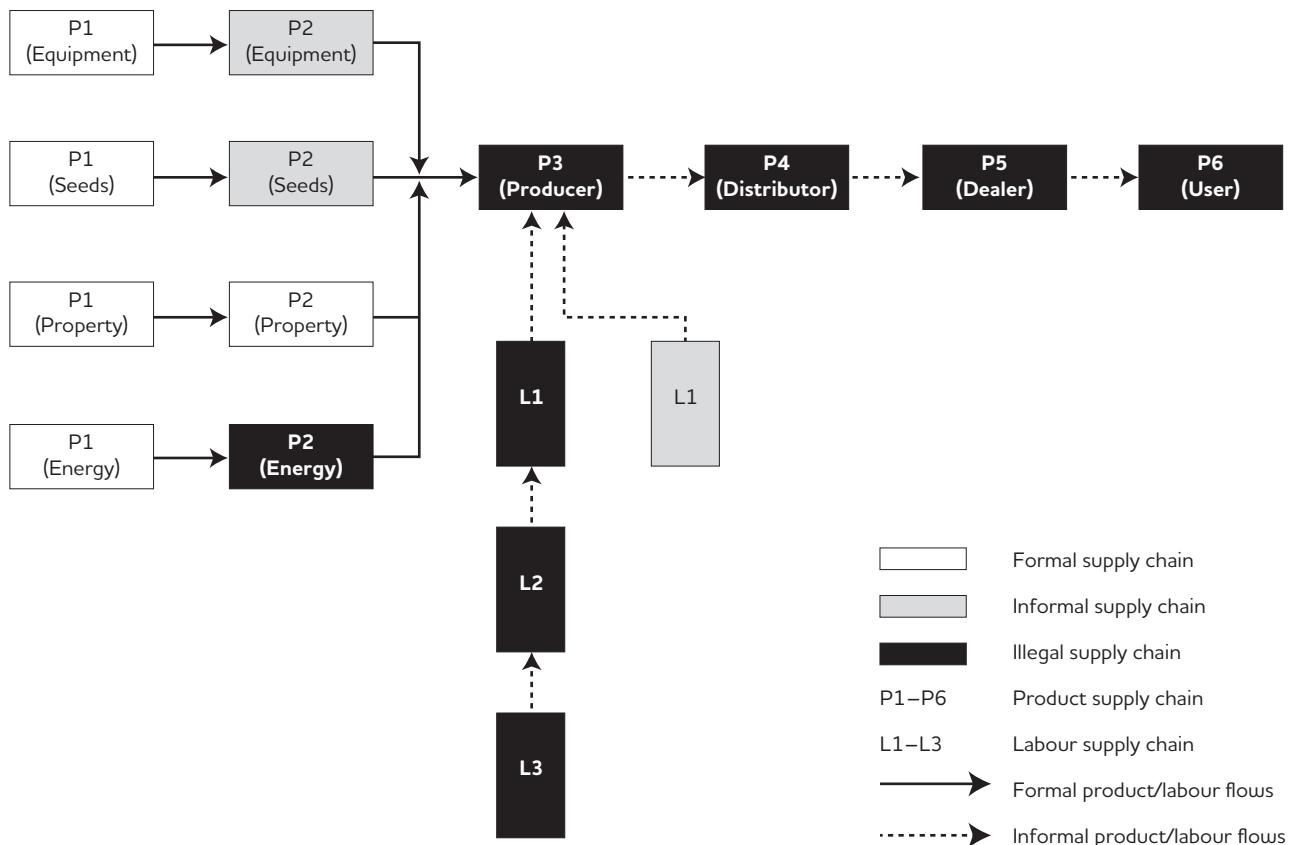
We now turn to the product and labour supply chains that might give rise to forced labour in each of our three sectors. Our research suggests that there is considerable diversity in these chains, but that each industry does exemplify a typical profile which is in important respects distinct from that of the other industries, and from the more general models just provided in Figures 7 and 8.

### Supply chains in cannabis cultivation

Because it deals with an illegal product, the cannabis cultivation industry involves a substantial number of illegal and informal actors in its supply chains. In Figure 9, we locate cannabis cultivation at P3 in the product supply chain. Feeding into this stage are various product inputs to cultivation (along the horizontal), including equipment (such as lights which are commercially produced and then sourced through informal suppliers), seeds, property (buildings where the grow-op is located which are typically rented legally from regular landlords), and energy (usually accessed illegally from the grid). Downstream from the producers are other actors in the product supply chain such as distributors, dealers, and ultimately users, who are all acting illegally. So this product supply chain consists of perfectly legitimate actors engaging in formal market transactions, as well as legal businesses conducting some informal transactions off the books, and criminal enterprises operating completely illegally.

The labour supply chains into cannabis cultivation (along the vertical) consist of a simple informal chain, for example, for the supervisor of the operation, who willingly joins the enterprise, as well as an illegal forced labour chain comprising a series of recruiters and traffickers who bring the gardener

**Figure 9: Illustrative supply chains giving rise to forced labour in cannabis**



into the enterprise and keep them there through some form of coercion or debt-bondage (see Box 9).

An important point to note here is that although the cannabis cultivation sector operates in a zone of illegality where forced labour may be tolerated, there are also at some points in the product supply chain formal, economic actors who are either unaware of the practices further downstream or turn a blind eye to them. Probably the closest formal legal economic actors are the landlords leasing their property to the gangs.

### **Box 9: Vietnamese gardeners and the cannabis supply chain**

The cases of Khoi Dong Vu, Hoa Nguyen, and Tri Van Li, are just a few examples of the close to 400 Vietnamese people serving sentences in UK prisons. While each case varies slightly, there are broad similarities in how they ended up in the criminal justice system. They were all smuggled or trafficked into the UK from Vietnam through illegal channels, often by facilitators using forged documents and visas, and finding themselves indebted to their trafficker and being forced to work as gardeners in cannabis farms. Some report being paid minimally, while the majority report being forced into criminality by Organised Criminal Groups (OCGs), and locked up to look after the cannabis plants under the threat of violence to themselves or their families in Vietnam.

While OCGs who operate with the perception that commercial cannabis cultivation is a low-risk, highly profitable criminal business are responsible for organising the supply chain of Vietnamese gardeners, they also rely on a network of accomplices, including supervisors, renters, electricians, distributors, dealers, debt enforcers, and production/packaging workers. However, it is the gardeners who are typically the ones arrested and charged for drug offences while others in the supply chain remain largely undetected.

During the summer of 2013, major developments took place within the criminal justice system as the Court of Appeal for England and Wales squashed the convictions of two Vietnamese children on drugs charges, recognising that they had been trafficked into the UK to act as gardeners in a cannabis grow-op. The Lord Chief Justice in rendering judgement noted that those within the criminal justice system “must be alert to the potential difficulties to which cases involving victims of trafficking can give rise”. Previous to this case (*L and Others* (2013)), no person had been found guilty of trafficking in persons in the area of cannabis cultivation, and no gardener had been identified as a victim of trafficking.

Source: Scott, 2011; EUROPOL, 2012; Association of Chief Police Officers, 2010, 2012; Serious Organised Crime Agency, 2012; and *L and Others*, 2013

### **Supply chains in food**

The key factor to note in the supply chains of the food industry is the heavy reliance on labour market intermediaries in the incidence of forced labour. Although this is not always the case (for example, we have noted cases of farmers using forced labour without any involvement of intermediaries), it represents an important structural condition of the industry that we need to



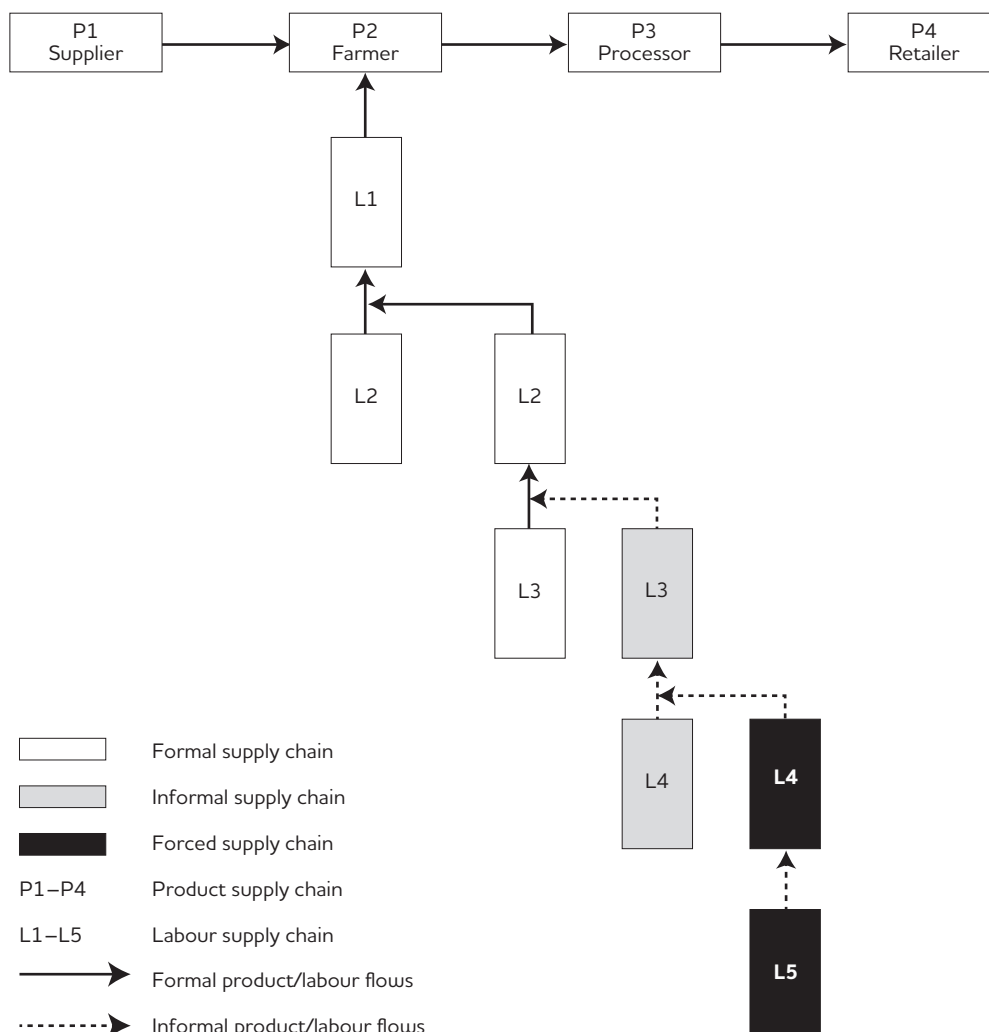
take account of in showing how different types of supply chain arrangements can give rise to forced labour.

In Figure 10 we show an illustrative model of how an intermediary-based form of organisation might lead to forced labour in the food industry at the farming stage. That is, we show how successive stages of subcontracting of labour to supply workers to a farmer can breed informality (grey) which in turn can be the gateway to illegal forced labour (black).

These levels of intermediation are driven by seasonality in labour needs, the time sensitive nature of the industry, and the drive to lower costs by various actors in the product supply chain, for example among processors (P3) and retailers (P4). These factors lead to producers such as farmers relying on casual labour which is frequently supplied by intermediaries. However, either because the first tier of intermediary (L1) cannot provide enough labour or they want to leverage a lower cost provider at L2, subsequent tiers of intermediary are engaged. Pressure on costs then can lead to more informal intermediaries being introduced to the supply chain, usually on a temporary basis.

For instance, while farmers might maintain a stable supply of agency workers during the actual growing of a crop, as Martin Cooke of the Ethical Trading Initiative noted, “when it comes to harvesting, they certainly need a lot more people to catch things or pick things or shift them about, and so

**Figure 10: Illustrative supply chains with intermediaries giving rise to forced labour in the food industry**



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the harvesting bit of the operation is known to be a problem". Similarly, as Dionne Harrison of Impactt noted,

with seasonality, one week of the wrong weather in the wrong place and the whole season is wiped out. Or you have a burst of sunshine in the wrong week and then you have an abundance of fruit, but it all comes at the same time.

To prevent the crops from going to waste, producers request higher numbers of workers for a short period of time, which agencies procure through subcontracting.

Rosey Hurst of Impactt described how a first tier labour intermediary would initiate a supply chain:

you call someone, you say I want twenty people and that person maybe has five people at their disposal so he phones somebody else and he says, have you got some people and they go, yeah I have got three but I can get you another eight, so he phones his mate, so it is very, very informal, that is the way it classically works because it is a flexible thing.

She noted that while this was the industry norm before the creation of the GLA and licensing and that this is no longer the norm, some agents continue to operate in this way, primarily those who "view themselves as outside the regime or they may have a part of their operations that is licensed and another part that isn't licensed".

As our informants described, these dynamics have important implications for labour standards. In Impactt's Dionne Harrison's words,

So in terms of labour standards, that then has implications. You need all your workers, but you only need them for two weeks. You need to flog them to death for those two weeks, but then afterwards, there's no work for them.

Similarly, Martin Cooke recounted,

We have heard about problems with chicken catchers. We have heard about problems with vegetable pickers and so on. Because once you have harvested a shed of chickens or a field of carrots and they are gone, then the workers are not going to be there for very long in that location. So you've got gangs of workers who are being moved, probably daily, to different locations around the country to do whatever the job is.

### Supply chains in construction

Where construction typically deviates from the supply chain models discussed thus far is in the heavy use of subcontractors in the product supply chain in addition to intermediaries in the labour supply chain. This can make for a particularly complex set of supply chain relationships, such as those depicted in the illustrative example in Figure 11. Here, the construction firm



at P2 subcontracts various tasks to a series of smaller firms, all of whom might utilise labour market intermediaries (and so therefore have their own labour supply chains). At some stage, in some of these chains, informality may arise, and in turn could lead to forced labour.

One of the main structural drivers of these chains in construction is the high proportion of small firms in the industry, meaning that few companies have sufficient size to complete an entire set of tasks at any given stage in the product supply chain. Moreover, the high volatility of the construction industry creates a need for a flexible workforce, which is substantially resourced by intermediaries. What this means is that, as Figure 11 shows, the usual labour supply chain into a given stage in production is still in place (below the horizontal), but this is supplemented with additional layers of subcontracting and labour intermediaries (above the line) that bring a great deal of complexity into the picture. This is not to say that all forced labour in construction is characterised by this kind of structure. However, these arrangements, because they give rise to informality, opacity, and lack of oversight, provide a fertile context for forced labour to thrive (see Box 10).

### **Box 10: Exploitation by construction subcontractors**

In 2008, a major construction firm, Skanska, was operating a government Private Finance Initiative (PFI) hospital site in Mansfield worth £600 million. Skanska subcontracted most of the building work to its major subcontractors, including a firm called Baris, who subcontracted dry-lining to a small company called Prodom. Prodom was discovered to be paying its dozen Lithuanian workers just £8.80 a week for a forty-hour working week – a situation that came to light only after some workers stopped being paid altogether. According to the pay slips obtained by Union of Construction, Allied Trades and Technicians (UCATT), workers 'did not receive overtime (some workers worked in excess of 70 hours and took home less than £100) and were charged excessive deductions for rent, tools and utility bills. It is understood that many of these charges were unlawful'. The construction union UCATT, which uncovered the exploitation, described the case as an 'appalling systematic abuse of vulnerable workers'.

UCATT, 2008

### **Dynamics of supply chains**

Many of the supply chains described above are rarely static, especially where they involve intermediaries and subcontractors. This is partly because such organisations are primarily involved in supply chains in the first place to deal with fluctuations in demand and to increase flexibility. Given that they are also used to reduce costs, the supply chains are also constantly open to reconfiguration as other opportunities to drive down costs arise.

The emergence of informality is also often a temporary phenomenon, driven by specific demands to fulfil particular labour needs under particular terms and conditions. The individuals and organisations that operate informally may also vary in their degree of permanence. That is, some veer into informality opportunistically to take advantage of a particular opportunity and then revert to a more formal arrangement, while others operate permanently in the informal sector, for example to avoid regulatory

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oversight, taxation, or immigration controls. Moreover, sometimes these are simply rogue individuals, while at other times they are organisations of several people, bound by a common identity.

It is therefore necessary to differentiate between permanent and temporary informal agents and organisations. A *permanent informal agent* is an actor in the supply chain – such as a labour market intermediary – who purposefully operates an informal business model on a long-term basis. A *temporary informal agent* is taken to be an opportunistic actor who temporarily or intermittently engages in informal activity. Similarly, a *permanent informal organisation* is an organisation or organisational unit that intentionally operates informally but comprises a significant and long-term part of the supply chain. A *temporary informal organisation* is taken to be an organisation that is opportunistically informal and may weave in and out of the supply chain.

For instance, returning to the example of the worker who subverted control and exploited his fellow employees in Box 6 (see page 36), 'Darius' would be considered a temporary informal agent. When the opportunity presented itself, he informally recruited others to work for his employer, and arranged their travel and accommodation (as well as controlled and siphoned their wages). On the other hand, a permanent informal agent might be a person who picks up day-labourers on London street corners each day and provides them to various labour agencies in need of additional workers.

### From chains to networks

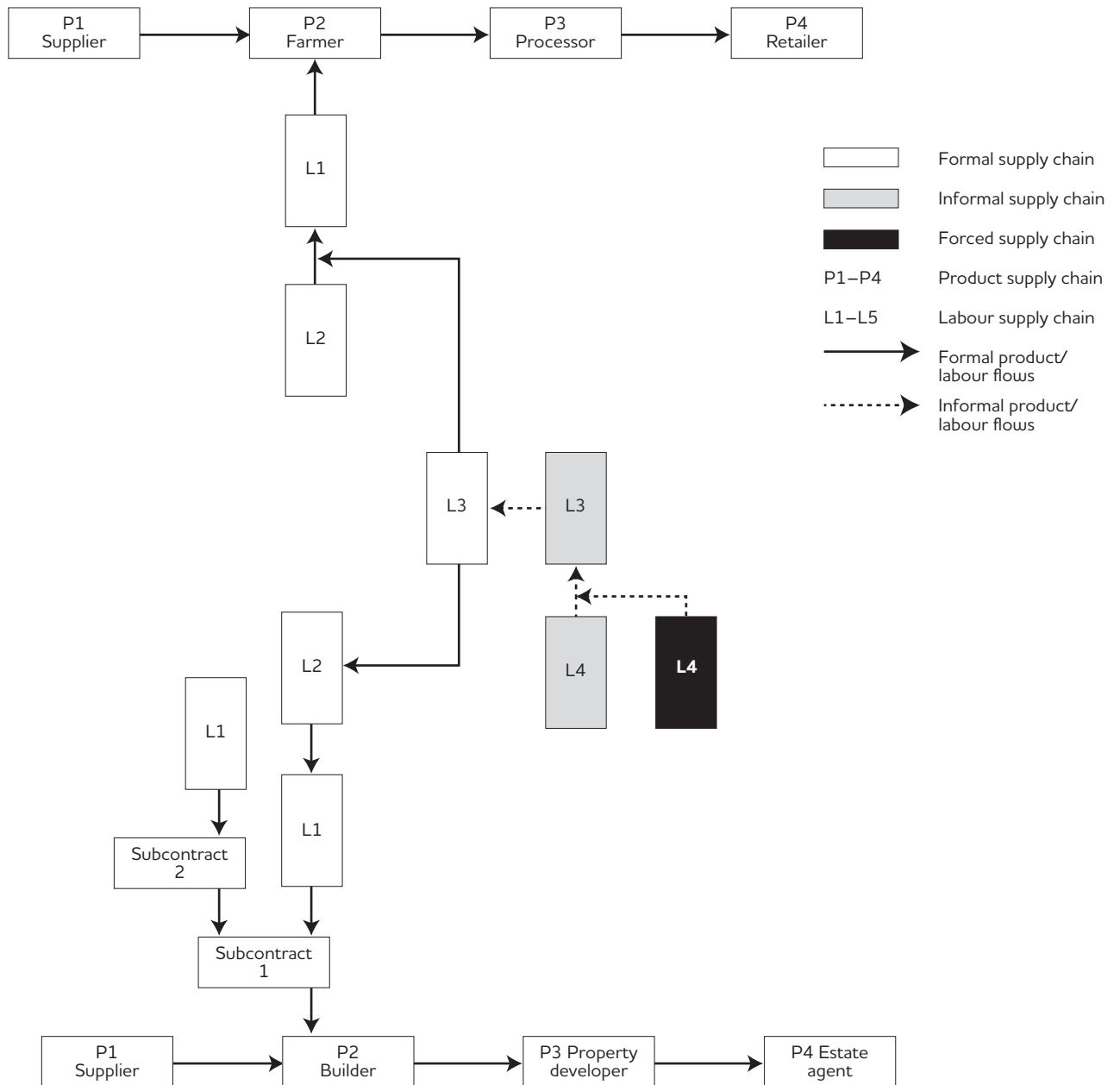
In Section 2 we pointed to the shift from dyadic to triangular to networked employment relationships. This shift to a more networked arrangement is also relevant for how we conceive of the supply chains of forced labour. There are always certain limits to representing economic activity in terms of chains in that it can oversimplify what is actually a more complex set of arrangements. As Henderson *et al.* make plain in their 2002 publication:

A major weakness of the 'chain' approach is its conceptualization of production and distribution processes as being essentially vertical and linear. In fact, such processes are better conceptualized as being highly complex *network* structures in which there are intricate links – horizontal, diagonal, as well as vertical – forming multi-dimensional, multi-layered lattices of economic activity. For that reason, an explicitly relational, network-focused approach promises to offer a better understanding of production systems.

So far in this section, we have dealt with some of this complexity by representing chains in two dimensions (horizontal and vertical) as well as breaking down into subchains of subcontractors and intermediaries. Conceptualising these chains as part of larger networks, however, helps us to go one step further and consider the interrelationships between some of these actors. For example, an informal labour intermediary in the food industry may switch some of its workers to a subcontractor in the construction industry to avoid an audit, then leave them underemployed (but still paying for ancillary services) for a time, and then redeploy them with a different agency serving another food company at a later date.

Although the intermediary may be regarded as a permanent informal organisation, its role in any given chain is temporary and ambiguous. Seeing the organisation as part of a larger network of organisations within and across industries helps us capture the phenomenon of the business of forced labour at a greater level of complexity. Figure 12 provides one illustrative

**Figure 12: Networked model with forced labour across food and construction supply chains**



example of how a networked arrangement of forced labour in food and construction might look.

## Conclusion

This section has set out the product and supply chains involved in forced labour in the UK. This has illustrated the way in which informality becomes the gateway to forced labour, or how in the words of Effie Marinos: if a person “cannot work legally, they are going to work on the black. As soon as they work on the black, they are in danger of being exposed to exploitation, which could include forced labour”. Nonetheless our analysis also demonstrates that formal, legitimate business is also always a part of the supply chains of forced labour, whether dealing in legal or illegal products. This, as we shall see in the next section, has implications for attempts to combat forced labour.

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## 4 COMBATING THE BUSINESS OF FORCED LABOUR

In this section we explore the ways in which the business of forced labour is currently tackled. We also assess some of the proposed alternatives that have been advanced by various stakeholders to enhance the means of combating forced labour. While our analysis is based on our study of the food and construction industries and cannabis cultivation, we believe that our study is relevant and applicable to other sectors of the economy.

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### Existing approaches to combating forced labour

As awareness of exploitation in the workplace has grown, various systems have been developed to seek to combat forced labour. The three most prominent interventions designed to identify or disrupt forced labour within food, construction, and cannabis supply chains are regulatory enforcement, licensing of labour providers, and social auditing. These range from hard law interventions to self-regulatory systems designed and applied by business.

Given that forced labour is not easily positioned within a single space for regulation, each initiative should be seen as a piece of a jigsaw rather than a coordinated or comprehensive response. That said, our research suggests that a range of informants believe these current approaches to be limited in their effectiveness at preventing, detecting, and prosecuting forced labour.

### Regulatory enforcement

The criminalising of forced labour with the enactment of the Coroners and Justice Act 2009 and the obligations which flow from the European Human

Rights Convention that ‘no one shall be required to perform forced or compulsory labour’ means that law enforcement agencies have a much wider remit to consider crime in the workplace. Yet, such enforcement – consider corporate manslaughter or fraud – remains very difficult, as contemporary law enforcement is geared towards crime in the public rather than in the private sphere, which has its own regulatory framework (Scheingold, 2011).

At or near the national minimum wage, policing around the workplace is about immigration status rather than forced labour. Although established as a standalone crime in 2009, forced labour is, in the main, dealt with by law enforcement within the regulatory framework related to trafficking, which has as one of its lead organisations, in terms of the formal identification of victims, the UK Border Agency. By falling under the umbrella of trafficking, labour exploitation tends to take a back seat to sexual exploitation, something which carries more resonance with the general public, is given more emphasis as a political priority, and is more conducive to policing.

However, even where the police are dealing with criminal activity, the case of cannabis grow-ops is instructive, as there have been difficulties in being

### **Box 11: Challenges to policing forced labour**

“... we are seeing more and more victims referred for labour exploitation. And we are seeing more and more support asked for by the police on labour trafficking cases.

I think from an operational perspective, one of the real challenges for any organisation investigating a labour trafficking case is the sheer volume of potential victims. So if you were to rescue a trafficked victim from a brothel, you may well end up with one or two, maybe a small handful, of victims. Which the police can deal with, they are accustomed to deal with. When you go and sort of raid a factory, a farm, a food processing factory or whatever it may be, you could end up with tens of people.

We did a job last year in Kent on a chicken farm, there were 29 Lithuanian males. 29 people, potential victims, is ... a real problem for the police to deal with. How do you deal with that? Because if you have got somebody in custody, you have only got 24 hours to deal with them. ... So if you have got 29 people, that is 29 people to interview. They have to be interviewed in a certain way because they are vulnerable. They will probably need interpreters. They will not want to talk to you straight away because you need to build up some trust and rapport. And that is certainly not going to happen within 24 hours. ... So there is a whole host of issues for the victims most certainly. You cannot bring them to a police station, that is not the way to deal with them, so where do you take 29 people? How do you feed 29 people, how do you look after 29 people?

And if you undertake a factory raid, how many police officers do you need for that? Dozens, a hundred? A lot. I mean, the raid on the site in Bedfordshire [where the *Connors* case transpired], the numbers went – it was a three figure number for police officers. And lots of planning, lots of support.”

Liam Vernon, UK Human Trafficking Centre



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able to make a distinction between gardeners as criminals and gardeners as victims of forced labour. As Klara Skrivankova of Anti-Slavery International has noted: “there is a huge priority to disruption and policing of drugs, and there is no priority in terms of policing targets and what police are evaluated and measured on in relation to forced labour and trafficking.” As a result, individuals locked into houses tending cannabis grow-ops find themselves within a criminal justice system geared towards identifying criminal behaviour rather than seeing a victim of exploitation.

Regulatory enforcement within the private sphere is in the main left to businesses themselves, facilitating rather than disrupting the ‘race to the bottom’ in which businesses attempt to lower cost and improve profitability. In this context, the use of intermediaries such as labour suppliers has blurred the line of responsibility between employer and employee, making it difficult to establish accountability where workers’ rights are violated, be they with regard to wages or health and safety. Where, in the UK, a business-friendly atmosphere pervades employment relations, regulatory enforcement is seen as being nearly nonexistent. It has been noted, with specific reference to the paying of the minimum wage, that there is ‘still a feeling among employers at the rough end of the labour market that they could get away with non-compliance’ (Low Pay Commission, 2013). Where regulation does exist in the area of business, it transpires through licensing, but also self-regulation through social audits.

## Licensing

Licensing of labour intermediaries is an important way in which supply chains can be regulated to combat the business of forced labour. Such regulation of UK-based food supply chains commenced with the creation in 2005 of the GLA, which has played a critical role in improving the standards of labour providers. However, the restriction of licensing to the food sector, and the GLA’s ever decreasing resources, mean that licensing has had limited success in combating the business of forced labour.

As noted in Section 1, the licensing of labour intermediaries only operates in one sector, since the GLA’s remit is limited to agriculture, horticulture, forestry, fish processing, shellfish, dairy farming, and food packaging and processing.

The restriction of licensing to the food sector means that certain intermediaries have diversified to multiple industries. As Darryl Dixon of the GLA notes, some labour agencies “divisionalise so that there is a division that deals with providing workers into agriculture. They then mitigate and reduce their risk exposure in case we revoke their licence away.” If the GLA revokes an agency’s licence to operate within the food industry, workers can be moved into another industry, such as construction. Dixon considers that once an intermediary’s license is revoked, “the only way you can exploit those workers is by employing them somewhere where there is not actually an organisation that is looking at how the workers are treated”.

Non-GLA industries, such as construction, encourage the self-regulation of agencies, but there is no formal enforcement to secure compliance. As such, the UCATT has made plain that ‘many workers encounter daily exploitation from agencies and gangmasters’ (UCATT, 2013). While the Agency Workers Regulations came into force on October 2011, ‘giving agency workers the entitlement to the same basic employment and working conditions’ after 12 weeks on the job (BIS, 2011), the lack of licensing authority means that there is little accountability or enforcement. The Department for Business, Innovation and Skills’ Employment Agencies Standards Inspectorate deals only with abuses that have already occurred. As

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Sean Bamford of the Trade Union Congress noted, “unless it is covered by the GLA ... there is no one really looking.”

The effectiveness of licensing has been further limited by the fact that the GLA is losing some of its resources. Funding to the GLA has fallen in recent years, and for 2012–13, ‘the Authority’s budget has been reduced by a further £200,000 to £4.1 million’. According to the GLA, this change ‘sets the Authority a significant challenge to meet its objectives with reducing resources’ (GLA, 2012). Several informants described a “weakening of the GLA” over the past couple of years. As Joanna Ewart-James of Anti-Slavery International put it, “it has become increasingly difficult for GLA to fulfil its functions”.

Retail companies operating in the food sector have also voiced concern about the GLA ‘losing its teeth’. Sainsbury’s CEO Justin King has noted that retailers “should not be responsible for auditing supply chains”, suggesting that “we cannot perform the role of the GLA in policing labour abuses right through the entire supply chain and we are aware that without the intelligence received by the GLA a number of supply chain issues would go undiscovered” (Neville, 2013).

### Social auditing

As labour and product supply chains have become increasingly fragmented, public and private sector organisations have developed tools and criteria to promote accountability among their suppliers. In particular, both public and private sector organisations have set out criteria including social and environmental standards upon which they award supply contracts. They have also developed protocols and tools to assess claims made around supplier performance in those areas.

Retail companies have dealt with the need to ensure social and environmental standards in their supply chains through a tool called social or ‘ethical’ auditing. Audits are a diagnostic tool that retail companies and other ‘lead firms’ use to measure, track, and enforce the standards and performance of producers and intermediaries in their supply chains. As the Supplier Ethical Data Exchange (Sedex) describes it, ‘an ethical audit is a thorough formal examination of the labour practices of a particular workplace or company. It is a verifiable process to understand, measure, report on, and help improve an organisation’s social and environmental performance’ (Sedex, 2013).

Auditing is a widely used tool across many different industries, including those dealing with clothing, timber, and jewellery. The use of social audits is common practice in the food industry – where reputational risk is acute and brand is fundamental – for retailers such as Tesco and Marks & Spencer. It is also common among major construction companies, who rely on firms such as Achilles to ‘identify, evaluate, and monitor suppliers’ (Achilles, 2013). Given the illegality of its product, the cannabis industry does not have a formal audit regime.

Our research suggests that the current social audit regime has limited success in detecting and, especially, reporting forced labour within the food and construction industries. The following are the three main reasons:

- Limited detection – the path of social audits is typically built around a product supply chain rather than a labour one.
- Limited reporting – in the UK, the audit regime has not been organised to encourage reporting of criminal activity.
- Limited corrective action – there is considerable variation in audit quality and corrective action.

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### Limited detection

In the first instance, because the path of social audits is typically built around a product supply chain rather than a labour supply chain, social audits tend to exclude some of the most vulnerable workers within the supply chain. Two gaps are particularly significant in limiting the detection of forced labour.

First, because the number of tiers of subcontractors included in audits is not standardised, but rather is decided by the commissioning firm, many firms choose only to audit their largest subcontractors (Tiers 1 and 2). However, as the previous sections of this Report demonstrate, forced labour commonly enters the supply chain through smaller companies subcontracted for lower-value activities (Tiers 4 and 5).

Second, the product-focused pathway of audits means social audits seldom pierce through the complex layers of intermediaries in the labour supply chain that often manifest forced labour. Audits are focused on producers' core workforces, but as Section 3 of this Report demonstrated, forced labour commonly enters the product supply chain through long and complex labour supply chains, several steps removed from the workers officially on the books as the core workforce of producers.

For instance, as Figure 10 illustrates, forced labour often enters food industry supply chains through a complex labour supply chain of informal intermediaries (L3–5). Yet, the pathway of most food industry audits focuses on the formal supply chain (L1 and L2). Similarly, as Figure 11 illustrates, forced labour enters the construction supply chain after many layers of subcontracting (Sub 5), through informal intermediaries (L3–4). Yet, few audit programmes pierce through multiple levels of subcontracting or reach deep enough into the labour supply chain to detect forced labour. In brief, audit pathways are not currently built around the portions of the supply chain that are at the highest risk for forced labour. These zones – as our models illustrate – are where formality meets informality; in Figures 7 to 11, where the 'grey' turns to 'black'.

Audits may therefore miss forced labour feeding in through these highly informal chains because they tend to be limited to the practices surrounding the workers documented on the records of producers (who are generally tasked with verifying the workforces of their intermediaries). As Impactt Director Rosey Hurst has noted, this can make it difficult to detect forced labour since “there could always be another group of people” who were not on the books. While auditors occasionally encounter such workers during site visits, our informants noted that producers commonly rid their worksites of exploited workers for the duration of the inspection. As Effie Marinos of audit firm SGS relates,

**It used to be the standing joke that if you went to Alton Park, which is one of our amusement parks, on any week day, what you did find is loads of illegal workers who had been given the day off by their employers, and all the difficult ones who were likely to say things to the auditors.**

Furthermore, because social audits are set up around product supply chains that feed into branded retail stores, they tend not to cover the portions of industries that do not flow into retail supply chains. Within the food industry, for instance, audits tend to exclude farms that are outside of major supermarkets' supply chains. As Marinos described,

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not all the farms are involved in the supply chains to the supermarkets and if you are going into the cash and carries, if you are going into the markets, if you are going to those places, I am not aware of anybody who is checking.

This has particularly serious implications for industries such as construction that are primarily structured around a business-to-business market, and illegal industries such as cannabis production which have no legitimate, downstream retail stage.

### **Box 12: Forced labour in a food warehouse**

“... I think the worst case we ever came across, without naming names, was actually in a distribution warehouse. A group of Romanian women, in their forties were intentionally recruited because they couldn't speak very good English. This meant that they did not have the means or power to ask questions or get help.

They were made to think that they were illegal. So, forced to register under a false name, passports taken away, and had to pay various monies. They were brought over in a bus and they had to pay that person. They then had to pay to get the job and accommodation deposits so by the time they started working, they were heavily in debt. The accommodation provided was more expensive than the local market warranted and the quality very poor; even unhygienic in some cases. Charges were certainly much more than legally allowed when accommodation provided by an employer.

A fellow worker acted as a middleman with one of the local agency representatives to ensure all the women's wages were paid into the bank account of the middleman and he then distributed minimal monies to them. He claimed many deductions from their wages so they never received enough money to cover their debts or save money. So in effect they were debt bonded to this middleman in collusion with a sole individual from the agency. That's probably the worst case I've personally come across.”

Dionne Harrison, Impactt

### **Limited reporting**

The audit regime has also not been organised to encourage reporting of criminal activity. As private firms contracted by businesses – not government, or the public – to examine and verify the supply chain, audit firms are obliged to report forced labour and similar abuses to their clients, but not externally.

As our informants described, audit reports are generally confidential to the firm that commissioned the audit. A copy is sometimes sent to the supplier along with the 'corrective action' plan devised by the client. But because audit firms are businesses whose primary obligations are to their clients and not to the public interest, their ability to report exploitation and forced labour is limited. As Marinos described,

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We would have to work with the commissioning company on that to decide how they wanted to play it because, it is not – it is one of those strange situations, that unless you have real evidence that the law is being broken, you really cannot start going to the authorities, not if you want to stay in business, anyway.

The GLA is in the process of revising its 2010 'Supermarkets and Suppliers Protocol' to encourage and create channels for auditors to report forced labour among labour agencies directly to the GLA. In Darryl Dixon's words, the Protocol will "raise the awareness of ethical auditors, and make sure that where they identify problems, those problems are notified to us". However, outside the food sector there appear to be very few established channels to facilitate reporting between audit firms and government authorities.

### Limited corrective action

Although there are numerous examples of best practices and shared standards in the ethical audit industry, not all firms deliver uniform high quality audits. Auditors vary in the depth, methods, and rigour they use. Our informants noted that the recent rush of audit activity over the past decade has resulted in a high number of "very poor quality audits, which are not heuristic in nature." As Rosey Hurst of Impactt described it, many auditors are "not trying to find things out, they are trying to prove that something is not there." In the words of Aidan McQuade of Anti-Slavery International, "you have an industry of ethical auditors out there now who will find nothing if you pay them to go and find nothing".

Considerable variation is also evident in how commissioning firms decide to deal with labour non-compliance issues documented through audits. As Marinos described,

What the audit will do is present you, the factory or the farm, or whoever, plus your principal if they are the ones who have commissioned the audit, with this is what is happening. It is then up to those people to look at how they are going to address and deal with those issues.

While some firms may work with suppliers to improve their practices through strategic partnership models and corrective action plans, others leave it up to subcontractors to make and self-report on their improvements, sometimes with limited success. As Marinos noted, "it does not matter how many times we audit a factory, that does not mean they are going to improve." Other firms may simply dump the supplier if forced labour or exploitation are found, but, as Martin Cooke of the Ethical Trading Initiative noted, "they cannot fix it if they suddenly just say, "Right, that is it. We are dumping the supplier." The supplier will just find somebody else to sell the stuff to and the problem will continue." Still other firms, in McQuade's words, simply ask auditors to make the problems discovered "go away" and if they "can't make that go away then why would they ever hire that auditor again. So it's a corruptible thing".

A key factor in a firm's ability to act upon audit results is size. As Cooke stated:

I think it is easier for the big retailers because they have a lot of leverage over their suppliers and their business is very valuable to

people. It is much more difficult for the smaller companies where they may only account for a very small percentage of a particular supplier's output. So their ability to leverage change is much less. Their ability to detect problems is less. Everything gets more difficult if you are small.

Given these limitations on detection, reporting, and corrective action, it is perhaps not surprising that there have been numerous incidents in recent years where forced labour has been found amidst businesses that have successfully passed social audits. In one such case, a human trafficking raid in Lincolnshire found 60 migrants subjected to forced labour harvesting leeks by a firm called A14 Vehicle Hire, which supplied labour to Emmett UK. A14 had recently passed two successful audits by Emmett, as well as an audit by the GLA in 2008. All of these audits failed to detect the abuse (Shankleman, 2008; Ewart-James, 2009).

## Proposals to better combat the business of forced labour

During the course of our research, we noted a range of proposals that have been put forward to deal with the problem of forced labour. These proposals range from those focused on a specific element of the regulatory framework (such as licensing) to overhauls of the framework itself (such as an Anti-Slavery Commission). Each of these proposals has its strengths and weaknesses, as described in Table 4.

**Table 4: Current proposals to address forced labour in the UK**

Proposal	Approach	Strengths	Weaknesses
1. Expand remit of GLA to other sectors (e.g. construction, care work)	Expand government regulation of labour providers to sectors outside of food industry	<ul style="list-style-type: none"> <li>• More licensed labour providers operating in the UK market</li> <li>• Extension of state oversight over travel and subsistence schemes</li> </ul>	<ul style="list-style-type: none"> <li>• GLA does not <i>regulate</i> labour provision, per se; it only licenses and revokes licence</li> </ul>
2. Deepen the powers of GLA within the food sector	Strengthen the GLA's ability to track and treat forced labour when they come across it	<ul style="list-style-type: none"> <li>• Gives GLA power to investigate forced labour and apply criminal codes</li> </ul>	<ul style="list-style-type: none"> <li>• GLA's remit would remain confined to companies with at least one operation in the food sector</li> <li>• Only 55% of GLA licensed businesses also operate in other sectors</li> </ul>
3. Transparency in UK Company Supply Chains (Eradication of Slavery) Bill	Require companies with over £100 million in gross annual receipts to disclose their efforts to eradicate slavery, trafficking, and forced labour from their supply chains	<ul style="list-style-type: none"> <li>• Increased transparency among the largest companies</li> <li>• Increased public and corporate awareness of forced labour</li> </ul>	<ul style="list-style-type: none"> <li>• Deepens reliance on audits as regulatory mechanism</li> <li>• Companies are not bound to specified, independently established guidelines. Rather, they simply report what they are doing to meet internal goals.</li> <li>• Does not increase 'boots on the ground'</li> </ul>
4. Create an Anti-Slavery Commissioner for the UK	Creation of a new commissioner to focus and coordinate efforts against slavery	<ul style="list-style-type: none"> <li>• Harmonisation of government efforts to address forced labour</li> <li>• Enhanced treatment/protection of victims</li> </ul>	<ul style="list-style-type: none"> <li>• Would focus mainly on 'giving voice' to victims of modern slavery rather than specific action</li> <li>• Likely to concentrate primarily on highly visible and public issues</li> <li>• Could be susceptible to political interference, e.g. around immigration policy</li> </ul>

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## Conclusion

In the light of our findings in the previous sections, we would suggest that each proposal has merit, and may go some way to enhancing the way that forced labour is combated in the UK. However, it is also clear that they do not address in any fundamental way the underlying business models of forced labour set out in this Report. Closer attention to disrupting the business of forced labour is necessary. Moreover, although the proposals demonstrate that there is active attention to dealing with the problem of forced labour in the UK, there is a lack of a unified voice and platform for advancing this agenda. As recent JRF Reports have noted (see, for example, Geddes *et al.*, 2013), a new way forward needs to be developed.

In this Section we have explored some of the principal ways in which forced labour is combated in the business arena in the UK, and briefly examined a number of proposals for enhancing the current regime. We have shown that while the current set of initiatives help to reduce exploitation, and have some effect against forced labour, more concerted attention is needed. Going forward, new approaches will have value, but will need to be more closely aligned and will need to address the business models of forced labour better.

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# CONCLUSION AND RECOMMENDATIONS

Having considered the business of forced labour, it is clear that money is made in such situations through either cost minimisation or revenue generation. The minimisation of costs may transpire through reducing the amount of remuneration given to workers in a manner that would not otherwise be possible if coercion or deception were not being utilised. When speaking of the minimising of costs we also include the minimising of risk which may be at play when dealing with illegal activity. By coercing a person, the victim may be less likely to reveal their situation, thus reducing the cost of detection while maintaining low labour costs.

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Revenue generation is often used either as a substitute for or in addition to cost minimisation, in the business of forced labour. Revenue generation results from the charging of exploited workers for the provision of services such as accommodation, food, and transportation. A second revenue stream which makes the business of forced labour profitable is the theft of benefits from workers. Welfare entitlements which should otherwise go to the worker, are taken as a means of profiting from exploited workers.

Our consideration of the modus operandi of forced labour shows that the approach to the business of forced labour can be further understood by making a distinction between the producer and intermediaries as the beneficiary of forced labour. The producer, the person actually deploying the forced worker in a productive capacity is, in the main, found in high intensity, poorly mechanised sectors of the economy, which require low-skilled workers labouring at or near the national minimum wage. Producers using forced labour are typically small enterprises that operate in the informal or illegal sectors.



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Intermediaries are go-betweens who provide labour-related services. Such labour providers, be they gangmasters or payroll agencies, provide flexibility and are used to reduce costs for producers. Forced labour will often enter the labour supply chain through intermediaries where the industry is volatile or work is time sensitive.

Indeed, reference to labour supply chains is fundamental to understanding the context in which forced labour can enter and be sustained within a sector or business. It is at the confluence of production and labour supply chains that the business of forced labour can best be understood.

While it is often considered that forced labour is hidden, our research demonstrates that it links through supply or labour chains to the formal economy. Product supply chains in the UK are relatively short, however labour supply chains have a greater propensity to become complex, which then allows for informality: the gateway to forced labour. The complexity of labour supply chains is most evident in time sensitive situations such as those relating to agricultural harvest or looming construction deadlines. While informality often results from a lack of enforcement of employment standards, the recognition that complex labour supply chains are prone to include exploitative practices including forced labour should focus our thoughts on possible solutions.

To that end, it should be recognised that the current social audit system meant to monitor labour supply chains has had limited success in detecting and especially reporting forced labour. In fact, despite a general obligation on all UK citizens to report any criminal activities, social auditors are, in the main, often precluded from reporting possible cases of exploitative practices to regulators or the police by confidentiality agreements.

The issues of social audit confidentiality agreements and the criminal law is symptomatic of a UK regulatory framework which has, as yet, failed to internalise the fact that the Coroners and Justice Act 2009 criminalises forced labour. The Act itself and the positive obligations to which the UK is bound by reference to the European Human Rights Convention require a robust approach to tackling the type of exploitation which leads to forced labour in the area of employment at the 'rough end' of the economy.

The European Court of Human Rights has noted that States, including the UK, are required 'to put in place adequate measures to regulating businesses often used as a cover for human trafficking'. The Court states that furthermore, 'a State's immigration rules must address relevant concerns relating to encouragement, facilitation or tolerance of trafficking' (*Rantsev v Cyprus and Russia*, 2010). For the European Court, there is no distinction to be drawn between the process by which one is brought into a situation of exploitation (trafficking) and the actual exploitation (be it forced labour or other types of exploitation); as a result the obligations regarding regulating business and immigration hold for issues of forced labour. The same goes for the regulation of intermediaries beyond the remit of the GLA, such that labour inspection is seen to enforce elements of the regulatory system which allow work to fall into informality. Thus, issues of wages, hours worked, health and safety and general work conditions need to be monitored in those areas most prone to exploitation.

The UN Guiding Principles on Business and Human Rights further stipulate that beyond the state's obligation to protect such human rights, business enterprises have a 'responsibility to respect' which requires them to 'prevent, mitigate and, where appropriate, remedy human rights abuses that they cause or contribute to' (United Nations Human Rights Office of the High Commissioner, 2011). Thus, businesses have a duty not only to implement commitments and policies related to forced labour, but also to

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undertake reasonable due diligence of their potential impacts (including through their suppliers and business partners) and put in place processes for remediation for victims.

## Recommendations

The following recommendations, while being developed with special emphasis on three sectors (cannabis cultivation, construction and food), are applicable more generally to the overall approach which the UK should take towards ending the business of forced labour.

These recommendations should be considered in the light of the legal obligation of the UK to put in place adequate measures to regulate sectors of the economy where exploitation and forced labour are or may be present.

While we recognise that our recommendations encompass possible trade-offs and challenge freedoms normally associated with 'doing business', we seek to emphasise those values which inform the prohibition against forced labour and see these as creating a better UK society.

With this in mind, we recommend the following:

- 1 A Multi-Stakeholder Action Plan (MSAP) be developed, taking into consideration the following recommendations** to address issues of forced labour from an overarching perspective. This MSAP should be developed by a group of representatives from the various stakeholders involved in the business of forced labour and take into consideration government regulation and enforcement, initiatives from the business community, and input from trade unions and civil society. One or more of these actors, ideally from the public sector, would need to take a lead in forming the group responsible for developing the MSAP.
- 2 A UK-wide advisory panel be put in place to better coordinate activities** among those seeking to combat forced labour and to implement the MSAP. There is a need to build cohesion among different stakeholders while establishing leadership which is committed to the prospect of removing forced labour and exploitation as a structural element of the UK economy.
- 3 Regulators, law enforcement, business and civil society organisations should aim to disrupt the business of forced labour by carefully targeted interventions in the formal and informal economy.** Interventions should recognise that forced labour is not hidden, and that somewhere along the supply chain informality intersects with the formal economy. Particular attention should therefore be paid to effective disruptions in the formal economy, for example by prosecuting landlords leasing properties to cannabis gangs using forced labour, exposing property developers benefiting from the forced labour of construction gangs, and imposing subcontracting rules and restrictions on labour providers.
- 4 Government should take a lead in ensuring that forced labour is regulated out of the UK market,** while leading the way through its procurement policies in demonstrating a commitment to ending workplace exploitation. That the Government put in place the legislation and support the mechanisms in place which can eliminate the structural

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elements of the UK economy which allow for forced labour and labour exploitation.

- 5 The cost of recruiting vulnerable people into forced labour be sufficiently increased to price extreme exploitation out of the market.** To undermine the business models of forced labour the costs of finding and exploiting vulnerable workers need to be increased. This might, for example, be achieved by regulators (through changing tax and immigration rules) to ensure all workers in the UK are subject to minimum wage rules regardless of nationality. The Government should also shift some responsibility (and concomitant resources) to community actors to provide support for those at risk and ensure that they are not easily targeted by forced labour recruiters. Local businesses and law enforcers should make moves to remove the informal recruitment grounds that effectively allow recruiters to operate quasi slave markets on the high streets of the UK.
- 6 The cost of work force flexibility be borne by the producers (such as farmers, factory owners, and construction companies) that ultimately make use of flexible labour.** A flexible workforce has significant value for producer companies but it also comes at a cost. Many companies, however, simply take the benefits and do not reimburse labour providers or their workers for the costs involved. Rates paid to labour providers by companies should be accompanied by an accurate account of the costs within the formal economy of recruiting and retaining a flexible workforce. Industry associations representing labour providers should be supported in seeking to ensure that producers establish better rules of engagement.
- 7 Intermediaries be held accountable for the introduction of subcontracted labour into supply chains** where the costs of flexibility have been borne by producers. Companies need to set in place procedures to impose contractual liability and moral accountability on the Tier 1 labour providers they deal with directly for any labour subcontracted (or sub-subcontracted) by the provider. This should include appropriate awareness raising and training of labour providers by companies, as well as incentives for compliance.
- 8 All labour providers involved in the supply of labour at or near the national minimum wage should be regulated through licensing.** The mandate of a GLA-like regulator should thus be extended to other industries at risk, starting with construction.
- 9 Regulatory oversight over audit firms be established,** and the establishment of a professional body to accord them standards, and develop a widely accepted, publicly available professional code. This code should include provisions for the enforcement of forced labour regulations and would require social audit firms to report incidents of suspected exploitation or criminality to the appropriate authorities.
- 10 Social audit firms be required to share data on the incidence of suspected exploitation or criminality** (for example through Sedex) with other interested parties including other auditors, their clients, and the police. A watchlist of high risk producers (such as farms, factories or

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construction companies) and labour market intermediaries (agencies and individuals) should be established.

- 11 Recognition by law enforcement agencies and prosecutors that in cases of cannabis grow-ops, gardeners may be in situations of forced labour** and thus should be treated in the first instance as victims.

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# APPENDIX A

## Methodology

This Report draws on a combination of primary and secondary data. Data collection involved two phases: (1) secondary data collection, which encompassed an extensive desk-based literature review of forced labour in the UK, with a particular focus on the food and construction industries as well as cannabis cultivation; (2) primary data collection, which involved conducting qualitative semi-structured or unstructured interviews with participants which included key informants in the field.

During the desk-based literature review, a total number of 62 court documents and appeals cases, 35 newspaper articles, 42 academic studies and 63 reports were reviewed. For the primary data collection phase of the project, a total of 27 in-person interviews and 5 phone interviews were conducted. Interviews were conducted with experts on forced labour, trade unionists, law enforcement agents, non-governmental organisation (NGO) representatives, academics, researchers, barristers, employer representatives, company CEOs and ethical auditors.

The interviews were then transcribed and analysed using three levels of coding: (i) initial coding, where abstract concepts and themes that emerged from the interviews were linked with themes that were consistent with our line of inquiry, and which informed the secondary data which was collected during phase one of the data collection period; (ii) categorical coding, where coding from the abstract level was refined and examined using specific focal points, key terms, concepts and nodes, using NVivo10 software; (iii) thematic coding, where emerging themes were identified from the refined data (e.g. the impact of intermediaries in the labour supply chain, and the role of coercion in forced labour in cannabis grow-ops.).

Subsequently, a round-table discussion was convened in April 2013 during which discussions and consultation took place with experts and stakeholders in the field. These insights fed into the final refining of the findings and conclusions.

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# APPENDIX B

## JRF project list of participants (alphabetical order)

### Interviewees

David Arkless, President of Global Corporate and Government Affairs, Manpower Group  
Sean Bamford, Migrant Worker Policy Officer, Trades Union Congress  
David Camp, Director, Association of Labour Providers  
Martin Cooke, Head of Membership Services, Ethical Trading Initiative  
Darryl Dixon, Director of Strategy, Gangmasters Licensing Authority  
Jamie Elliott, Journalist  
Neal Evans, Research Officer, Unite the Union  
Joanna Ewart-James, Supply Chain Coordinator, Anti-Slavery International  
Louise Gray, Sector Manager for Construction and Utilities, Achilles Group Ltd  
Dionne Harrison, Business and Capability Director, Impactt  
Stephen Holme, Manager of Drugs Reception, Derbyshire Constabulary  
Rosey Hurst, Director, Impactt Limited  
Effie Marinos, Sustainability Manager, SGS  
Aidan McQuade, Director, Anti-Slavery International  
Glynn Rankin, Barrister, Ranking Associates  
Ewa Sadowska, CEO, Barka UK  
Chloe Setter, Advocacy Officer, ECPAT UK  
Klara Skrivankova, Trafficking Programme Coordinator, Anti-Slavery International  
David Stott, Implementation Manager, PMP Recruitment  
Barckley Sumner, Head of Press and Research, Union of Construction, Allied Trades and Technicians (UCATT)  
Liam Vernon, Head of UK Human Trafficking Centre  
Andrew Wallis, CEO, Unseen

### Anonymous

Anonymous Labour Provider, Food Industry  
Anonymous, Food Retailer  
Anonymous, Law Enforcement Agent  
Anonymous, non-governmental organisation (NGO) helping migrant workers  
Anonymous, NGO helping migrant workers

### Other Participants

Katherine Allenby, Lead for Migration, Association of Chief Police Officers  
Diane Osgood, Director, Business Action at Virgin Unite

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### Round-table Participants

Katherine Allenby, Lead for Migration, Association of Chief Police Officers

Alex Balch, Lecturer, Department of Politics, University of Liverpool

David Camp, Director, Association of Labour Providers

Neal Evans, Research Officer, Unite the Union

Dionne Harrison, Business and Capability Director, Impactt Limited

Effie Marinos, Sustainability Manager, SGS

Glynn Rankin, Barrister, Rankin Associates

Kendra Strauss, Lecturer, Department of Geography, Cambridge University

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We wish to thank the following individuals for allowing us to quote part of our interviews with them in this report: David Arkless, Sean Bamford, Martin Cooke, Darryl Dixon, Neal Evans, Joanna Ewart-James, Louise Grey, Dionne Harrison, Rosey Hurst, Effie Marionos, Aidan McQuade, and Klara Skrivankova.

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Finally, we are especially grateful to Louise Woodruff of JRF for her guidance through this JRF Project, and for facilitating leads which allowed us to make contacts with various sectors interested in, and dealing with, issues of forced labour.

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**Genevieve LeBaron** is Vice-Chancellor's Fellow in Politics at the University of Sheffield, UK.

**Laya Behbahani** is an MA candidate at School of Criminology, Simon Fraser University, Canada.

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