

How to Mitigate the Risk of Modern Slavery

BUSINESS
IN THE
COMMUNITY
IRELAND

A Report & Guidance Tool
for Companies in Ireland
2021



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Purpose of this Report & Guidance Tool

The purpose of this Business in the Community Ireland (BITCI) Report & Guidance Tool is to:

- Define human rights infringements and modern slavery in both a global and Irish context.
- Outline the key legislative and other developments that business in Ireland needs to know.
- Give guidance to companies on the practical actions they can take to mitigate the risk and occurrence of modern slavery.
- Equip companies in Ireland with the tools to conduct human rights due diligence, spot the signs of modern slavery, know what to do and who to contact should any malpractice come to light.

For many people in business, ‘human rights infringements’ and ‘incidence of modern slavery’ only happens overseas, in other countries, on distant shores. “Human rights issues don’t occur in Ireland” is a phrase heard frequently. Unfortunately, human rights infringements, incidences of forced labour and modern slavery are prevalent everywhere.

As you will read in the coming pages, no single business worldwide can proclaim its operations and supply chain to be free of risk of human rights infringements.

‘Human rights infringements’ include excessive working hours; the under-payment or non-payment of wages; the non-payment of overtime; the non-payment of social insurance; poor

health & safety - where working (and often living) conditions are squalid, workers are cramped when performing tasks, and toilet breaks frowned upon.

According to experts, human rights infringements are actually on the rise globally. It is such infringements, big or small, that companies in Ireland who are *committed to operating as responsible and sustainable corporate citizens do not want to occur in any part of their operations or supply chain*, in Ireland or anywhere else.

If a company is seriously committed to upholding human rights in all the organisation’s operations and chain of supply, it will conduct **due diligence** (or detailed risk identification and management) and **take the steps necessary to ensure the company is not involved in human rights infringements, forced labour or modern slavery, either through its direct actions, or indirectly, through the actions of business relationships such as Suppliers, Sub-Contractors or Recruitment Agencies.**

No single business worldwide can proclaim its operations and supply chain to be free of risk of human rights infringements.

In carrying out investigations, the goal is to **become knowledgeable and confident in the practices** your Tier 1 (and ideally your Tier 2) supplying companies are using to identify risks of modern slavery and forced labour in their own operations.

Should something come to light in investigations and your supplier (or sub-contractor or recruiter) says no such thing will happen again, the goal is to have confidence that the appropriate corrective action is being taken. The only way to be sure is to check, check again and re-check at regular intervals.

When it comes to the practice of **Human Rights Impact Reporting** (whether for legislative requirements or investor interest in ESG performance) the information most important to convey is:

1. the human rights, forced labour and modern slavery **risk identification process** used
2. the specific risks identified for the business
3. the priority risks selected and the process by which these are investigated
4. the issues that have come to light via investigations
5. the actions taken by the company in response.

Being found to be implicated *or complicit* in human rights infringements, forced labour or modern slavery is a very serious matter with innumerable negative consequences. The number of businesses taking action and reporting well on these topics are remarkably few in number and as a result, much more stringent legislation is having to be developed.

Our objective is that this Report and Guidance Tool makes it *easier for you and your company* to put in place the necessary human rights policies, objectives and targets **to ensure your operations and chain of supply are examined on an ongoing basis, so as to be able to take action should it be required.**

In so doing, there will be greater transparency, traceability, accountability and *comfort in the knowledge that no-one is being forced to work against their will* on your watch.

Darina Eades
Senior Advisor on
Corporate Sustainability

Business in the
Community Ireland
2021

BUSINESS
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Definition & Context



Modern Slavery is a multi-billion-dollar criminal industry which commoditises human beings. The term 'Modern Slavery' is used to describe slavery, servitude, labour exploitation, forced labour and human trafficking. As defined by Anti-Slavery International, a person is enslaved if they are forced to work against their will; are owned or controlled; have limited freedom of movement or are dehumanised or bought and sold as property.

Human Trafficking is the fastest growing form of international crime and the third largest criminal industry after drugs and arms trafficking. Trafficking involves the recruitment, transfer or obtaining of an individual through coercion, abduction, fraud or force, to exploit them¹.

The 2018 Global Slavery Index estimates that **40.3 million people worldwide are trapped in modern slavery**. The same index estimates that **over 8000 people in Ireland are held as modern-day slaves**, giving Ireland a ranking of 147 out of 167 countries. However, it is likely the figure of 8000 is much higher, as cases are hidden. Of the 40.3 million people living in some form of slavery, it is estimated that 71% are women. Migrant Workers and Refugees are particularly vulnerable.

The countries with the highest estimated absolute number of victims include North Korea, Eritrea, Burundi, the Central African Republic, Afghanistan, Mauritania, South Sudan, Pakistan, Cambodia, Iran, China, Democratic Republic of the Congo, India, Indonesia, Nigeria, the Philippines and Russia.

Globally, more than half of the 40.3 million victims (24.9 million people) are **in forced labour, working against their will, under threat, intimidation or coercion**.

4.8 million people working in forced labour are estimated to be sexually exploited. **Women and girls bear the brunt of all the statistics**, particularly as victims of the commercial sex industry. More than 70% of the 4.8 million sex exploitation victims are in the Asia and Pacific region. 1.5 million victims are living in developed countries².

Of the 24.9 million people trapped in forced labour, 16 million work in the private sector. **Incidences of Modern Slavery are particularly prevalent in Agriculture, Construction, industries that use raw materials for component parts, Facilities Management (via Sub-Contractors) for example, in Cleaning, Security, Maintenance, Catering and Food (such as the sourcing of fresh produce such as fruit and vegetables, meat and fish).**

A shocking example that has garnered media attention in recent years is the plight of thousands of Moroccan women employed

¹ The current estimates do not cover all forms of modern slavery including organ trafficking, child soldiers, or child marriage.

² Kate Hodal, the Guardian, February 25, 2019 <https://www.theguardian.com/news/2019/feb/25/modern-slavery-trafficking-persons-one-in-200>

under a seasonal worker visa scheme to harvest strawberries in southern Spain. These women are experiencing ongoing physical and sexual abuse and dehumanising working conditions, crouched down for 12 hours a day, in 40 degree heat. These women only understand Arabic and do not know their rights. The Spanish strawberry industry supplies 400,000 tonnes of strawberries to supermarkets all over Europe³.

According to Parul Sharma, Principal of the Academy of Human Rights in Business in Sweden (BITCI, 2017), **no single business world-wide can say its operations and supply chain are free of risk of human rights infringements. Such infringements include excessive working hours; under-payment or non-payment of wages; non-payment of overtime; non-payment of social insurance; and poor health & safety.**

It is such infringements, big or small, that companies in Ireland who are committed to operating as responsible and sustainable corporate citizens do not want to have as a feature of their operations or supply chain, in Ireland or elsewhere.

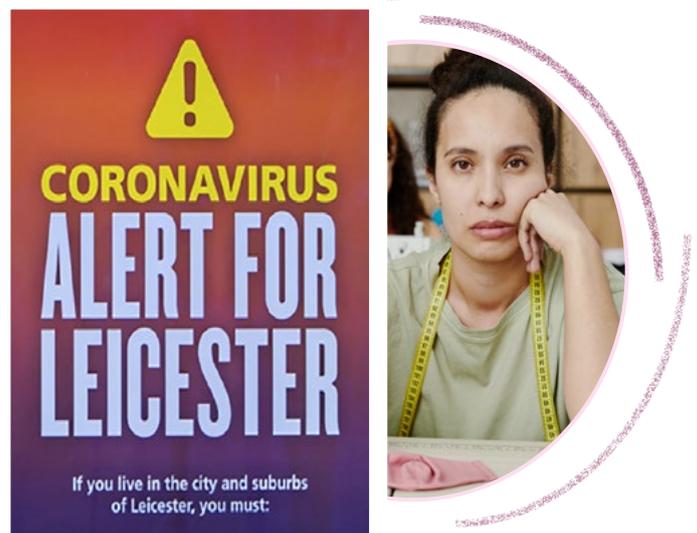
The COVID-19 global pandemic has magnified corporate human rights abuse many times over with millions of workers in Bangladesh, Pakistan and Vietnam facing destitution on account of unpaid wages, no severance pay and no social protection after the mass cancellation of orders by global brands⁴.

In an illustration of how modern slavery is not at a distance, UK online fashion giant, Boohoo, faced a modern slavery investigation in July 2020 after workers in Leicester making clothes linked to the company, were found to have been paid £3.50 per hour (where the minimum wage is £8.72).⁵

The city's garment manufacturing base has long been criticised for poor working conditions and low pay. Thulsi Narayanasamy, a labour rights researcher with the Business & Human

Rights Research Centre, was inside the Leicester garment factories prior to lockdown. According to Thulsi, "I've been inside garment factories in Bangladesh, China and Sri Lanka and I can honestly say that what I saw in the middle of the UK was worse than anything I've witnessed overseas" describing squalid conditions with boarded windows, cramped workers and blocked fire escapes⁶.

A damning independent review by Alison Levitt QC⁷ determined the media reports of poor working conditions to be "substantially true", the monitoring of factories "inadequate" on account of "weak corporate governance and called the failure to assess the risk to workers during the pandemic "inexcusable". As a consequence, Boohoo (who has since acquired the Debenhams, Dorothy Perkins and Wallis high street brands) has ordered its Leicester-based suppliers to stop using outside labour and subcontractors, and bring all clothes-making in house by 5 March, 2021.



■ The COVID-19 global pandemic has magnified corporate human rights abuse many times over. Boohoo based in Leicester faced a modern day slavery investigation in July 2020.

3 <https://www.business-humanrights.org/en/spain-moroccan-female-migrant-workers-on-strawberry-farms-allegedly-face-sexual-abuse> & <https://www.theguardian.com/global-development/2019/apr/14/rape-abuse-claims-spains-strawberry-industry>

4 Phil Bloomer & Sharan Burrow, Open Democracy, May 2020

<https://www.opendemocracy.net/en/can-europe-make-it/something-for-europeans-to-celebrate-a-new-social-contract-begins-to-emerge/>

5 <https://www.independent.co.uk/news/uk/home-news/boohoo-leicester-factories-modern-slavery-boohoo-leicester-factories-modern-slavery-investigation-a9602086.html>

6 <https://www.theguardian.com/uk-news/2020/jul/04/boohoo-booms-leicester-garment-factories-linked-lockdown>

7 <https://www.boohooplc.com/sites/boohoo-corp/files/final-report-open-version-24.9.2020.pdf>

Ireland and Modern Slavery

In January 2021, three Irish men and a ringleader of a people-smuggling chain were convicted and jailed by the Central Criminal Court in London for the manslaughter of 39 Vietnamese men, women and children, all of whom who suffered an ‘excruciating’ death in a sealed container in Essex⁸. The victims had hoped for a better life when they agreed to pay up to €14,590-a-head for a ‘VIP’ smuggling service. There is a strong chance had these people survived their arduous journey, they would have ended up working as modern slaves upon reaching their destination.

In August 2018, another Irish trafficking gang was at the centre of an investigation by Netherlands police after an Irish lorry driver was stopped with 29 Vietnamese nationals in the back of his lorry at the Hook of Holland⁹.

For a very long time, there have been numerous reports of severe labour abuses in the Irish fishing industry. In November 2015, a year-long investigation by the Guardian¹⁰ reported that workers from Ghana, the Philippines, Egypt and India, on boats from Cork to Galway, were paid less than half the minimum wage, with no rest days. These undocumented migrants, working on prawn, scallop and white fish trawlers operating from Ireland, experienced extreme sleep deprivation, inhuman hours and low pay.

The migrant workers said they were controlled by debt to the recruitment agencies that recruited them, charging them substantial, illegal fees for placing them on boats and arranging visas.

In a detailed exposé of the case¹¹, the migrants said they had no idea they would be working illegally, much less having no freedom, cheated of their wages, deprived of sleep, often very hungry and confined to the boats they were living on, living in fear of being deported – victims of modern slavery and human trafficking.

In 2020, the meat industry in Ireland garnered



attention on account of the spread of Covid-19 in certain factories¹². Reporting included instances of workers “sharing beds on alternate shifts”. Overall, coverage highlighted inadequate health and safety, “chronic mistreatment” of workers¹³, no sick pay and over-crowded accommodation – poor working conditions at best and certainly the optics of slave labour.

On March 9, 2021, the Department of Enterprise Trade and Employment told the Oireachtas Joint Committee on Enterprise and Employment that nearly half of all inspections of meat processing plants between 2015 and 2020 carried out by the Workplace Relations Commission (WRC) detected breaches of employment law to some extent¹⁴. Employment issues uncovered include inadequate records, working time, pay and employment permit issues. In response, Liam Bernie of the Irish Congress of Trade Unions said the figures regarding the level of breaches of employment law are most likely “just the tip of the iceberg”.

Other reporting includes the 2016 case of exploitation of 23 workers by a Romanian gang in a waste recycling plant in Co Meath; and in 2006 migrant workers employed picking mushrooms

8 <https://www.rte.ie/news/2021/0122/1191400-container-deaths-sentences/>

9 Declan Breathnach, Irish Times, Nov 13, 2019 <https://www.irishtimes.com/opinion/modern-slavery-is-going-on-right-under-our-noses-1.4081743>

10 <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>

11 <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>

12 <https://www.irishtimes.com/news/health/hot-bedding-and-bogus-work-practices-taking-place-in-meat-plants-union-claims-1.4328784>

13 <https://www.irishtimes.com/business/ey-entrepreneur-of-the-year/meat-plant-workers-lodge-over-400-complaints-with-wrc-1.4330674>

14 <https://www.irishtimes.com/news/ireland/irish-news/nearly-half-of-inspections-of-meat-plants-found-breaches-of-employment-law-1.4505274#>



were paid well below the minimum wage and forced to work up to 16 hours per day, with no overtime and often for seven days a week¹⁵.

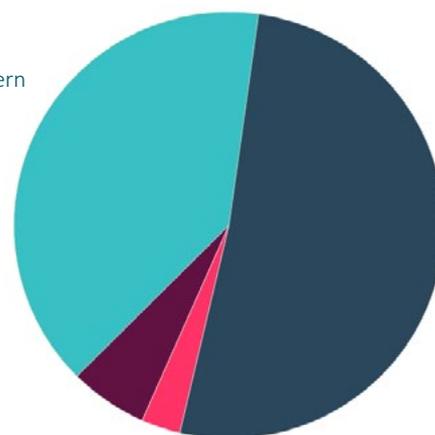
In June 2020, Barbara Condon, CEO of Ruhama, the organisation which works with women affected by commercial sexual exploitation, said sex trafficking is pervasive in Ireland¹⁶. According to Barbara, “the vast majority of trafficking victims remain undetected. Many victims are too fearful of violent repercussions from their traffickers (for themselves and their families) to report them. Traffickers instil a deep fear of authorities in their victims, to prevent them from coming forward”.

Kevin Hyland, the UK’s first Independent Anti-Slavery Commissioner from 2014 to 2018 (and for 30 years a member of the Metropolitan Police Force), now lives in Limerick and is the Irish representative to the Council of Europe Independent Group of Experts for Trafficking. According to Kevin, 2018 alone saw 64 confirmed cases of modern slavery in Ireland, including 27 cases of sexual exploitation, 35 cases of forced labour, two cases of forced criminality and four cases involving children. Kevin says these numbers are “a significant underestimation of the true extent of this abuse in Ireland...People we encounter every day working in car washes, nail bars, restaurants, in hospitality, in the fishing industry, in seasonal agriculture, in recycling plants may be the victims of exploitation”.

When these victims arrive in Ireland, they do

2018 alone saw 64 confirmed cases of modern slavery in Ireland

- 35 cases of forced labour
- 27 cases of sexual exploitation
- 4 cases involving children
- 2 cases of forced criminality



not realise they have been trafficked. They are lured here by the promise of a job, a visa and accommodation. Upon arrival, they are put to work for long hours for little (if any) pay. By the time their recruitment, travel and ongoing accommodation ‘expenses’ are deducted from their wages, they are left with practically nothing, with victims usually housed in severely cramped conditions. In the fishing industry case highlighted above, migrant fishermen were expected to sleep on the boats with no heating, and then not get paid when the vessel was unable to go to sea.

Since 2013, only one conviction has been obtained in Ireland for human trafficking and it is for this reason that in 2018, Ireland was downgraded to a Tier 2 Status by the International Assessment of Human Rights Protections by the US State Department (also at this level are

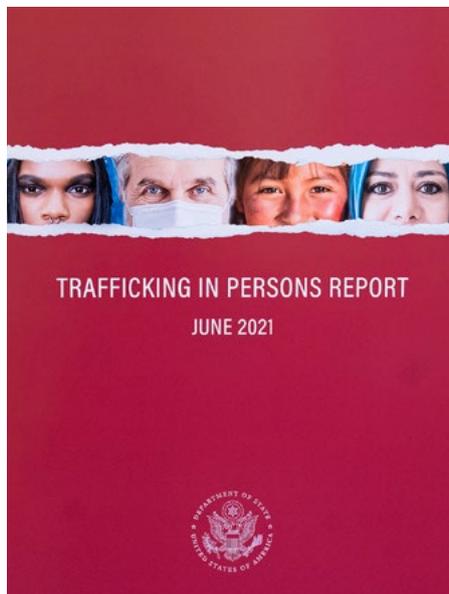
15 A group of mushroom pickers were eventually awarded €350,000 in total damages for having been dismissed by their employer for joining a trade union
 16 <https://www.thejournal.ie/ireland-response-to-human-trafficking-5133626-Jun2020/>

India, Indonesia, Bosnia and Romania). The treatment of human trafficking victims in Ireland falls well short of humanitarian protection measures as described in the legal instruments of the UN, EU and Council of Europe. Ireland is the only country in western Europe on the Tier 2 Watchlist¹⁷.

The 2021 Trafficking in Persons Report¹⁸ (US State Department’s Office to Monitor and Combat Trafficking) says while the Government has made significant efforts, Ireland does not meet the minimum standards for the elimination of trafficking¹⁹. For two decades, this report has ranked governments on their perceived efforts to acknowledge and combat human trafficking. Nations are divided into three tiers based on their compliance with standards in the Trafficking Victims Protection Act.²⁰

According to the US 2021 Report²¹, the Irish Government has continued to have systematic deficiencies in victim identification, referral and assistance, and lacks specialised accommodation and adequate services for victims. This fact is echoed by the Immigrant Council of Ireland who says the Government’s continued policy of “housing trafficking victims in direct provision is massively problematic”.

According to an article published by RTE on June 26, 2020²², the Department of Justice said it is “deeply disappointed” at Ireland’s ranking and that “combatting the terrible crime of human trafficking is a priority for Ireland”.



The department said great importance is attached to the work of multilateral international organisations who are active in tackling human trafficking and that Ireland will continue to work with its partners on the issue. “Significant efforts are being made to address human trafficking in Ireland including training Gardaí and immigration officers, awareness raising initiatives, funding NGOs to provide services to victims and other measures. Trafficking is a

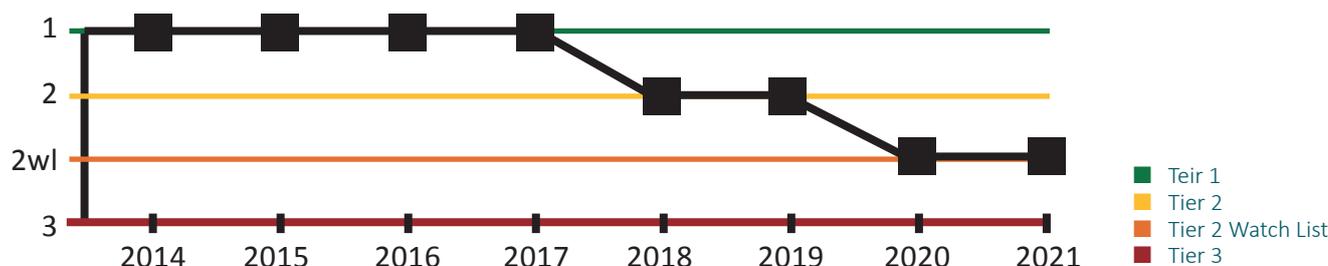
difficult crime to detect and prosecute and there are no simple solutions”.

More positive developments include the fact that a specialised Garda Unit is now in place - the Human Trafficking Investigation and Co-ordination Unit (HTICU) – and according to the Department of Justice, in July 2021, there are 72 ongoing criminal investigations²³.

However, everyone everywhere has a part to play in the identification of modern slavery – individuals, business, civil society and government services. Victims need safe, secure, gender-specific accommodation and specialised personal support. In Ireland, Gardaí, first responders and hospitals need tailored training to recognise the entrapment of human beings and be able to assist in bringing the perpetrators to justice.

For companies operating out of Ireland, with potential exposure to modern slavery, this document provides guidance on the actions to take to mitigate the risk.

Ireland Tier Ranking by Year²⁰



17 https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

18 https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

19 <https://www.irishtimes.com/news/social-affairs/irish-inaction-creating-culture-of-impunity-for-traffickers-1.4609224>

20 https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

21 https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

22 <https://www.rte.ie/news/2020/0626/1149705-human-trafficking/>

23 <http://www.justice.ie/en/JELR/Pages/PR21000165>

Key Legislative & Other Developments



The Criminal Law (Human Trafficking) Amendment Bill 2013

The Criminal Law (Human Trafficking) Amendment Bill 2013²⁴ closed a loophole in a 2008 Act concerning forced labour. The definition of “labour exploitation” was revised, defining it as “a work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily”. Under this legislation, both companies and individuals can be prosecuted for trafficking and forced labour.

A second change in the legislation allows for Irish courts to exercise jurisdiction over offences committed outside of Ireland. This can be done where such crimes have been committed by Irish citizens or persons ordinarily resident in Ireland. (Section 7 of the 2008 Act defines persons ordinarily resident and includes companies registered under the Companies Act or established under the law of the State). Irish companies therefore can be prosecuted for trafficking and forced labour, both at home and abroad²⁵.

The Public Sector Duty Statement

Section 42 of the Irish Human Rights and Equality Commission Act 2014²⁶ places a positive duty on public sector bodies to have regard for the need to eliminate discrimination, promote equality and protect human rights in their daily work. This has become known as the Public Sector Equality and Human Rights Duty. In

February 2018, a working group was established within the Department of Justice to plan, drive and implement the Public Sector Equality and Human Rights Duty²⁷.

The UK Modern Slavery Act

In 2015, the UK Modern Slavery Act was introduced, requiring companies with a turnover of £36 million or more, operating in any part of the UK regardless of where they are headquartered, to annually disclose on their website the steps they are taking to mitigate the risk of human trafficking and modern-day slavery in their supply chain.

This was/is significant for Ireland because many Irish companies (with a turnover of £36 million or more), have operations in the UK²⁸.

The Business & Human Rights Resource Centre (BHRRC)²⁹ hosts a public repository of Modern Slavery Statements produced under the 2015 Act (known as the Modern Slavery Registry) and in February 2021³⁰, the BHRRC published their assessment of the compliance of over 16,000 statements from

Irish companies can be prosecuted for trafficking and forced labour, both at home and abroad.

24 http://www.justice.ie/en/JELR/Criminal%20Law%20_Human%20Trafficking_%20_Amendment_%20Bill%202012%20-%20General%20Scheme.pdf/Files/Criminal%20Law%20_Human%20Trafficking_%20_Amendment_%20Bill%202012%20-%20General%20Scheme.pdf

25 <https://businesshumanrightsireland.wordpress.com/2013/07/03/irish-companies-can-now-be-prosecuted-for-forced-labour/>

26 <http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/html>

27 <https://www.gov.ie/en/organisation-information/50a2f2-our-public-sector-equality-and-human-rights-duty/>

28 Equivalent legislation has been implemented in California (2010); France (2017) and Australia (2019).

29 <https://www.business-humanrights.org/en/about-us/>

30 https://media.business-humanrights.org/media/documents/MSR_Embargoed.pdf

some of the largest global companies in the past five years. According to the BHRRC, while “the Act has raised awareness of the prevalence of modern slavery and encouraged a cluster of leading companies and investors to do more... analysis of five years’ worth of statements has revealed no significant improvements in the vast majority of company policies, practices or performance...The Act itself...has failed to drive systemic corporate action to expunge forced labour, even in high-risk sectors”.

The EU Non-Financial Reporting Directive

In July 2017, the EU Non-Financial Reporting Directive was signed into Irish law. Applicable to large public interest entities with more than 500 employees and a turnover of €40m, these companies are required to disclose annually information on their policies, risks and outcomes relating to Environmental Matters; Social & Employee Aspects; Respect for Human Rights; Anti-Corruption & Bribery; and Diversity in the Board of Directors³¹. 2018 Reports (featuring 2017 data) were the first reports to be covered by the legislation.

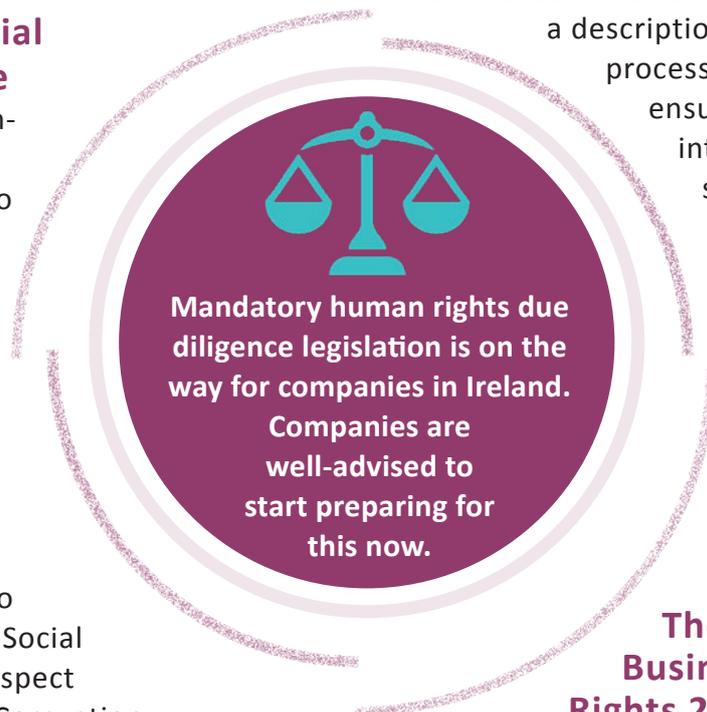
Critical of the different approach to the legislation taken by EU Member States, in April 2020, the European Union’s Commissioner for Justice, Didier Reynders, announced that in 2021 the Commission will introduce a legislative initiative for mandatory human rights due diligence for companies, as part of the European Union’s Covid-19 recovery package³². “Effective due diligence regulation needs to include sanctions, a strong liability framework and effective access to justice for victims”. A public consultation on sustainable corporate governance and due diligence to inform the

Commission’s legislative proposal concluded on February 8, 2021.

In a separate but related development, on April 21, 2021 the European Commission published a proposal for a Corporate Sustainability Reporting Directive³³. The proposal aims to “make companies more accountable for and transparent about their impact on people and the environment” and includes extending the scope of the reporting requirements to additional companies, requiring assurance of sustainability information and

a description of the due diligence process implemented to ensure consistency with international instruments such as the UN Guiding Principles on Business and Human Rights.

In short, mandatory human rights due diligence is on its way for companies in Ireland. Companies are well-advised to start preparing for this now.



The National Plan on Business and Human Rights 2017 – 2020

The Republic of Ireland National Plan on Business and Human Rights was launched in 2017 by the Department of Foreign Affairs and Trade to promote responsible business practices at home and overseas by all Irish business enterprises³⁴.

The Business and Human Rights Implementation Group was established in 2018 to oversee the execution of the National Plan.

This Group comprises three sub-groups tasked with delivering action points under the three pillars of the UN Guiding Principles on Business and Human Rights (namely the state duty to protect human rights, the corporate responsibility to respect human rights and for access to remedy to be provided in any case of infringement). A baseline assessment of the

31 <https://www.bitc.ie/newsroom/news/eu-directive-on-non-financial-reporting-signed-into-irish-law/>

32 <https://responsiblebusinessconduct.eu/wp/2020/04/30/european-commission-promises-mandatory-due-diligence-legislation-in-2021/>

33 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0189>

34 <https://www.dfa.ie/media/dfa/alldfawebsitemedia/National-Plan-on-Business-and-Human-Rights-2017-2020.pdf>



In April 2020, the Government and the International Transport Workers' Federation (ITF) agreed enhanced protections for fishermen to bolster the Atypical Worker Permit Scheme. The scheme, introduced in 2015, was supposed to ensure workers covered by it could no longer be underpaid, overworked, or otherwise exploited by boat-owners.

legal and regulatory framework pertaining to business and human rights in Ireland was drawn up to guide the work of the group³⁵. Business in the Community Ireland is a member of the Implementation Group through the participation of CEO, Tomás Sercovich.

Development in the Irish Fishing Industry April 2020

The spotlight here on the Irish fishing industry³⁶ is an example of why carrying out ongoing due diligence is important for companies sourcing any kind of fresh produce (e.g. meat, fruit and vegetables) in any part of their supply and subcontracting chains. **This is also relevant for corporate catering providers.**

Following on from the numerous reports of severe labour abuses in the Irish fishing industry, the Workplace Relations Commission (WRC) is to play an increased role in protecting migrant fishermen in Ireland from modern-day slavery³⁷.

In April 2020, the Government and the International Transport Workers' Federation (ITF) agreed enhanced protections for fishermen to bolster the Atypical Worker Permit Scheme. The scheme, introduced in 2015, was supposed to ensure workers covered by it could no longer be underpaid, overworked, or otherwise exploited by boat-owners.

However according to the ITF, the 2015 scheme was actually used to exploit fishermen (mainly African and Asian) by holding the fear of deportation over them, as permits are controlled by boat-owners.

Armed with testimony from dozens of

fishermen (Gardaí had identified 26 suspected victims of trafficking in the industry), the ITF took the Government to court over its alleged failure to monitor the scheme and its administration. The sides went into mediation for two days in April and the following improvements were secured:

1. Fishermen can now transfer more easily to another vessel without the risk of deportation hanging over them, as the original boat-owner will not be able to cancel their visa;
2. The boat-owner will no longer be able to deduct the cost of the permit (€1,000) from the fisherman's wages;
3. The Workplace Relations Commission (WRC) will now board vessels and if it finds any issues in relation to the entitlements or welfare of the crew, will report them to the Marine Survey Office (MSO) or, the Gardaí;
4. All permit documents will have to be supplied to the worker in English and their own language. Furthermore, the boat-owner will now have to give the worker a copy of his/her rest hours, along with their payslip;
5. In line with the fishermen's payment schedule, a special section will be added to the WRC's website, relating directly to migrant fishermen and their rights;
6. Ireland will ratify EU Directive 2017-159, which sets minimum requirements around manning of vessels, working hours, and rest periods.

35 <https://www.dfa.ie/media/dfa/ourrolepolicies/humanrights/Baseline-Study-Business-and-Human-Rights-v2.pdf>

36 <https://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>

37 <https://www.irishexaminer.com/news/arid-30919390.html>

According to Ken Fleming ITF Co-ordinator for Britain and Ireland, for the scheme to work, it will be “down to regulation enforcement. What is different is the extended involvement of the Workplace Relations Commission, which can now inspect issues that were only the property of the maritime survey office. Rest records and payslips must be furnished to the employee as and when they are paid. This was one of the big loopholes used, as hours of work were wrongly averaged over a 12-month period making it impossible to determine the correct working time on vessels.”

The Programme for Government July 2020

The July 2020 Programme for Government in the Republic of Ireland includes two commitments relevant to human trafficking

- 1) enactment of legislation encompassing relevant EU measures and the UN Protocol against the smuggling and trafficking of migrants, accompanied by a plan to develop and implement a new Migrant Integration Strategy;
- 2) a commitment to adopt and implement a comprehensive strategy to combat trafficking of women and girls.

There is also a commitment to review whether there is a need for greater emphasis on mandatory due diligence in relation to business and human rights and to revise Ireland’s trade and investment strategy to include the promotion of human rights and environmental protection as key goals.



Human Rights Due Diligence & Company Take-Up

There are a multitude of resources available online to support companies to undertake human rights and modern slavery due diligence. For the purposes of this Report & Guidance Tool, we have decided to focus on the ones we feel most valuable.

The **United Nations Guiding Principles on Business & Human Rights**³⁸ describe the corporate responsibility to respect human rights, prevent harm and seek to remedy the situation should something adverse be identified, meaning that “business enterprises should act with due diligence to avoid infringing the rights of others and address adverse impacts with which they are involved”.

Carrying out ‘Due Diligence’ means taking the necessary steps to ensure that companies are not involved in human rights and environmental harm, through their direct actions, or indirectly through the actions of their subsidiaries, investments or business relationships³⁹.

On a practical level, this means a company would have a policy, practices and processes in place to ensure that *their operations, their suppliers, subsidiaries, global value chain, supply and subcontracting chain* are not causing, or contributing to, human rights infringements or are involved in forced labour or slavery of any kind; are not causing the pollution of land, imposing developments without consent of local communities, evicting people from their land or perpetrating attacks on human rights defenders.

A human rights due diligence process is essentially *a risk management process* to identify, prevent, mitigate and account for *how a company is addressing their impacts on human rights*.

An excellent accompanying document to the UN Guiding Principles on Business & Human Rights is the **UN Guiding Principles Reporting Framework**⁴⁰.

The aim of both these documents is to



Human Rights Due Diligence Risk Management Process

support companies and organisations, serious about taking action to move beyond compliance, to focus on *the risks to people* (or salient human rights risks) and develop a human rights policy and strategy that would be embedded throughout their organisation and supply chain.

The **2015 UN Sustainable Development Goals (SDGs)**⁴¹ encompass a list of 17 goals (featuring 169 KPIs) for the planet to attain by 2030, with business, government and NGOs working in tandem.

Respect for Human Rights is firmly knitted-in to the UN Sustainable Development Goals via Goal 8.5 on Equal Pay for Work of Equal Value; Goal 8.7 on the Eradication of Modern Slavery; Goal 8.8 on the Protection of Labour Rights and the Promotion of a Safe Working Environment for all, including Migrant Workers, and particularly Women; and Goal 16 on Addressing Fraud and Corruption.

The Danish Institute for Human Rights provides an online Human Rights Guide to the SDGs⁴². This Guide illustrates the human rights anchorage of the 17 SDGs by linking each of

38 https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

39 <https://businesshumanrightsireland.wordpress.com/2020/06/22/guest-post-mandatory-human-rights-and-environmental-due-diligence-in-the-new-programme-for-government-needed-now-more-than-ever/>

40 <https://www.ungpreporting.org/framework-guidance/>

41 <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

42 <https://sdg.humanrights.dk/>

the 169 targets to the relevant international and regional human rights instruments, labour standards and also environmental instruments which have human rights dimensions.

Benchmarking Company Performance on Human Rights

It is important to say that implementing effective human rights due diligence is a very difficult task and the snapshot below of recent benchmarks go some way to illustrate this point.

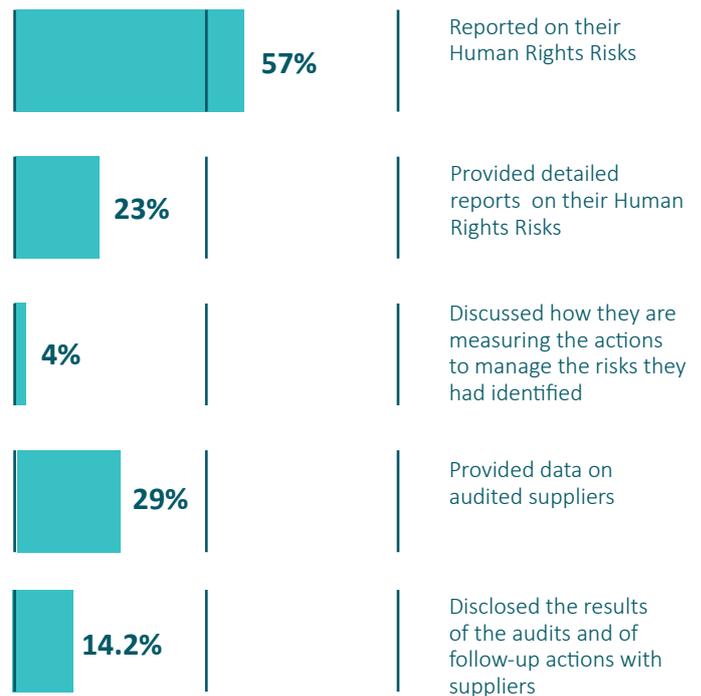
The **Corporate Human Rights Benchmark (CHRB)**⁴³ is a unique collaboration led by investors and civil society organisations dedicated to creating the first, open, public benchmark of corporate human rights performance. In 2020, the CHRB assessed 230 global companies identified as presenting a high risk of negative human rights impacts (based on human rights indicators grounded in the UN Guiding Principles on Business and Human Rights) in five key sectors - **Agricultural Products, Apparel, ICT Manufacturing, Extractives and Automotive Manufacturing**⁴⁴.

It is clear from the results of the 2020 Benchmark (and indeed in previous years) that only a minority of companies globally are able to demonstrate their commitment to taking human rights seriously. The conducting of human rights due diligence, despite being so crucial for the effective management of **human rights risks**, remains an area of poor performance *across all sectors*, with *nearly half of the global companies assessed (46.2%) failing to score any points for this part of the assessment*.

Other areas where improvement is needed is the disclosure regarding the management approach taken, what stakeholder engagement is conducted and the access to remedy provided.

In their 2019 Research Report, the **Alliance for Corporate Transparency**⁴⁵ analysed the annual reports of 1000 EU companies to see how well they were adopting the Non-Financial Reporting Directive. Their 2019 Report found that nearly one-in-four companies have introduced some kind of human rights due diligence processes,

Results of 2019 Alliance for Corporate Transparency Research Report Analysis of 1000 EU Companies to see how well they were Adapting the Non-Financial Reporting Directive



specified in the EU Non-Financial Reporting Directive and the UN Guiding Principles on Business and Human Rights.

However, while 57% of companies reported on their human rights risks, only 23% provided any detail and only 4% discussed how they were measuring the actions to manage the risks they had identified. While 29% of companies provided data on audited suppliers, numbers dropped for the disclosure of the results of the audits and of follow-up actions (14.2%).

The findings of the **2020 National Benchmarking Report of Business & Human Rights in Ireland**⁴⁶ (published by TCD's Centre for Social Innovation) are equally stark. This Report assessed 50 of the largest publicly listed companies operating in Ireland and 10 of the largest semi-state companies, using the Corporate Human Rights Benchmark Methodology.

This study examined firms' human rights policies, due diligence processes and their commitment to remedy any adverse impacts it

43 <https://www.corporatebenchmark.org/who-we-are>

44 <https://www.worldbenchmarkingalliance.org/publication/chrb/>

45 http://www.allianceforcorporatetransparency.org/assets/2019_Research_Report%20_Alliance_for_Corporate_Transparency-7d9802a0c-18c9f13017d686481bd2d6c6886fea6d9e9c7a5c3cfafea8a48b1c7.pdf

46 <https://www.tcd.ie/business/assets/pdf/CSI-BHR-2020-Report-V3.pdf>

might have caused, based on publicly available documents produced by the companies, to provide “a transparent measure of a firm’s disclosure of their approach to human rights”, increasingly of interest to investors.

Findings indicate benchmarked Irish companies perform poorly across all areas of human rights disclosure, particularly in the area of due diligence. The semi-state companies, benchmarked for the first time in Ireland, achieved even lower scores than their corporate counterparts.

It is clear from this study that a leadership opportunity is open to all companies in Ireland in the area of *human rights due diligence, communication and disclosure*.

Supplier Identity Disclosure

An example of companies leading the way in the integration of human rights supply chain due diligence and reporting, is the disclosure of the identity of suppliers. This is an illustration of the confidence of the company in their processes and procedures and their willingness to be transparent and provide traceability for all their goods. An example of a company leading the way in terms of Human Rights Impact Disclosure is Marks & Spencer, a consistently

high scorer in the Corporate Human Rights Benchmark over the last number of years.

M&S first publicly disclosed their **Interactive Supplier Map**⁴⁷ in 2016, and on this Map, it is possible to view M&S Suppliers by type - Clothing, Home, Beauty & Food - and by location in the world, their street address, how many each supplier employs, what the gender ratio is and if they have union representation! The Supplier Map is not exhaustive but it does cover 45 countries, 1382 factories and close to 1 million workers⁴⁸. See below for an extract from the M&S Supplier Map.

Again, according to the Alliance for Corporate Transparency, *most companies do not provide information on the structure and risk levels of their supply chains (77.1%),* and those that do, tend not to go into depth, with very few businesses disclosing the list of their suppliers⁴⁹. In the Apparel & Textiles sector, this information is disclosed by 13.6% of companies (M&S being a key contributor of this!) indicating an emerging practice by leaders in the sector.

Being confident to publish the names and addresses of Tier One Suppliers is an example of a step a company can take to improve their disclosure and transparency (and traceability) practice and performance.

M&S Interactive Supplier Map for Vietnam



47 <https://interactivemap.marksandspencer.com/>

48 M&S has also produced a Modern Slavery Toolkit for Suppliers & Partners and reports in considerable detail on their human rights impacts annually. <https://corporate.marksandspencer.com/sustainability/business-wide/human-rights>

49 http://www.allianceforcorporatetransparency.org/assets/2019_Research_Report%20_Alliance_for_Corporate_Transparency-7d9802a0c-18c9f13017d686481bd2d6c6886fea6d9e9c7a5c3cfafea8a48b1c7.pdf

Practical Actions to Mitigate the Risk of Modern Slavery

When companies undertake **human rights, modern slavery and forced labour due diligence**, negative impacts are more likely to be detected (including those linked to the activities of third parties), findings are more likely to be reported, human rights experts are more likely to be engaged and the effectiveness of actions taken in response to identified issues is more likely to be monitored⁵⁰.

According to the UN Guiding Principle on Business and Human Rights:

“The process of human rights due diligence should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

Human rights due diligence:

- a. Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- b. Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- c. Should be ongoing, recognising that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.” (United Nations, 2011).



Human rights due diligence includes assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.

In carrying out investigations of your operations and chain of supply, the goal is to **become knowledgeable and confident in the practices** your Tier 1 (and ideally your Tier 2) companies are using to identify risks of modern slavery and forced labour in their own operations.

Should something come to light in your investigations and the supplier (or sub-contractor or recruiter) says no such thing will ever happen again, the goal is to have confidence that the appropriate corrective action is being taken. The only way to be sure is check again and re-check at regular intervals.

Essential for all companies is that they research the background and operations of each of their suppliers to be comfortable about being transparent about the relationship.

In practice, this means being (or working towards being):

1. Explicit about what each supplying company is sourcing, from what specific supplier, sub-contractor, or recruitment agency, and their location.
2. Able to describe the human rights, modern slavery and forced labour risk identification process they use, and the particular risks faced.
3. Clear in the description of what investigations were conducted, what these investigations found, the instances of non-compliance and the actions taken to ensure ongoing compliance (known as ‘remedial action’).

Just because a supplying company *says* they have certain standards and certifications in place, and the documentation to prove them, this does not mean the standards referred to apply in practice. Third party social audits can assist in the gathering of information about working conditions, labour rights, health and safety etc and it is helpful if suppliers are a member of Sedex⁵¹ or assessed on their ethical practices by companies such as EcoVadis⁵².

50 https://corporate-responsibility.org/wp-content/uploads/2017/06/Core_DueDiligenceFINAL-1.pdf

51 Sedex is a collaborative platform for sharing ethical supply chain data and can help companies to reduce risk and improve supply chain practices.

52 EcoVadis brings buyers and suppliers together to drive sustainability performance to reduce risk and drive innovation in supply chains.



The Steps Needed to Develop a Human Rights Risk Assessment

However, audits may not always provide a full picture and may miss hidden issues such as discrimination, forced labour or harassment. The only way to be sure of a supplying company's credentials is to visit the supplier and the site(s) in person, ask questions of the people working there, consult local community organisations and NGOs, and to keep antennae raised to be able to spot any untoward practices. Interviews can be conducted online if site visits are not possible.

For large companies, conducting this research and carrying out ongoing checks of operations is a challenging task but as this document shows, legislation regarding mandatory human rights due diligence is imminent and it behoves leading companies serious about sustainability to be prepared.

Steps to Developing a Human Rights Risk Assessment

- A clear commitment from senior management to upholding human rights and preventing any form of modern slavery, forced labour or human trafficking. In effect this is a **Human Rights Policy** that explicitly expresses the goal to prevent and detect any human rights infringements, report the actions the company will take towards this goal, and the actions

the company will take should there be a breach. This document is separate to a Supplier Code of Conduct.

- A governance structure is key where the lines of ownership and responsibility for human rights are clearly articulated. In a large organisation, ideally a board member would be nominated, a day to day lead assigned, a specific budget allocated, accompanied by cross functional involvement and champions in all areas. For smaller organisations, this structure will have to be tailored.
- The integration of a clear process for managing risk and conducting Evidence-Based Due Diligence of all operations and suppliers. To Establish a Human Rights Due Diligence Baseline:
 - » **Map the business operations and supply chain** to know the locations of origin of products, ingredients, materials, equipment & goods, to identify potential human rights risks and what further research and investigation is necessary.
 - » **Prioritise these risks** (based on the level of risk to people arising from company activities (known as 'salient' human rights risks); but also brand reputation and categories

of influence. Seek clarity on the practices prioritised companies are using to identify incidences of modern slavery or forced labour.

- » **Engage, raise awareness and train leadership, employees and suppliers** (to in turn engage and raise awareness with their suppliers) on the issue of human rights, modern slavery and forced labour, and the need to identify and address risks.
- » **Engage stakeholders and work in partnership.** NGOs, community groups, unions, other companies, women’s groups etc, are often able to provide a wealth of information and insight on local issues.
- » **Conduct site visits** and ensure while there to get to the voice of the worker regarding HS&E experience, hours of work, pay & conditions.

Where travel is not possible, online interviews with workers can be conducted.

- » Disclose issues that have come to light and the **actions taken in response.**
- » **To improve performance, set objectives, targets and key performance indicators** that can be tracked and reported. Objectives include training of the procurement team, leadership team, or cross functional team; increasing the number of site-specific engagements; and engaging with stakeholders local to sites that have been identified as being of higher risk. Actions on human rights risk assessment linked to staff performance KPIs can help to drive progress.



What Company Operations & Tier 1 Suppliers Need to Know

Vulnerabilities in a Supply Chain to Forced Labour and Modern Slavery

Depending on what is being sourced, there are certain *vulnerabilities in a supply chain to human rights infringements, forced labour and modern slavery*. These vulnerabilities include the area of Recruitment, the role of the Employer and the role of the Supervisor⁵³.

Recruitment

The area of Recruitment can either control or support modern slavery.

Direct Recruitment includes:

- » On-site by the owner (e.g. the farm or fishing harbour).
- » A third-party formal recruitment channel,

such as a Recruitment Agency, or via third-party informal recruitment channels.

A major cause of forced labour in today's global supply chains is the charging of recruitment fees to migrant workers. Such payments can create situations of debt bondage and leave low-wage workers vulnerable to human trafficking and further exploitation⁵⁴.

Unscrupulous recruiters apply certain conditions to workers, such as charging a recruitment fee and then continuing to retain a worker's ID, passport and wages.

Nobody should ever pay for a job - the costs of recruitment should always be borne by the employer and not by the worker. This is known as the **Employer Pays Principle⁵⁵**.

THE INCREASING DEBT BURDEN

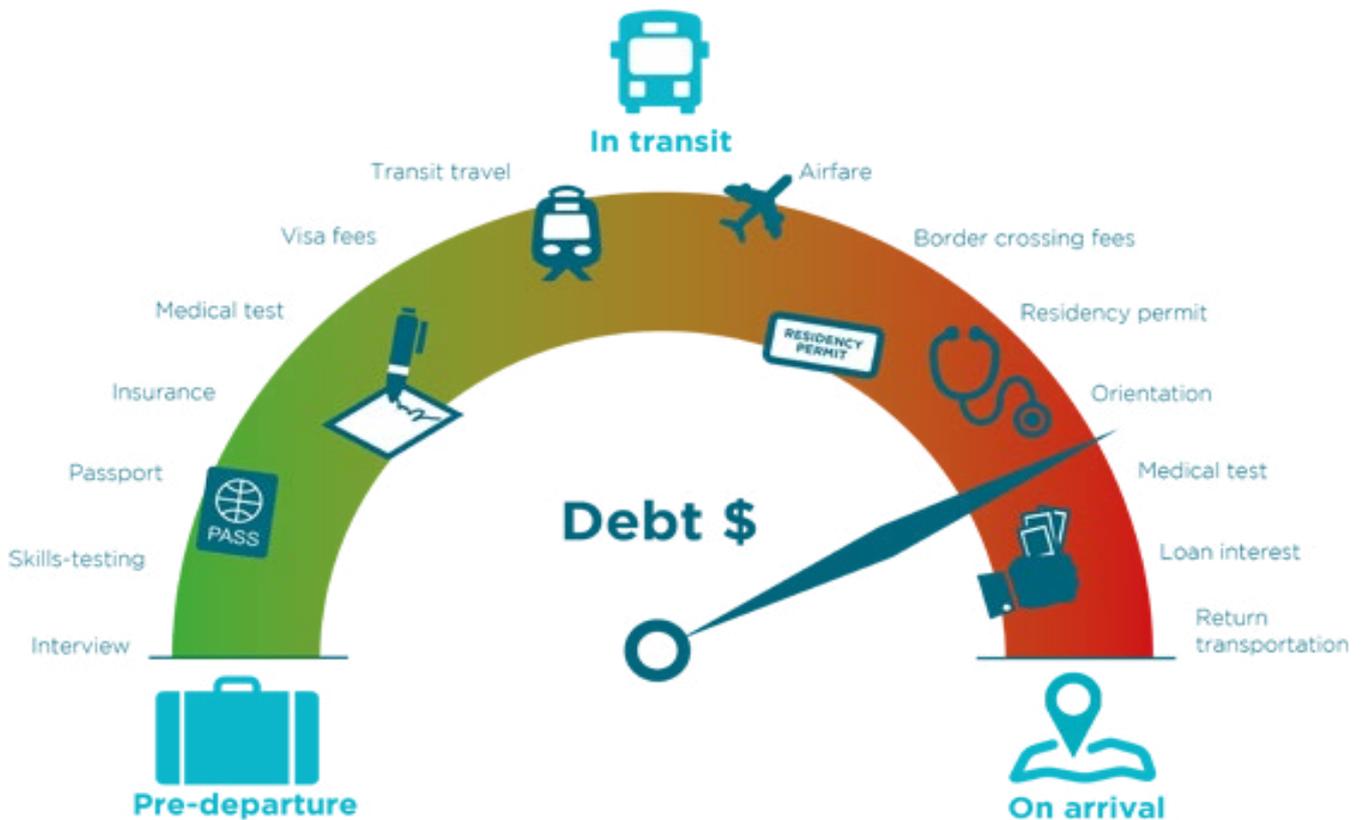


Image Source: Institute for Human Rights and Business

53 <https://www.stronger2gether.org/product/tackling-forced-labour-in-agri-businesses-toolkit-spain-english/>

54 <https://www.ihrb.org/employerpays/view-news/ihrb-at-the-global-forum-on-migration-and-development>

55 <https://www.ihrb.org/employerpays>

The Employer

Producers who directly employ workers **may be complicit in forced labour if they:**

- Apply certain conditions to workers such as debt bondage, forcing them to work to pay off the 'debt' or the 'loan' incurred for being given the job, accommodation and being transported to the place of work. Applying penalties for toilet breaks, paying below the minimum wage and asking people to work excessive hours are also indicators of Employers who are complicit in forced labour.
- Use labour sourcing and recruitment practices or third-party labour providers that use forced labour.
- Outsource their work to illegal or uncontrolled sub-contractors at a price which can only be achieved through worker exploitation.

The Supervisor

Even *within* ethical Employers and Labour Providers, there can be **Unscrupulous Supervisors** in charge of sourcing and recruiting workers for the Labour Providers they are working for.

Unscrupulous Supervisors are exploitative individuals very adept at lying and often a member of an organised criminal gang. Exploitative practices can include:

- Deceptive recruitment practices.
- Requiring cash bribes, kick-backs or sexual favours in exchange for Employment, Overtime or Promotion.
- Retaining identity documents to ensure workers cannot leave their employment before a specified time.
- Threatening violence to the worker, their colleagues or their family.



People Vulnerable to Forced Labour & Modern Slavery⁵⁶

There are a number of categories of people vulnerable to Forced Labour & Modern Slavery.

Seasonal Workers

The food and agricultural sectors are highly dependent on employing large numbers of seasonal workers to meet production and collection peaks. Seasonal workers constitute the majority of the workforce on farms and often in packhouses and may:

- Be unskilled and therefore have limited employment options.
- Not be aware of their rights.
- Not belong to a union and therefore, are without strong legal union representation to address labour-related issues.
- Often rely on third-party labour providers for employment.

Workers Recruited Through Labour Providers

It is important to **develop a robust checking system of the labour provider's recruitment and contracting processes**. In addition, the

⁵⁶ <https://www.stronger2gether.org/product/tackling-forced-labour-in-agri-businesses-toolkit-spain-english/>



Migrants can be lured by the promise of work by unscrupulous recruiters and traffickers.

company is responsible for ensuring the working conditions comply with the law. Regularly checking in on working conditions, both formally and informally, will help to address this.

Migrant Workers

Migrants can often be lured by the promise of work by unscrupulous recruiters and traffickers and they take out a loan to pay them. Once in Ireland, these people do not have money, ID or a place to stay, and are threatened with violence and abuse. In addition, the following elements make them vulnerable to further exploitation:

- **Language barriers and mis-information:** Workers who are unaware of their labour rights, who do not understand contracts, payslips, safety and security rules, or the role of trade unions, are less likely to claim their labour rights, are more likely to be given mis-information and are more likely to suffer abuse.
- **Cultural barriers:** Cultural factors can be key to exacerbating certain vulnerabilities. For example, women being sexually abused may not report the abuse for fear of family repudiation. Linguistic and cultural factors can work together to increase isolation and create barriers to seeking assistance and claim rights that are due.

Migrant workers experience added difficulties in reporting exploiters or accessing justice, as they can:

- Be less, or not at all, aware of their rights and of support services that can help them, believing proceedings to be too bureaucratic and costly.
- Fear retaliation from those exploiting them, or against their family in their country of origin.
- Believe that, as in their origin countries, speaking to authorities is not safe.
- Suffer from feelings of shame for getting into the situation or believing that being jobless is worse than not working.
- Not speak English well, despite long stays in Ireland.

Women

Certain elements of food and agricultural work leave women particularly vulnerable:

- A predominance in temporary and unreported employment such as working 'under the table', off the books, cash-in-hand, any illegal employment not reported to the government.
- A reluctance to complain for fear of losing the employment, or due to cultural reasons, or a fear of social and physical exclusion.
- Lower participation in unions, sector organisations and cooperatives.
- A significant risk of unwanted sexual attention and abuse by supervisors and growers against women, notably in cases of high dependency on employers.



SPOTTING THE SIGNS OF MODERN SLAVERY



Physical Appearance

Few or No Personal Effects



Isolation & Control

Reluctant to Seek Help



Spotting the Signs of Modern Slavery & Exploitation in Victims⁵⁷

- Physical Appearance**
 Exploited applicants and workers may show signs of physical or psychological abuse and/or appear malnourished, dirty, frightened, withdrawn and confused. They may also have injuries that seem to be the result of an assault.
- Few or No Personal Effects**
 Exploited workers may have no money and few personal items e.g. purse, wallet, jewellery etc. With limited or no money to buy clothes, they might wear the same items all the time, or clothes unsuitable for work. They may also have little or no food.
- Isolation & Control**
 Exploited workers are rarely left on their own and may seem under the control and influence of others, for example others present their identification documents

and speak for them during the recruitment process; one person might speak on behalf of a number of workers and they are looked to for support or permission; they are brought to work and back, e.g. a driver may drop them off and collect them.

- Reluctant to Seek Help**
 Exploited workers may be reluctant to seek help and may avoid eye contact and appear frightened; be afraid to talk and reject help when offered because they do not know who to trust or fear retribution.

According to Dame Sara Thornton, UK Independent Anti-Slavery Commissioner, (addressing a webinar of the Northern Ireland Business and Human Rights Forum, October 15, 2020):

“Modern Slavery can slip into a supply chain all too easily, hidden in plain sight...all it needs is one person to be open to it. If we knew just how close we are to another person’s exploitation, we would want to do a whole lot more to stop it”.

⁵⁷ <https://www.stand.ie/tackling-modern-slavery/>

Preventative Actions to Minimise the Risk of Forced Labour⁵⁸

With the goal of **never being complicit in hidden labour exploitation**, the commitment to minimising the risk of this has to be ongoing. At the very least, the company **needs to be able to stand over the approach being taking to ensure there are no issues**, and if issues do come to light, the company needs to be able to stand over the actions taken in response.

Appoint a Human Rights Lead, Develop a Policy & Train Staff

Getting informed and engaged on the issue of modern slavery and forced labour is fundamental to ensuring a business is well managed and exploitation free. Not engaging can drive the problem underground, placing workers at greater risk. For example, labour providers might place workers with less scrupulous businesses that ask fewer questions about practices.

BITCI recommends the business appoints a person responsible for addressing forced labour risks and vulnerabilities, and defines a Human Rights (or Forced Labour) Policy. A Human Rights Policy is a clear commitment by the company to uphold all human rights and prevent any form of modern slavery, forced labour or human trafficking. It conveys the company goal to prevent and detect any human rights infringements and commits the company to disclose the actions taken to reach this goal. Leading companies would commit to disclosing the actions taken in the instance of a breach or non-compliance.

It is essential to train staff to understand human rights infringements, forced labour, hidden labour exploitation and to identify the signs. Include staff responsible for recruitment and site visits in this training. Encourage supervisors to talk informally to workers to understand whether they have experienced any issues.

Informing, engaging and raising awareness with staff is centre stage to this work alongside informing and engaging priority suppliers so that they in turn can raise awareness with

**APPOINT A
HUMAN RIGHTS LEAD,
DEVELOP A POLICY
& TRAIN STAFF**

**ESTABLISH
GRIEVANCE MECHANISMS**

**ALLOW AND ENCOURAGE
WORKER REPRESENTATION**

**RECRUIT
RESPONSIBLY**

their suppliers on the issues of human rights and modern slavery and the need for the chain of supply (at each Tier) to be able to identify and address risks so as to be exploitation free. The aim is to cascade the information and the actions that can be taken and having informed champions in as many places as possible.

As part of this process, the company might need to review and revise existing company policies, practices and procedures such as staff handbooks, induction and training.

Establish Grievance Mechanisms

Grievance mechanisms are key elements to dealing with complaints and keeping the commitment to continuous improvement alive.

A clearly outlined grievance procedure can act as an early warning system that can become crucial when performing risk assessments and helping to identify potential risks, even before a situation of risk becomes a real case of forced labour.

Grievance mechanisms also play an important role when implementing a Human Rights policy and a Response and Remediation plan.

⁵⁸ <https://www.stronger2gether.org/product/tackling-forced-labour-in-agri-businesses-toolkit-spain-english/>

Workers need to know how and where they can provide feedback or how to raise concerns. For example, a company may have a Suggestion Box located inside the company's premises, but if workers do not go inside (because they work outside, or are uncomfortable entering, as it would identify them as complaining), they are not going to use it.

When designing and reviewing the grievance process, it is crucial to consult with workers to see what would work best for them.

What can work well is to hold a Workshop/ Focus Group with a **representative sample** of workers (different nationalities, genders, types of contracts, ways of recruitment etc) to explain the aims and objectives of the new grievance process and to get their ideas for how it could work to everyone's benefit.

Include Worker Representatives in this consultation to guarantee that workers will trust the grievance process and use it.

Allow and Encourage Worker Representation

The use of labour providers, the high rotation and the limited awareness of the role of trade unions can lead to very low union representation in some instances (and notably at farm level, leading to a situation that potentially could have a negative impact for companies in both the catering and retail industries).

Encouraging and allowing union representation and collective bargaining can be particularly challenging for small and medium-sized businesses.



The goal is to never be complicit in hidden labour exploitation - the commitment to minimising the risk of this has to be ongoing.

However, companies should make an effort to promote real union elections and have workers' representatives (such as at farms and packhouses). Union representatives can be very helpful when conducting Forced Labour Risk Assessments and can prevent and solve labour-related disputes and remediation.

To aid businesses in strengthening their own risk assessments and establish a proactive approach, Guidelines on Responsible Labour Practices covering all aspects of employment conditions and tools to identify and speak with vulnerable workers are available from the Workplace Relations Commission at www.workplacelrelations.ie/en/.

Recruit Responsibly

To ensure workers are not victims of forced labour through recruitment practices, businesses need to:

1. Increase their knowledge of the risks of modern slavery, forced labour and labour exploitation and have a specific procedure in place to screen, manage and mitigate risks.
2. Make recruitment practices clear and transparent.
3. Only work with labour providers that are registered, meet identified criteria and that have been thoroughly checked out.
4. Keep a close eye on behaviour⁵⁹. Opportunities for informal conversation need to be sought out, so as to ask workers how they are being treated and about their accommodation, to determine if they believe it to be safe and clean etc.
5. Carry out checks to make sure workers have not been coerced into employment through any form of bond or intimidation. Put in place systems to ensure all workers have access to their ID and passports and are not restricted from leaving the workplace or accommodation provided by the workplace.
6. Identify vulnerable groups and see what additional check-in measures need to be put in place. Consider the establishment of a specific phone line that can be used to air concerns.

59 <https://www.stronger2gether.org/product/stronger-together-guidance-for-farms/>

Conducting a Forced Labour Risk & Impact Assessment⁶⁰

Businesses need to be aware of the contextual factors and known issues for their sector, their region, workforce demographics and their own management processes, to understand *the level of risk they are exposed to* and the steps they can take to mitigate those risks.

A number of practical actions can be taken to assess and identify the risk of forced labour, modern slavery or trafficking such as conducting self-assessments through internal issue-mapping and talking out concerns with confidential independent experts.

A Forced Labour Risk & Impact Assessment will include:

- a. Mapping the business operations to get clarity on the specific operations performed at different sites; the key business partners or organisations worked with, particularly labour providers and other sub-suppliers.
- b. Assessing the level of risk in each of these and reviewing how the specific risks can affect the business (e.g. are there workers of greater vulnerability - migrant, or low or unskilled, temporary, or hired through labour providers).

- c. Determining which parts of the operations are a high, medium or low risk and for each of the identified medium and high risks, identifying the steps that need to be taken to decrease and manage the level of risk.
- d. Continuous monitoring to be able to adapt and improve the systems to manage the operations/sites/products that may be of medium or high risk.

A Cautionary Note on the Reliability of Self-Assessment Questionnaires⁶¹

What does it mean if a supplier has had no grievances raised in the last year?

Does it mean that workplace practices are strong and employees are happy?

Or does it mean that employees/workers do not know how to raise issues or have a fear of raising issues?

What does it mean if there is a reduction over time in the number of grievances?

Does it mean that the system is highly effective, used as a source of continuous improvement and issues are resolved?

Or that the grievance process is lip service only and that employees/workers don't see the point in raising issues anymore?



60 <https://www.stronger2gether.org/product/tackling-forced-labour-in-agri-businesses-toolkit-spain-english/>

61 See training on How to Conduct Human Rights Due Diligence, delivered by Parul Sharma, BITCI Ireland, October 2017.

What To Do if Forced Labour & Modern Slavery is Identified⁶²

POTENTIAL ISSUE	ACTION TO TAKE
Workers recruited through a loan or advance, and are working to pay it off.	If the supplier paid the loan or advance, determine whether the terms were reasonable. If not, work out reasonable terms between the supplier and the worker. If the loan/advance was paid by a labour recruiter, determine whether the supplier had knowledge of the arrangement. If so, work out reasonable terms between supplier, recruiter and worker. If not, require the supplier to discontinue its relationship with the recruiter. Report unscrupulous recruiters to authorities.
Deceptive recruitment: workers promised types of work, working conditions, contract terms, housing or living conditions, job locations, employers or wages/earnings that do not materialize.	If the supplier made a false promise, the supplier should provide all employees who wish to leave, their full wages due and transportation home. If the false promises were made by a labour recruiter, determine whether the supplier had knowledge of the arrangement. If so, the supplier is still responsible. If not, require the supplier to discontinue its relationship with the recruiter. Report unscrupulous recruiters to authorities.
Workers abducted or confined during the recruitment process.	Work with the Gardai and local groups to provide victims a safe place to stay and link them to needed services.
Degrading living conditions.	Ensure the supplier fully understands your minimum standards for employee housing. Give the supplier a short window of time to remedy all living conditions. Ensure all workers receive training on their rights and your code of conduct, including housing standards. Ensure workers who wish to leave the job are able to do so and receive their full wages due. Follow up with an unannounced investigation that includes off-site interviews with workers and other knowledgeable community members. If the living conditions have not improved, terminate the relationship with the supplier – while mitigating the impact of this on the workers.
Workers depend on employer for housing, food or other necessities.	In some cases, particularly for migrant workers, provision of housing, food and other necessities by the employer may be the best option for all involved. However, the quality of the housing and foods must be examined and if it does not meet minimum standards, work with the supplier to improve quality. Follow up with an unannounced investigation that includes off-site interviews with workers and other knowledgeable community members. If the living/food conditions have not improved, terminate the relationship with the supplier.

⁶² <https://www.cips.org/Documents/Knowledge/Procurement-Topics-and-Skills/4-Sustainability-CSR-Ethics/Sustainable-and-Ethical-Procurement/How-to-Making-a-plan-for-remediation.pdf>

POTENTIAL ISSUE

Workers have personal dependency on employer.

Workers feel compelled to stay because they are due wages.

Supplier or recruiter has possession of workers' identity or travel documents.

Employer or recruiter threatens to remove privileges like promotion potential, threatens further deterioration in working conditions or threatens to fire workers.

ACTION TO TAKE

Ensure that all workers receive training on their workplace rights under the law and your code of conduct, regardless of personal relationships.

Ensure that wages are being computed accurately and that all employees involved in payroll are adequately trained in wage computation. Require the supplier to pay all wages due under local law. Ensure that payment schedules are formalized, within legal limits and the limits of your code. Follow up with an unannounced audit. Ensure that workers who wish to leave the job are able to do so and receive their full wages due.

Suppliers should never confiscate or take control of workers' identity or travel documents unless it is purely for safekeeping purposes, and then only if workers are able to retrieve their documents promptly upon request. Require the supplier to return all workers' identity documents. If workers prefer that the supplier hold them for safekeeping, ensure that a policy is in place for retrieval of documents and that all workers are aware of the policy. Follow up to check on the issue through an unannounced audit.

If these penalties, threats, etc were initiated by management or if management was complicit, terminate the relationship with the supplier or provide the supplier a short window of time to end all such practices. Ensure all workers receive training on their rights under the law and your code of conduct, including the grievance mechanism. Ensure workers who wish to leave the job are able to do so and receive their full wages due. Follow up with unannounced audits that include off-site interviews with workers and knowledgeable community members.



KEY CONTACT POINTS IN IRELAND

A number of supports are available in Ireland for those concerned about human rights infringements, modern slavery and human trafficking.

These include:

THE HUMAN TRAFFICKING INVESTIGATION & CO-ORDINATION UNIT OF AN GARDA SIOCHANA

- ☎ Call 1800 250 025
- ✉ Email: blueblindfold@garda.ie
- 🌐 www.garda.ie

RUHAMA

– supporting women affected by commercial sexual exploitation

- ☎ Call 01 836 0292.
- 📱 Text REACH to 50100
- 🌐 www.ruhama.ie

THE WORKPLACE RELATIONS COMMISSION

- ☎ Call 1890 80 80 90
- ☎ T: 059 9178990
- 🌐 www.workplacerelations.ie/en/

THE WORKERS RIGHTS CENTRE (WRC)

- ☎ Call 1890 747 881
- 🌐 www.workersrightscentre.ie

THE MIGRANT RIGHTS CENTRE IRELAND

- ☎ Call 01 889 7570 / 01 531 3237
- 🌐 www.mrci.ie

THE IMMIGRANT COUNCIL OF IRELAND

- ☎ Call 01 674 0200
- 🌐 www.immigrantcouncil.ie/information-line

KEY CONTACT POINTS IN NORTHERN IRELAND

A number of supports are available in Northern Ireland for those concerned about human rights infringements, modern slavery and human trafficking.

These include:

THE UNSEEN MODERN SLAVERY HELPLINE:

- ☎ 08000 121 700.
- This line operates 24/7.

The Unseen Helpline offers support and advice to callers, whether they are victims, members of the public, frontline professionals or businesses. The helpline is available in 80 languages.

Unseen helps survivors to recover their self-esteem, build confidence and gain key skills and provide access to a range of services including medical care and treatment, counselling, legal advice, holistic therapy, education, financial assistance, immigration advice and assistance to either return home or reside in the UK⁶³.

Over the last 10 years, Unseen has set up safehouses for women, men and children who are survivors of slavery and trafficking. Unseen's resettlement, integration and outreach (RIO) project offers a range of services for survivors. These include supporting people who are moving from the safe accommodation to resettle and integrate into communities, or those who may need outreach support while awaiting a decision from authorities about their trafficking experience.

GANGMASTERS & LABOUR ABUSE AUTHORITY (GLAA)

- ☎ Call 00 44 800 432 0804
- 🌐 www.gla.gov.uk

The GLAA is the investigative agency for labour exploitation in the UK & Northern Ireland. Its role is to work in partnership with police and other law enforcement agencies to protect vulnerable and exploited workers.

STRONGER TOGETHER

- ☎ Call 00 44 1276 919090
- 🌐 www.stronger2gether.org/

Stronger Together is a UK-based multi-stakeholder business-led initiative aiming to reduce modern slavery particularly forced labour, labour trafficking and other hidden third-party exploitation of workers.

63 <https://www.stand.ie/tackling-modern-slavery/#:~:text=In%20Ireland%2C%20if%20you%20are,Great%20George's%20Street%2C%20Dublin%201.>

Next Steps

This Business in the Community Ireland (BITCI) Report & Guidance Tool:

- 1** Defines human rights infringements and modern slavery in both a global and Irish context.
- 2** Outlines the key legislative and other developments that business in Ireland needs to know.
- 3** Gives guidance to companies on the practical actions they can take to mitigate the risk and occurrence of modern slavery.
- 4** Equips companies in Ireland with the tools to conduct human rights due diligence, spot the signs of modern slavery and know what to do and who to contact should any malpractice come to light.

As an accompaniment and next step to this Report & Guidance Tool, BITCI has developed an Awareness-Raising and Training Module on **Actions to Take to Mitigate the Risk & Occurrence of Modern Slavery**.

BITCI also supports member companies with the development of a human rights policy, human rights risk management and due diligence strategy grounded in best practice.

Further information on these services is also available from info@bitc.ie



Further information on this Report & Guidance Tool is available from:



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The logo for Business in the Community Ireland, featuring the text "BUSINESS IN THE COMMUNITY IRELAND" in white, stacked vertically within a red rounded square.

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