PUBLIC PROCUREMENT AND MODERN SLAVERY RISKS IN THE ENGLISH ADULT SOCIAL CARE SECTOR

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1. INTRODUCTION[1]

Adult social care is an 'essential service'[2] that supports adults with physical or learning disabilities and physical or mental illnesses. According to recent figures, total annual expenditure on adult social care in England reached nearly £35 billion of which £19 billion was state spending.[3] Over the past three decades there has been a shift in the medium of public provision of adult social care in England from homes owned and operated by local government ("Local Authorities", hereinafter LA) to public procurement of care services by local government from private providers.[4] In addition, the Community Care (Direct Payments) Act 1996 gave LA in England the power to make direct cash payments to disabled people so as to enable them to make their own arrangements for the provision of their social care. The Health and Social Care Act 2001 subsequently transformed this power into a duty and extended it to payments to carers and persons over 65 years old.[5] Social services procured under these arrangements are classified under Schedule 3 of the Public Contract Regulations 2015 as health, social and related services and, as such, their procurement falls within the 'Light Touch Regime'. [6] This requires that LA abide by EU Treaty principles of fairness; openness; non-discrimination and transparency. Furthermore, according to the Human Rights Act 1998, it is unlawful for LA, as public authorities, to act in a way that is incompatible with a person's rights under the European Convention of Human Rights.[7] This duty has led to controversy surrounding care home providers' accountabilities.

The UK Modern Slavery Act 2015 (MSA) established duties for companies engaged in both product and service provision. Section 54 of the MSA requires commercial organisations with turnover greater than £36 million per year to produce an annual 'Transparency in Supply Chains' (TISC) statement. This must describe steps the organisation has taken to eradicate modern slavery from its supply chain or alternatively state that no such steps have been taken. Yet section 54 of the MSA excludes most public bodies from its reporting duty. Given this,

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[1] An earlier version of this paper was presented at the 2018 EUROMA Sustainable Operations Supply Chain Forum (EUROMA SOSCF) in Kassel, Germany.

[2] Marlies Hesselman, Antenor Hallo de Wolf and Brigit Toebes (eds), *Socio-Economic Human Rights for Essential Public Services Provision*, (Routledge 2016).

[3] Neil Amin-Smith, David Phillips, Polly Simpson, 'Adult Social Care Funding: a Local or National Responsibility?' (*Institute of Fiscal Studies*, 2018) <https://www.ifs.org.uk/uploads/BN227.pdf> accessed 15 May 2018; figures relate to the year 2012-13.

[4] Tim Jarrett, 'Social Care: Care Home Market – Structure, Issues, and Cross-subsidisation (England)' (House of Commons library briefing paper number 8003, 13 February 2018). <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7463> accessed 5 January 2018

[5] Health and Social Care Act 2001; Charlotte Pearson and Sheila Riddell, 'Introduction: The Development of Direct Payments in Scotland' in Charlotte Pearson (ed), *Direct Payments and the Personalisation of Care* (Dunedin Academic Press 2006).

[6] The Public Contracts Regulations 2015, SI 2015/12. These apply to the UK, except Northern Irish and Welsh devolved functions, as detailed at <http://www.legislation.gov.uk/uksi/2015/102/regulation/1/made> accessed 3 August 2018.

[7] Human Rights Act (1998), s6; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR).

and the fact that most private care providers are smaller than the MSA stated £36 million annual turnover, as well as the fragmented character of the social care sector, neither LA nor the majority of the companies they contract with to supply adult social care services are required to publish an annual statement.

This chapter describes findings of an investigation into modern slavery risks in the English adult social care sector. Our study suggests that these gaps in modern slavery reporting requirements, as well as other regulatory weaknesses, put the protection of human rights at risk in the public procurement of adult social care. Given the current prevalence of public procurement or "contracting out" of adult social care delivery to private companies,[8] we placed the employment relationship and the 'labour' supply chain at the heart of our analysis. The 'labour' supply chain has been defined as, 'the sequence of employment relationships that a worker goes through in order to be deployed in a productive capacity'.[9] Due to difficulties we anticipated in accessing care-workers themselves for interview, instead we spoke to managers at residential care and nursing homes (RC&NHs); at an agency that recruits and places care-workers in RC&NHs; and at an agency providing payroll and tax support services to recipients of direct payments, known as a direct payment support service provider (DPSSP). We asked these managers questions linked to risks of forced labour in the context of their organisations' activities.[10] Our findings suggest that there is too little support for human rights control and accountability in the public procurement of adult social care. In particular, our investigation revealed significant risks of forced labour, a specific type of modern slavery, including as a result the physical abuse of care-workers. This is significant because current policies emphasise care-workers' role in protecting service-users' human rights, despite recent warnings about modern slavery risks affecting care-workers themselves.[11]

The remainder of this chapter is organised as follows. First, we describe in greater detail arrangements for the provision of social care in England, before explaining the context of our

[8] Stephanie Barrientos, ' "Labour Chains" : Analysing the Role of Labour Contractors in Global Production Networks' (2013) 49Journal of Development Studies 1058 ; Mumtaz Lalani and Hilary Metcalf, Forced Labour in the UK: the Business Angle (*JRF Programme Paper*2012) <https://jrf.org.uk/report/forced-labour-uk-business-angle> accessed 9 January 2018;Stephen New, 'Modern Slavery and the Supply Chain : The Limits of Corporate Social Responsibility?' (2015) 20 Supply Chain Management: An International Journal 697; Chris F. Wright and Sarah Kaine, 'Supply Chains, Production Networks and the Employment Relationship' (2015) 57 Journal of Industrial Relations 483.

[9] Jean Allain, Andrew Crane, Genevieve LeBaron and Laya Behbahani, 'Report: Forced labour's Business Models and Supply Chains (Forced Labour)'(*Joseph Rowntree Foundation,*2013) 42. <https://www.jrf.org.uk/sites/default/files/jrf/migrated/files/forced-labour-business-full.pdf> accessed 4 January 2018.

[10] ILO, 'Indicators of Forced Labour' (*International Labour Organization,*2012) <http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm> accessed 5 January 2018.

[11] Ibid; Gary Craig and Stephen Clay, 'Who is Vulnerable? Adult Social Care and Modern Slavery' (2017) 19 The Journal of Adult Protection 21; Nicola Slawson, 'Modern Slavery Probably Exists in Welsh Social Care Sector' (*The Guardian*, 20 June 2017) <https://www.theguardian.com/social-care-network/2017/jun/30/modern-slavery-welsh-social-care-sector?CMP=share_btn_link> accessed 5 January 2018; Equality and Human Rights Commission 'Information for Care Workers' (*EHRC,*2018) <https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-home-care-older-people/home-care-older-people-recommendations-0> accessed 18 May 2018.

case study of adult social care services in Nottinghamshire. Next, we present our findings with a focus on contracting-out of service delivery to RC&NHs and supported provision of publicly-funded personalised care via direct payments; specifically we examine the flexibility of these employment relations and the modern slavery risks that arise as a result. Finally, we offer some conclusions on how the marketisation of adult social care has affected modern slavery risks amongst workers in the sector.

2. ADULT SOCIAL CARE IN ENGLAND

Adult social care involves supporting individuals with personal care activities, such as eating, washing or getting dressed and domestic routines, such as cleaning or shopping. Residential care includes the provision of accommodation while nursing homes, in addition, support individuals with disabilities such as dementia. Direct payments for adult social care can be used to purchase a range of these and other personalised services, both inside and outside an individual's home.[12]

Successive UK governments have devolved adult social care policy formulation to regional legislatures. In England, this has led to the marketisation of RC&NH provision, with powerful buyers and many local suppliers with little bargaining power. Seventy-four percent of all English RC&NH places are now provided by private companies[13] with LAs financing around 50% of all such placements.[14] The care home market is highly fragmented with only four large, national, multi-site providers while seventy percent of the remaining market comprises companies with no more than 0.4% market share each.[15] The financial turnover of the majority of these homes falls below the £36 million annual revenue threshold that triggers mandatory annual statement disclosure under Section 54 of the MSA.

Direct payments provide greater choice and control over care provision by the service-user and this has led to an increase in care delivered in users' own private homes. Care in this setting is provided by care-workers who are recruited and employed either via agencies or directly by the service-user and employed as 'personal assistants' (PA). Care-worker agencies are regulated by the Care Quality Commission (CQC).

Table 1 compares the main characteristics of these two different modes of adult social care delivery.

Table 1. Investigated modes of adult social care delivery in English public services

Characteristics	RC&NH placement	Direct payment
Delivery	Care delivered to in-patients	Care delivered to service-user in or out of their own homes

[12] Charlotte Pearson and Sheila Riddell, 'Introduction: The Development of Direct Payments in Scotland' in Charlotte Pearson (ed), *Direct Payments and the Personalisation of Care* (Dunedin Academic Press 2006); Joanna Bornat, 'Introduction' in Janet Leece and Joanna Bornat (eds), *Developments in Direct Payments* (The Policy Press 2006).

[13] Jarrett (n4) 1.

[14] Julien Forder and Stephen Allan, 'Competition in the Care Homes Market' (*OHE commission on competition in the NHS*2011)<https://www.ohe.org/sites/default/files/old-wp/516.pdf> accessed 15 January 2018

[15] Jarrett (n4) 2.

Payment flow	Paid for by LA, self-funders or the National Health Service	Paid by LA directly to service-user, or DPSSP, who arranges payment to individual care-worker
Contract	Between LA and home	Between service-user and either agency or individual care-worker
Inspection regime	Regular visits by CQC and LA inspectors	A log kept of named agencies used, annual face-to-face review meeting between the LA and service-user
Procurement framework	Public procurement rules; priced according to LA quality bands	Service-user sources an individual PA directly or via an agency; LA hosts web-based advertising portal for prospective PA

Overall, the care sector is labour-intensive with widely reported recruitment difficulties. As the UK population has aged, demand for staff has increased and staff turnover is high.[16] Over 80% of the workforce is British, with a greater reliance on non-EU than EU migrant labour. Though the introduction of a care training certificate has helped to raise skill levels, over half of the workforce still lacks adult social care qualifications.[17] Wages account for the majority of care home running costs. Operating profits have been squeezed by the introduction of the UK National Minimum and Living Wage,[18] while breaches of minimum pay rules in the care sector have been identified as a concern by the Labour Market Director.[19] Care-workers are known to 'opt-out' of the European Working Time Directive.[20] Designed to protect workers' health and safety, this directive gives EU workers' rights to paid holiday, rest breaks and rest periods; restricts excessive night work; and limits the number of hours worked each week. Contracting-out and reliance on unskilled, flexible labour have been found to increase the risks of forced labour in other sectors and geographies.[21]

[16] Dave Griffiths, Will Fenton, Sarah Davidson, Gary Polzin, Roy Price, Jess Arkesden and Daisy Cox, 'The State of the Adult Social Care Sector and Workforce in England' (*Skills for Care*,2017) <http://www.skillsforcare.org.uk/Documents/NMDS-SC-and-intelligence/NMDS-SC/Analysis-pages/State-of-17/State-of-the-adult-social-care-sector-and-workforce-2017.pdf> accessed 19 January 2018.
[17] Ibid.
[18] National Minimum Wage Act 1998.
[19] Helen Warrell, 'Companies Risk Fines for Labour Abuses Lower on Supply Chain' (*Financial Times*, 25 July2017) <https://www.ft.com/content/07b70e84-7087-11e7-aca6-c6bd07df1a3c> accessed 4 January 2018
[20] Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time [2003] OJ L299/9.
[21] Alex Balch, 'Understanding and Evaluating UK Efforts to Tackle Forced Labour' in Louise Waite, Gary Craig, Hannah Lewis and Klara Skrivankova (eds), *Vulnerability, Exploitation and Migrants: Insecure Work in a Globalised Economy* (Palgrave Macmillan 2015); Genevieve LeBaron, 'Subcontracting is not Illegal, but is it Unethical? Business Ethics, Forced Labour and Economic Success' (2014) 20 The Brown Journal of World Affairs 237.

3. CASE STUDY: ADULT SOCIAL CARE IN NOTTINGHAMSHIRE

The district of Nottinghamshire provided the setting for our research. Nottinghamshire is a predominantly rural county in the centre of England with a population of around 800,000.[22] In 2017-18, the county's budget for the care of vulnerable people and the elderly was £336.5 million, with 3,345 people supported in long-term RC&NH placements.[23] Over the past decade, the LA put the care homes that it previously owned up for sale. A few LA-run homes remained and the county exhibited a mixed model of procurement, with 341 contracted-out RC&NHs and direct payments for personalised care. The latter accounted for approximately half of the adult social care budget.

The LA carried out various activities to understand its local care provider market; to stimulate a diverse range of care and support services; and to ensure that service-users had a choice over how their needs were met. As part of these 'market-shaping' activities, the LA engaged in annual quality audits of CQC registered care homes. Regular care provider meetings were held, to which both RC&NHs and DPSSP were invited.

A standardised supplier selection questionnaire issued by UK Crown Commercial Services[24] for new, younger adult, providers had been updated to include questions about annual modern slavery statements. In the 2016/7 financial year, the LA had voluntarily published its own Section 54 statement[25] and modern slavery training had commenced for senior management. The LA had also signed up to the labour union UNISON's Ethical Care Charter,[26] which seeks to improve working practices across the care sector, in particular by aiming to ensure that care services are priced at a level enabling all providers to pay reasonable wages to front-line care staff.

4. FLEXIBILITY AND RISK

Despite the adoption of the described measures, our study revealed evidence of serious modern slavery risks in Nottinghamshire affecting both the procurement of care services from contracted-out RC&NH providers and their agents, and personalised care delivery through the third-party support of PA employed directly by service-users.[27]

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[22] Nottinghamshire County Council, 'Population Estimates' (*Nottinghamshire County Council*, 2018) <http://www.nottinghamshire.gov.uk/business-community/economic-data/population-estimates> accessed 3 May 2018.

[23] Nottinghamshire County Council, '2017/18 Budget' (*Nottinghamshire County Council*, 2017) <http://www.nottinghamshire.gov.uk/media/119148/budgetleaflet.pdf> accessed 15 May 2018.

[24] Crown Commercial Services provide commercial services related to policy, advice and direct buying for the public sector.

[25] Nottinghamshire County Council, 'Modern Slavery and Human Trafficking Statement' (Nottinghamshire County Council, 2017) <http://www.nottinghamshire.gov.uk/media/117112/modern-slavery-and-human-trafficking-statement-appendix.pdf> accessed 3 August 2018.

[26] UNISON, 'Ethical care charter' (*UNISON*,2013) <https://www.unison.org.uk/content/uploads/2013/11/On-line-Catalogue220142.pdf> accessed 15 May 2018.

[27] Ten semi-structured interviews were carried out. Managers involved in community safety and the commissioning and provision of adult social care were interviewed. These included LA managers in procurement, market management and human resources, a representative of a local Care Home Association, RC&NH managers, the manager of a specialist home care agency and a client manager from a DPSSP. Each interview lasted between 45 minutes and 1½ hours and, during these interviews, managers were shown the ILO indicators of forced labour and enquiries made about providers' use of agencies. Interviews were audio-

4.1 Contracting-out care: Residential Care and Nursing Homes procurement

Private care home providers rely on a mix of care-workers employed on permanent contracts and temporary agency workers. As presented in more detail below, however, some providers we studied failed to carry out required pre-recruitment checks,[28] opening the way to exploitation of migrant workers without the legal right to work in the UK and, in one particular case, the exploitation of legal migrant workers by an unscrupulous international labour recruiter.

Incomplete employment checks during recruitment and selection of agency staff

The manager of one recently privatised RC&NH described how she now ran the home more 'like a business'. This had resulted in the need to adjust staffing levels in line with changing client numbers and needs. This manager used agency staff to cover vacancies and unplanned staff absences. Yet she had limited visibility or control over recruitment and selection processes relied on by the agencies she used. A discussion with the manager of a care agency used by another home confirmed that some agencies' recruitment practices fall short of regulators' requirements. Despite CQC guidance mandating this, the manager we interviewed confirmed that RC&NH managers took on agency staff without checking agencies' recruitment standards and that agencies did not always carry out checks. He explained:

> *"Because they* [care home managers] *think that the agencies have actually done those checks: so they don't bother checking the staff because they think that they've gone through all these processes but some of the agencies they don't do it."*

Care-workers might thus be employed by contracted-out RC&NHs following incomplete recruitment and selection checks, an oversight that could lead to the employment and exploitation, including via forced labour, of care-workers without the right to work in the UK.

Exploitation of migrant workers without the right to work in the UK

Managers reported encountering migrant care-workers with no right to work in the UK and who presented fake identity documents. In response to the scale of this problem, one agency manager had introduced electronic screening procedures to verify right to work documentation. Other agencies, however, reportedly recruited these vulnerable workers and then failed to pay them the UK national minimum wage. Care-workers without legally-required documentation were unlikely to voice concerns about such unscrupulous business practices. Rather, one interviewee suggested, some such workers felt that the agent was doing them a favour by offering them work:

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recorded and transcribed for data analysis. Transcripts were coded independently by two researchers and the codes compared for consistency.

[28] Care Quality Commission, 'Regulation 19 Fit and Proper Persons employed' (*CQC*,2017) <www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-19-fit-and-proper-persons-employed#guidance> accessed 14 August 2017. This CQC guidance states that recruitment and/or checks on candidates may be carried out by a party other than the provider. Providers must assure themselves that an applicant's criminal record and work history checks have been carried out satisfactorily.

"Because they know their situation and then maybe say, "Okay. We can't pay you like the normal wage because you don't have papers", and because they think these people are helping them, you see they cannot speak out. Because they know they don't have right to work. So those people, they will be actually be treated like slaves because they don't have the rights."

The vulnerability of illegal migrant workers has been highlighted in other UK sectors.[29] Our research suggests that care-workers employed within the labour supply chains of contracted-out RC&NH provision are exposed to similar risks. Under the current procurement framework, weak recruitment checks open the door to the exploitative employment of illegal workers.

Exploitation by a labour recruitment agent

A further concern is a loophole that enables the exploitation of legal migrant workers by labour recruiters. A care home manager described concerns about a group of Filipino nurses who had arrived in the UK on the Nurse Adaptation Programme and found themselves in unsuitable, cramped housing.[30] Forced to buy supplies from a supermarket owned by the recruiting agent, they also paid an excessive amount in rent. The agent threatened their safety in the UK and when they returned home. The care home manager reported:

"When I was introduced to this particular lady, I was struggling to find nurses. So it was a colleague of mine who's got care homes that said, "Oh I've brought some nurses over. I'll give you this woman's contact." I got in touch with her, you know, oblivious to what she was doing with the nurses that she was housing."

Where agents act solely to 'introduce' staff to care homes, which is a common occurrence given staff shortages in the sector, there is no requirement for them to be CQC-registered.[31] This gap in the rules, combined with weak recruitment checks by care homes themselves and the use of false documentation, may result in the engagement of workers who are subject to intimidation, threats and abusive working and living conditions, all of which are considered by the ILO to be indicators of forced labour.[32]

4.2 Supported provision of publicly funded, personalised care: The use of direct payment support service providers

While these findings concerning staff in privately-run care homes are alarming, the risks of forced labour in the direct payment scenario raise additional concerns. DPSSP are often used to process payroll and tax deductions for staff on behalf of individual service-users. While

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[29] Allain (n10) 8.

[30] NMC, 'Adaptation Programme and Aptitude Test' (*Nursing and Midwifery Council*,2017) <https://www.nmc.org.uk/registration/joining-the-register/trained-in-the-eu-or-eea/adaptation-and-aptitude-tests/>accessed 15 May 2018.

[31] David Brindle, 'The CQC Loophole Leaves Thousands Reliant on Unchecked Care Services' (*The Guardian*, 28 August 2014) <https://www.theguardian.com/social-care-network/2014/aug/28/cqc-loophole-unregulated-care-services> accessed 15 January 2018.

[32] ILO, 'Indicators of Forced Labour' (*International Labour Organization*,2012) <http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm> accessed 5 January 2018.

these organisations have no direct contractual relationship with the LA, DPSSP managers were able to provide insights into the working conditions of PA employed directly by service-users. Their evidence suggests that dismantling the employment and contractual relationships between the LA and PA had introduced risks related to withholding of wages, excessive overtime and physical and sexual abuse.

Withholding wages

A DPSSP client manager described how care-recipient employers sometimes wished to withhold PA wages due to dissatisfaction with their work, a practice that is illegal. The DPSSP manager recounted:

> *"I have had some clients as well that have suggested withholding wages because of perhaps they've done something that they don't like. So they've been turning up late excessively and so we have to sort of go down a route of explaining to them that you can't do that."*

Withholding of wages can readily create a situation forced labour. Without DPSSP support, the existence of such practices was less likely to be uncovered. Due to the additional costs involved, however, the LA felt under pressure to reduce the number of service-users using DPSSPs.

Excessive overtime

Further problems emerged concerning excessive overtime, a further potential indicator of forced labour. While DPSSP record working hours and total wages paid, it was impossible to know whether the PA was working excessive overtime, voluntarily or not. Despite DPSSP advice to PA that they were required by law to take breaks, and work only contracted hours, pressure from the service-user, for instance, could mean that they provided additional, unpaid, care. As a DPSSP client manager explained:

> *"Whether they're still providing the care unpaid? That could be an issue that we wouldn't know. So that would still fall under excessive overtime because we'll say, "No. You can only work six days a week. You can't work seven." So then are they providing that seventh day unpaid? ... I'm not sure how we would know if that was happening to be honest with you, but it most definitely could be."*

Under the direct payments system, LA oversight of care-workers' working conditions was effectively dismantled. Even the DPSSP lacks visibility of the actual hours worked by PA.

Physical and sexual abuse

Besides the threat of withheld wages and excessive working hours, in some working relationships the PA risked being physically and sexually abused.

One service-user's behaviour was so serious that it had been raised as a safeguarding issue. Her illness meant that she could be intimidating and threatening. This endangered the health and safety of her PA. As the DPSSP manager explained:

> *"We have got a client at the moment and it's been raised under safeguarding when it's come to light. Unfortunately this particular lady is very unwell at the moment with bipolar and*

that has made her behaviour very intimidating and threatening. So that has come to light recently in that the PA, well PAs, were being threatened."

Physical abuse is another ILO indicator of forced labour. With a potentially abusive employer, a PA could find themselves at risk of harm. The DPSSP client manager to whom we spoke described a further situation in which a PA exposed to a risk of sexual abuse.

DPSSPs routinely asked LAs for care support plans which detail the number of personalised care hours to be provided. Full support plans were not always received, though these plans might highlight special circumstances related to the provision of care. In the instance in question, it had taken over a year for a full support plan to be obtained. This plan drew attention to the fact that the service-user was a registered sex-offender and, as a precaution, that no female PA should conduct visits to him alone:

"…[W]e don't always get the support plans, and we'd asked for a support plan to know what was on and often times we don't get the full support plan, we'll just get the hours which is quite standard practice, but we actually got the full support plan. We then found out on the bottom of the support plan from Notts [Nottinghamshire] County Council that this individual was on the sex offenders list and no female should visit alone and we'd been supporting this gentleman for over a year. Quite often we would do visits alone. It actually happened that we hadn't, but no one had ever told us".

Even with DPSSP oversight, the lack of an employment relationship between the LA and the care-worker led to failures in the provision of crucial safety information.

5. CONCLUSIONS

As discussed in this chapter, changes in arrangements for the provision of adult social care in England have yielded a shift from employment of care-workers directly by LAs to more 'flexible' employment relationships involving a range of intermediaries. Despite potential benefits in terms of organisational efficiency and care personalisation that the marketisation of care in England has delivered, our analysis has shown how the move to a longer and more complex adult social care labour supply chain has weakened managerial oversight over care-workers and heightened risks associated with forced labour. This may have led to a widespread and serious deterioration in the employment conditions experienced by care-workers.

Specifically, this chapter has considered the nature of modern slavery risks in adult social care in England by examining two different modes of procurement. In the first mode, care was provided through a mix of permanent and agency care-workers, employed under contracted-out arrangements with private RC&NHs. In the second, PA were employed directly by care-recipients, who used a DPSSP to help with payroll and tax administration. In both modes, risks associated with ILO indicators of forced labour were evident. Where RC&NH provision was contracted-out, our informants reported how the use of agencies left open the possibility of omissions in recruitment and selection checks. This, in turn, led to the risk that illegal, migrant workers might be recruited and exploited by unscrupulous agents. Furthermore, our analysis highlighted the potential for care-worker exploitation by unregistered labour recruiters. Risks were also identified where PA were employed as care-

workers using public funds paid directly to the service-user. Here, managers identified that the dismantling of the employment relationship between the LA and the care-worker left these PA vulnerable to exploitation related to the risk of withheld wages; excessive unpaid overtime and physical and sexual abuse.

The transition to a contracting-out model of procurement and the distancing and dismantling of employment relationships between the LA and the care-worker have altered working conditions for care-workers. Such changes may undermine just and effective conditions of employment for carers and jeopardise the dignity and quality of care provided to those who need it. These findings are of particular concern due to the gap in human rights accountability resulting from the combined effects of the lack of applicability of the MSA annual statement to public sector procurers, a fragmented care industry structure which leaves the majority of firms operating below the MSA's £36 million threshold for TISC reporting and the controversy surrounding care home providers' accountability under Section 6 of the HRA 1998.