

Managers' perceptions of modern slavery risk in a UK health-care supply network

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Abstract

In this paper we argue that, to fully understand managers' perceptions of modern slavery risk in the context of a UK health-care supply chain, it is necessary to adopt a 'labour' supply chain lens that puts the employment relationship at the heart of socially-sustainable supply chain management practice. The distancing and dismantling of employee relations we found, when coupled with an increase in staff turnover, may increase modern slavery risk for permanent, as well as temporary employees, close to the point of commissioning. The implications of this research for policy makers, educators, management practitioners and future research are discussed.

Keywords: health-care supply networks; modern slavery risk; social sustainability.

Introduction

Much sustainable supply chain management (SSCM) research has been operationalised around the three pillars of economic, environmental and social sustainability proposed by Elkington (1998). Extensive systematic reviews acknowledge that whilst much progress has been made in understanding SSCM from an internal and dyadic perspective rather less attention has been paid to SSCM within supply networks and, with the exception of studies into reputational risk (Lemke and Petersen, 2013; Petersen and Lemke, 2015), the ways in which risk may be operationalised (Gimenez and Tachizawa, 2012; Miemczyk et al., 2012). Similarly, the relative paucity of SSCM research which attends to social sustainability continues to be highlighted (Yawar and Seuring, 2017).

Within the corporate social responsibility field, research has extended beyond company boundaries to include examination of the social practices of focal firms' suppliers (Andersen and Skjoett-Larsen, 2009). Yet, despite some notable exemplars (Spence and Bourlakis, 2009), there is a dearth of well-researched, in depth case studies of large organisations' social sustainability initiatives (Sodhi and Tang, 2017). So, while the challenges to supply chain management of specific social sustainability issue, such as modern slavery, have been identified (Gold et al., 2015), to date there have been few sector-specific network studies that examine managers' perceptions of the risks such issues pose. Recent calls for more detailed attention to the domestic arrangements in the 'spatially-fixed' supply chains of developed countries (Crane et al., 2017) suggest that the time is right for case studies that redress these deficiencies. Descriptive case studies are an appropriate research method from which to build theory (Eisenhardt, 1989; Eisenhardt and Graebner, 2007), with intensive studies particularly suited to the abductive identification of particular generative mechanisms though the expedient use of organizational context (Ackroyd, 2009). In this paper, therefore, we present a detailed case study of managers' perceptions of modern slavery risk with the supply network of care homes, support providers and their labour agencies involved in the provision of health-care for a local UK government authority. Drawing upon primary and secondary data, we seek to address the following research question: in this context, to what factors do managers attribute the risks of modern slavery?

The UK health-care sector offers a particularly interesting research setting for this study due to its prevailing regulatory features. The UK has sought to develop a flexible, yet regulated, labour market system which includes a newly appointed Labour Market Director, the Gangmasters and Labour Abuse Authority (GLAA), formed as a response to the Morecambe Bay cockle pickers' tragedy (Meadowcroft and Blundell, 2004) and the Care Quality Commission (CQC), the regulator with specific responsibility for the care sector. The UK Modern Slavery Act, which passed into law in October 2015, is the first legislation of its kind to include both product and service provision; although its applicability to the public sector is currently the subject of debate. Yet, despite these regulatory and institutional interventions, as others have argued and our research confirms, gaps remain (Crane et al., 2017) and regulatory enforcement has not always proved effective as a means to prevent, detect and prosecute instances of modern slavery (Allain et al., 2013). In this context, we argue that, when seeking to understand managers' perceptions of modern slavery risk it is revealing to consider the 'labour' supply chain' (Allain et al., 2013; Barrientos, 2012; Lalani and Metcalf, 2012; New, 2015) defined as, 'the sequence of employment relationships that a worker goes through in order to be deployed in a productive capacity' (Allain et al. 2013, p. 42). The remainder of the paper is organised as follows. First we describe our case setting, followed by our research methods and findings. Finally we present a discussion of the implications of our research.

Case study setting - Adult social care in Nottinghamshire

In the last three decades there has been a sea change in the strategic supply chain management (Cox, 1999) of adult social care across the UK. Successive Government policies have led to policy devolvement to regional legislatures and, in England, the development of a monopsony: a market in which there is one large buyer and many sellers (Jarrett, 2017). This has been coupled with a move to personalise care through the introduction of direct payments.

Care home provision has shifted from primarily publicly-owned and run establishments, to the development of a regulated, adult social care, market. Seventy-four percent of all English places are provided by private companies (Jarrett, 2017) and LAs finance around 50% of all placements (Forder and Allan, 2011). This market is highly fragmented. While there are four, large national providers with multi-site operations, seventy percent of the market is comprised of companies who have no more than 0.4% market share each (Jarrett, 2017). And although, it has been suggested that the UK care sector may be at particular risk of modern slavery (Allain et al., 2013; Craig and Clay, 2017; Slawson, 2017), the majority of homes' financial turnover is too small to be covered by the mandatory disclosure required in UK Modern Slavery Law.

In tandem with these shifts there has been a move to provide care recipients with greater choice of and control over their care. This had led both to an increase in home care, provided by care workers employed by CQC-registered agencies, and the introduction of 'direct payments' (Pearson, 2006; Leece and Bornat, 2006): the power to make cash payments to the disabled, carers and those aged over 65 (Pearson and Riddell, 2006). This provides care recipients with the option to make their own care arrangements, either through agencies or direct employment. Although, as others have noted, 'the employment of personal assistants [is]... characterised by informality and legal confusion' (Hayes 2017, p.165). The main characteristics of these two different delivery types are shown in Table 1.

Table 1 – Two different types of adult social care provision in UK public services

Characteristics	Residential care and nursing homes	Direct payments
Delivery	Care delivered to in-patients	Care delivered to patients in or out of their homes
Payment flow	Paid for by LA, self-funders or the National Health Service	Paid by LA directly to patient, or Direct Payment Support Service provider, who arranges payment to care provider
Contract	Between LA and home	Between patient and care provider
Inspection regime	Regular visits by CQC and LA inspectors	A log kept of named agencies used, annual face-to-face review meeting with direct payment recipients
Procurement	Public procurement rules; pay related to LA quality bands	Patient sources care provider directly; provision of voluntary marketplace platforms by LA

Overall, the sector is labour intensive and experiences significant recruitment difficulties. Care home costs are largely payroll related and the introduction in the UK of the National Minimum and National Living Wage has served to put added pressure on operating profits. Indeed Sir David Fletcher, the newly appointed Labour Market Director, has singled out care as a sector of particular concern with respect to non-payment of the national minimum wage (Warrell, 2017). Furthermore, staff turnover across the sector has risen from 27.3% to 27.8% (Davidson and Polzin, 2016; Griffiths et

al., 2017). To increase flexibility, care workers are known to ‘opt-out’ of the European Working Time Directive. In other sectors it has been suggested that characteristics such as an increase in outsourcing and a reliance on flexible, unskilled labour increases the potential for labour exploitation (Balch, 2015; LeBaron, 2014).

The English county of Nottinghamshire provides the case setting for this research. Nottinghamshire’s Local Authority (LA) had taken the lead in examining the risks of Modern Slavery in its adult social care supply chain. In the past decade this LA had put all of its owned care homes up for sale. A few LA-run homes remained, with the result that the county exhibited a mixed model of provision. And, as one of our interviewees explained, direct payments now accounted for around half the total adult social care budget. As part of its market-shaping responsibilities, the LA carried out annual quality audits of CQC registered care homes across the county. Regular care provider meetings were held, to which both residential care and nursing home and direct payment support providers were invited. Though no organisations had indicated their need to comply, a standardised, Crown Commercial Services questionnaire for new, younger adult, providers was updated to include questions about the requirement to provide an annual modern slavery statement. Furthermore, within the LA, modern slavery training had commenced at senior levels. The LA was a signatory to the union Unison’s Ethical Care Charter which sought to improve working practices across the care sector. In particular it aimed to reduce the use of zero hours’ contracts and to ensure a fair price was paid for care so that all providers could afford to pay reasonable wages. In the section that follows we detail our research methods, which included both semi-structured interviews with the representatives of various network organisations and a residential and care home provider survey.

Research Methods

Semi-structured interviews

Within this case study setting, managers were asked about the risks that they perceived within two, polar extremes (Eisenhardt, 1989) of care provision: residential care and nursing homes and direct payment supply chains. Ten semi-structured interviews were carried out. Managers involved in county-wide initiatives to combat modern slavery and in the commissioning and provision of adult social care were interviewed. These included LA managers in community safety, procurement, market management and human resources (HR), a representative of a local Care Home Association, interested care home managers, a client manager from a direct payment support service provider and the manager of a specialist home care agency. Each interview lasted between 45 minutes and 1½ hours and, during these interviews, enquiries were made about providers’ use of agencies for sickness and holiday cover. Interviews were audio-recorded and transcribed for subsequent data analysis. Transcripts were coded independently by two researchers and the codes compared for consistency. Data relating to the LA’s modern slavery statement, blog posts about modern slavery, care providers’ CQC reports and National Crime Agency statistics were also collated.

Survey development and administration

Interview data was used to develop and test a conceptual model. Categorical grouping variables were included to differentiate between relatively low or relatively high staff

turnover, agency use, workforce diversity and CQC assessment outcomes. Five-point likert-scale measures, each containing four likert-type items (Boone and Boone, 2012), were constructed to measure managers' perceptions of informal-, recruitment-, and management-practices and workforce vulnerability and their relationship to the perceived modern slavery risk, measured using a multi-dimensional construct.

The survey was distributed electronically to 341 care home providers listed in the County Council's 2017/8 Care and Support Services Directory. To encourage participation, 3 e-mail reminders were sent out to all recipients and each care home was rung. In all, a total of 50 respondents returned questionnaires, although one of these declined to complete the survey. This resulted in 49 usable responses, a response rate of 14 percent.

Questionnaire analysis was conducted using SPSS Version 10. Where necessary, items were reverse coded prior to statistical manipulation. An independent samples Krushal-Wallis test was used to determine whether there was any statistical significance between the categorical variables and each of the four likert-type items of which the multi-dimensional measure of managers' perceived modern slavery risk was constructed. Associations between each categorical variable, the four likert-scale measures and the multi-dimensional measure of managers' perception of modern slavery risk were tested using Pearson's correlation coefficient (r). Excerpts from semi-structured interviews and statistically-significant survey findings are presented in the findings section that follows.

Findings

The LA's outsourcing strategy effectively created two different residential care and nursing home labour supply chain modes: one in which the LA employed care-workers who were supplemented by agency workers and the other in which privatised care home providers were responsible for the employment of care-home staff. In both cases these changes had the effect of distancing employment relations. In the first chain, LA staff turnover and the use of temporary agency personnel had increased. Even before it was complete, the supply chain management strategy to outsource adult social care home provision had ruptured employment relationships between the LA and the care workers providing its care. And the second of these new labour chain models had further, knock-on effects for employment relationships in the newly-privatised model.

The care home manager of one, recently privatised, home described how she now ran the home more like a 'business'. Specifically, this had resulted in a far greater focus on the adjustment of staffing levels to meet changing client needs. This led to less flexibility in the system. Although fluctuating staff levels were covered by some provider groups through multi-skilling or internal transfers, to achieve this new level of flexibility this particular manager used agency staff. She felt, however, that she had limited visibility of the recruitment practices employed by the agencies she used,

“Very recently I've had some out-of-the-blue sickness and vacancies, I've had to use agency staff. I've never done that before. So we're paying somebody to get that reliability. We're doing an induction with them but we don't actually know... I mean obviously we pay the agency companies but we don't actually know what they've been through, what processes they've been through. They don't always send us that information.”

These illustrations shows how, in these new residential care and nursing home supply chains, agency use emerged, increasing the length and complexity of the labour chain. Furthermore, despite CQC regulations that required registered care home managers to ensure temporary care workers were subject to the same recruitment and employment checks as permanent staff, the subcontracting of labour meant managers had less visibility of and control over recruitment processes. As our next example shows there was also a risk that unregistered, local, agents may exploit non-British nationals without the right to work in the UK.

Despite the premium paid for agency workers by residential care and nursing home managers, an agency manager raised concerns about the risk that workers' remuneration might fall below the legal minimum wage. Care workers without the legally-required documentation were unlikely to voice concerns about such nefarious business practices. Rather, our interviewee suggested, they might feel that the agent was doing them a favour by offering them work.

“But because they’ve actually charged those people money to [Nursing Home 3] because like they don’t know what is happening, they will come to these people 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 use of a network of local care agencies led to the potential for unscrupulous agents to exploit illegal, non-British national care workers by supplying them for work at the usual rates and yet failing to pay them legally-required pay. The withholding of wages is one ILO indicator of forced labour (ILO, 2012) and such structural vulnerabilities have been highlighted in other UK sectors (Allain et al., 2013). Such practices were more difficult to monitor since even reputable, registered agencies would occasionally subcontract care-workers provision to other agents should demand exceed the number of employees on their own books. Even more concerning were reports of exploitative working conditions encountered when international labour recruiters were used.

One care home manager detailed her concerns about a group of Filipino nurses who had arrived in the UK on the Nurse Adaptation Program and found themselves housed in unsuitable, cramped conditions. They had been forced to buy supplies from a supermarket owned by the agent who had recruited them and were made to pay an excessive amount for their rent. There was also evidence of intimidation and threat. Not only was their safety in the UK threatened, but also their security when they returned home. At the point at which this care home manager was introduced to the agent, she was struggling to find nursing staff. The introduction was made through a personal contact of the manager, with whom the agent was already dealing.

“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.”

Although in this case the nurses did have a choice of where they lived, this example shows several features consistent with forced labour (ILO, 2012). The use of unregistered, international recruiting agents to provide care workers for Care Quality Commissioned

care providers is permissible under UK law, where such agents act in an ‘introductory’ capacity. Skilled labour shortages in the care sector mean that such international providers may be sought out to provide new sources of skilled employees. This indicates that labour supply chain risks are not only confined to the cover of temporary staff absence or sickness (Lalani and Metcalf, 2012), but may also include the provision of permanent employees. One, statistically-significant finding from the residential care and nursing home providers’ survey serves to contextualise these risks.

Analysis of the relationships between the items that comprised the multi-dimensional construct of managers’ perceived modern slavery risk, when compared with differences in care providers’ staff turnover revealed that those managers of homes with a lower than average staff turnover were more confident that they would spot modern slavery (Table 2).

Table 2 - Independent sample Krushal-Wallis test results

Likert-type items associated with staff turnover	Krushal-Wallis test statistic result
We would know if our workers were at risk of modern slavery	0.019*
The way our care home is staffed minimises the risk of modern slavery	0.348
Our labour supply chain is slavery-free	0.296
The modern slavery risk across the adult social care sector is low	0.396

*statistically significant at the 0.05 level

Despite the concerns managers’ raised over the employment practices that had emerged in the residential care and nursing home supply chain, the majority of managers perceived that the modern slavery risks were even greater in the direct payment labour supply chain due to the dismantling of the employment relationship between the LA and the care worker.

We were told repeated that the most significant risks of modern slavery lay in the provision of care by a personal care assistants (PCAs) employed under direct payment arrangements. PCAs were employed as direct employees of the direct payment recipient (although Davidson and Polzin (2016) suggest that this mode of employment is decreasing), through unregistered introductory agencies, day care or personal support or via CQC-registered supervisory agencies. (Although not permitted in Nottinghamshire, in other LAs PCAs might also be self-employed). The absence of any contractual or employment arrangement between the LA and the direct payment recipient severed completely any managerial oversight or interconnected chain of employment relationships between the PCA and the LA.

Discussion and implications

In this paper we have argued that, if we are to understand managers’ perceptions of modern slavery risk in the UK healthcare sector we need to shift attention from product to labour supply chains and place the employment relationship at the heart of our analyses

(Wright and Kane, 2015). Our analysis reveals that, in this sector, a sea-change in strategic supply chain management has occurred with a move from publicly-owned and run provision to a market of fragmented, privatised providers; and the consequent distancing of employment relationships between LAs and care-workers. Concurrently, there has been a significant shift towards ‘direct payment’ provision provided by self- or directly-employed personal care assistants which completely dismantles employment relationships between the LA and the care worker.

Our findings suggest that while these structural and cultural changes may have led to tighter operational control, in some cases they have also resulted in the use of temporary, subcontracted labour to provide labour flexibility and the use of international recruitment agencies to recruit permanent staff. Despite CQC regulation, governance gaps exist that allow residential care and nursing home providers and direct payment recipients to use unregistered local and international recruiters as ‘introductory’ agencies (Brindle, 2014) or to provide home care services such as day-care and personal support. The involvement of these actors in the supply chain is seen by managers to exacerbate modern slavery risk. That these supply chain efficiency gains may be at the expense of social justice (New, 1997) calls current UK Government policy into question. In contrast to the predictions of some models of forced labour in supply chains (Allain et al., 2013), this re-organisation of LA employment relationships has introduced the risk of problematic employment practice close to the point of commissioning. In addition, the risks of modern slavery seem to apply both to skilled and unskilled, and temporary and permanent, employees. These findings are important since they highlight areas for policy development, management education and further research.

First the implications for Government policy with respect to the extension of the Modern Slavery Act explicitly to include public services; the removal of the structural vulnerabilities (Allain et al., 2013) affecting the protection of migrant workers and the regulation of ‘introductory’ recruitment agents needs further attention. Second, since perceptions precede action, there are opportunities for educators and LA commissioning bodies to develop practitioners’ understanding of modern slavery risk across the sector and to develop remedial strategies through multi-stakeholder initiatives, community engagement and supplier development activities (Gold et al., 2015). Third, though evidence of the introduction of ‘soft law’ ethical standards has been mixed (Roberts, 2003) various compliance-based labour recruiter and provider employment standards are emerging for sectors such as agriculture, food manufacture and consumer goods protection. Evaluation of these schemes may offer the potential to strengthen the systems of worker recruitment within fragmented sectors such as adult social care. Further research into how the success of such initiatives might be evaluated, particularly with respect to their implementation for smaller, localised agencies would be instructive. Finally, the risk implications of the various direct payment employment relationship types identified here warrants further investigation.

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