

Dear Colleagues,

As part of the current consultation, please see attached for my proposed additional content to be included/edited in the modern slavery section on pp.82-83 of the East Herts DC Draft Statement of Licensing Policy 2021 – 2026, with 2 highlighted sections proposed for the Pool of Model Conditions 2021 if feasible in line with requirements within the Licensing Act 2003.

Most of the content added was in direct support to the identified issue on p.82 of 'Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker' with some layout changes embedded in line with that.

Changes proposed are in red with some tracked changes and the original content as it stands in the policy out for consultation is provided at the end to enable easier comparison.

If there is anything that requires further clarity or any questions, please do not hesitate to contact me.

Thanks,

Attached:

HMSP Submission – Coordinator:- 27/05/2021: EHDC Consultation on the Draft Statement of Licensing Policy 2021 - 2026 & Pool of Model Conditions 2021: Feedback Submission

Proposed Content (pp.82-83)

Additions and Changes in Red plus Tracked Changes:

25.0 Modern Slavery

25.1 Modern slavery is a crime. The UK [Modern Slavery Act 2015](#) includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person.
- Servitude, where a person is obliged to provide services imposed by coercion.
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily.
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

25.2 Modern slavery happens everywhere, including here in the UK. It operates in plain sight and can affect businesses without them even knowing. In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

25.3 Due to the nature of footfall seen in many licensed premises, employees may identify issues, which should be reported. However, it is also crucial that all businesses, including licensed premises, understand how they might be affected so that they can take steps to reduce the risk. Exploitation accounts for all situations that stray away from 'decent work', from labour market infringements and abuse, all the way to more severe forms of exploitation.

Licensed premises might be unwitting hosts to modern slavery in two ways:

1. 1. Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.
2. 2. Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.

25.4 Mitigating Exploitation Risks to Workers

25.5 Licensed premises should be aware of and meeting their obligations under all relevant legislation, including the Modern Slavery Act 2015, The Conduct of Employment Agencies and Employment Businesses Regulations 2003 and the National Minimum Wage Act 1998.

25.6 Examples of labour market infringements that have been known to be experienced by employees of licensed premises include: 1) Long hours, 2) insufficient pay (e.g. non-payment of minimum wage), 3) poor working conditions e.g. denial of sick pay and other entitlements, 4) bogus self-employment; and 5) control by an unscrupulous third-party agency.

25.7 Other examples of labour market infringements include: 1) Lack of personal protective equipment (PPE); 2) Few or no breaks; 3) Demeaning treatment; 4) Retention of identity documents or valuable possessions, 5) Restriction of movement or confinement to the workplace; and 6) Threat of denunciation to authorities (mainly illegal migrant workers).

25.8 There are also specific examples of practice that sometimes occur within licensed premises, which can create vulnerability and increase the risk of exploitation of drivers and office staff. In certain sectors, the use of fixed pay,

part-time and/or zero-hour contracts is a common practice, which can lead to underemployment or workers being paid below minimum wage. It is important that licensed premises owners and managers take account of their own anti-slavery policies and practices, as well as those of subcontractors and third-party agencies.

25.9 Owners and managers of licensed premises are responsible for ensuring that their employees' rights are upheld. A licence holder can work to prevent labour exploitation and modern slavery by taking steps to mitigate the risks of exploitation and undertaking effective due diligence. Steps to take include the following:

- 1. Promoting awareness of worker rights. Specifically, providing **every worker with a written contract** in a language they understand detailing working hours, pay/overtime rates, deductions (if any), holiday and sick pay entitlements and accommodation arrangements (if relevant)
- 2. Ensuring **clear reporting channels for grievances and whistleblowing** are clear and that workers are made aware of these procedures (see Section 25.14: Identification and Reporting)
- 3. **Conducting internal checks and checks of subcontractors** i.e. check payroll to ensure worker's wages are paid directly to them, that workers are being paid the national minimum wage at a minimum, and that no workers have paid any fees related to their recruitment. Also speak to workers directly.
- 4. Committing to **uphold high ethical standards**.
- 5. Ensuring that **all worker communications are translated** into the languages that make up the licensed premise's workforce. (For more information on how to undertake these steps, see the [Modern Slavery SME Toolkit](#))
- 6. **Raising awareness of the signs of exploitation with workers**. It is important to ensure that any independent contractors (e.g. self-employed beauticians) are in fact agreeing to a fair contract and where work, fare and contract termination are agreed by both parties.

25.10 Third-Party Due Diligence

25.11 Before working with a third-party agency, licensed premise owners/managers should always check that:

- The company is **licensed to provide temporary labour** to the relevant sector of your business.
- The company's directors are **not listed on the Employment Agency Standards Inspectorate's list** of people that have been prohibited from running an employment agency/business due to past misconduct.

- The company only **subcontracts with a licensed premise's authorisation** and conducts their own due diligence on subcontractors when we give permission to subcontract.
- The company has a clear **commitment to not charging recruitment fees** and to covering the cost of recruitment when sourcing workers from overseas.
- The company has an **accessible and transparent reporting mechanism** that all workers can use to report concerns or issues.
- The company **provides information to their workers** on what optional services they offer, how much they cost, and how the workers can refuse or cancel them without penalty.

25.12 In the course of working with a third-party provider of employees, licensed premise owners and managers should periodically review a sample of employee key documents to ensure required labour standards are being met. Key documents to be reviewed could include:

- 1. **Payslips** (i.e. to check that the number of hours match operator records, that all workers are being paid at least the NMW, that optional services are clearly indicated, and that correct taxes and national insurance contributions are being paid);
- 2) **Right to work checks.**

25.13 Additionally, licensed premise owners and managers are encouraged to speak with all workers directly, on occasion, to ascertain if any labour market infringements have been made.

25.14 Identification and Reporting

25.15 Staff at licensed premises can have the power to identify and report any exploitation they encounter, **whether experienced by them, a colleague, a customer, or a client.** A licence holder may ensure awareness of modern slavery by:

- ~~Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.~~
- ~~Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.~~
- Providing **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery **and Exploitation** Helpline (0800 0121 700), in advance of any incident.

25.16 Reporting Protocols

25.17 Having **clear and straightforward protocols** for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

25.18 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

The Modern Slavery and Exploitation Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.

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Licensing Authority response:

Thank you for taking the time to look at the draft policy and respond to the consultation.

We have taken on board your suggestions regarding your suggested changes to section 25 relating to Modern Slavery. We have amended the draft content to reflect all the changes and additions you suggested given that this is your particular area of expertise.

In your submissions you have asked whether two points can be added to the Pool of model conditions. For both of the points you raised there are already obligations on an employer under legislation which already exist. Licence conditions should not duplicate other legislation so I am afraid that these particular points cannot be added to the pool but it is hoped that the content of the Statement of Licensing Policy will bring these matters further to the

forefront of the minds of existing licence holders and those considering applying for licences.

Having gone back to look at what the Revised guidance issued under section 182 of the Licensing Act 2003 says about licence conditions I note that it states:

Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises.

Adding conditions to the pool along these lines is something that we can discuss outside of the consultation on the Statement of Licensing Policy if you think that would be beneficial? I would be happy to arrange a meeting for us to discuss it or we could raise it at the Herts & Beds Licensing Group and look at it countywide.

Proposed amendments to draft policy:

Section 25 of the draft Statement of Licensing Policy (Modern Slavery) to be amended to reflect all of the proposed changes contained within the consultation response.