

The Invisible Workforce: Employment Practices in the Cleaning Sector

Summary Report



Summary Report

Background

In September 2013 the Commission launched a project to examine employment practices in the cleaning sector in England, Scotland and Wales. The contract cleaning industry in Britain has an estimated turnover of £8 billion annually, employs 446,000 people and is ranked the third largest such industry in Europe.¹ Initial evidence indicated a significant number of claims of discrimination and non-payment of wages in the sector, so we wanted to establish the nature and extent of any problems, and identify levers to deliver improvements. The cleaning industry employs a higher proportion of female, ethnic minority and migrant and older workers compared to the average UK workforce.² We wanted to explore not only the extent of any unlawful discrimination within the sector, but also whether any wider poor employment practices had a disproportionate impact on these groups and indicated broader systemic issues about how they access and experience engagement in Britain's economy.

Our approach

We decided to look at the experience of workers in the cleaning sector through the lens of international standards on employment. The United Nations' Guiding Principles on Business and Human Rights is a global standard that sets out the expectation that all businesses should respect human rights in the way they conduct their activities.³ The UK Government supports the UN Guiding Principles, and published a national action plan to implement them in September 2013.

We looked at employment standards in a number of key areas:

- Dignity and respect
- Equality and non-discrimination at work
- Pay
- Access to redress
- Working hours, breaks and leave
- Privacy
- A safe working environment
- Freedom of association and collective bargaining
- Forced labour
- The impact of outsourcing
- Good practice.

¹ Asset Skills Insight on Demand, 2011 as seen in 'A Quick Guide to contract cleaning', www.thebuildingfuturesgroup.com/sector-skills-council/research/labour-market-information/quick-guides/

² ONS Business Population Estimates, which draw on HMRC tax data and Labour Force Survey data. Available at: www.gov.uk/government/collections/business-population-estimates

³ See www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

The UN Guiding Principles are not, in themselves, legal requirements on business. However, in some of these areas, the standards expected of business have also been translated into domestic legislation and are legally binding obligations on business. For example, the Equality Act 2010 protects workers from discrimination, and the Health and Safety at Work Act 1974 helps ensure a safe working environment. Where there is a specific legal requirement on employers, we have highlighted this in our analysis.

We looked at standardised, non-domestic cleaning in the office, health, retail, transport and leisure sectors as these are the largest users of cleaning services.

What we found

Dignity and respect

Fairness, dignity and respect are values we all share. Yet, a lack of these values being reflected in the treatment of workers was an underlying theme running through much of our evidence. Workers reported taking great pride in their work, but did not always feel they were afforded the same dignity and respect shown to others in the workplace. A significant number told us they are treated differently from and worse than others, harassed and abused. Workers spoke of being ‘invisible’ and ‘the lowest of the low’, as a result of treatment by their supervisors, the client and the public. Some clients prevented workers from using facilities, such as canteens, available to other employees.

Equality and non-discrimination at work

Most of the cleaning firms had equality policies, and in some cases offered equality training to staff, and we found little evidence of systemic unlawful discrimination. However, in some cases migrant workers reported discriminatory treatment by their supervisors or colleagues. Although most pregnant women were treated well, some reported poor treatment or even being sacked or dismissed as a result of their pregnancy. Word of mouth recruitment is a commonly reported route into the sector, and this may leave employers at risk of indirect discrimination claims because employment opportunities are not open to all. In many cases recruitment practices have led to the informal segregation of the workforce by different nationalities, resulting in some workers feeling they were treated differently or excluded because they were not from the majority nationality. This was felt by British workers, European nationals and other foreign nationals with rights to work in the UK.

Cleaning firms and clients were concerned about their obligations around verifying employees’ right to work, given a workforce of diverse nationalities. A small number of workers said they felt discriminated against and targeted by employers for these checks because of their ethnicity rather than their nationality. Migrant workers also reported difficulties understanding basic employment documentation such as their contract, or their training.

Pay

Contract value determines what cleaning firms are able to pay workers, and low pay is prevalent across the sector with wages close to, or at, the National Minimum Wage. We found no evidence of systemic problems of unequal pay between women and men. In the leisure sector we found some evidence of piece rates, where workers had an hourly rate, but in practice it was dependent on cleaning a set number of rooms. This was often unrealistic in the set hours they were paid for and meant workers were paid less than the minimum wage.

A significant number of workers experienced problems with the under-payment or non-payment of wages. In some cases failure to resolve this led to Employment Tribunal cases. Unclear payslips exacerbated this as workers did not understand how pay was calculated and if they had been paid the correct amount. Some workers also did not receive the holiday or sick pay they were entitled to.

Access to redress

Most of the cleaning firms have grievance policies and procedures of some kind, enabling workers to raise concerns or grievances at work and have these addressed in an appropriate and timely manner, with access to support if needed. Workers could report concerns to supervisors, via confidential telephone helplines or staff surveys. However, our findings show that workers were often not aware of these procedures and did not know how to raise concerns. Many were

scared of complaining in case they lost their job. Some workers reported they had been punished with extra work or worse duties for raising concerns, and a small number had been dismissed. Depending on the subject matter of the complaint, on whether or not it is made in public and in good faith and on the employment status of the worker, these penalties may constitute unlawful victimisation.

Working hours, breaks and leave

In some cases workers were told by their employer they were not entitled to holiday or sick leave, despite being permanent employees with consequent legal entitlement. Some workers felt pressurised into coming into work when they were sick, and a number reported problems taking leave; many were expected to arrange their own cover.

The majority of workers did not have excessive working hours. Most were permanently employed, working part-time for fewer than 30 hours a week. We did not find widespread use of zero hours contracts, except in the hospitality and leisure sector where this is more prevalent, despite workers having regular working hours.

Many workers complained about unrealistic workloads. Work intensification meant workers were often not able to take breaks or had to work additional hours without extra pay to cover the work, and this was a significant contributor to workplace stress. Clients often did not provide adequate facilities for workers to take breaks, such as rest rooms.



Privacy

Some clients did not provide changing facilities so workers had to change into and out of uniforms in front of each other, which was felt by some to violate their privacy.

A safe working environment

Cleaning operatives raised few health and safety concerns. All cleaning firms had health and safety policies in place, offered relevant training of some kind, and provided workers with the personal protective equipment they needed. Migrant workers sometimes struggled to understand the training due to language barriers. Most pregnant women are properly risk-assessed and given lighter duties where needed.

Freedom of association and collective bargaining

Workers have a legal right to join trade unions and participate in collective bargaining through trade unions negotiating employment conditions with employers. Our evidence showed low levels of trade union membership across the cleaning sector, except in public sector settings such as healthcare or transport, but we found no examples of outright prohibition on freedom of association and collective bargaining. However, we found a few examples of workers who alleged they had been discriminated against, or victimised, due to their membership of a trade union or similar organisation.

Forced labour

We found no obvious examples of workers forced to work against their will under threat of punishment, such as through the retention of documents, or threats of violence or denunciation to the authorities. However, the prevalence of the non-payment or under-payment of wages is a concern, and in systemic cases may be considered a sign of forced labour. Some workers perceived requests to work overtime as compulsory.

The impact of outsourcing

Most organisations now outsource their cleaning to reduce their costs. This is clearly an organisational choice and does not necessarily lead to adverse impacts. However, we found that outsourcing and contracting can have a direct impact on employment practices and working conditions. Procurement decisions can often give great weight to lowest price, and this puts cleaning firms under enormous pressure to deliver a high quality service at the lowest cost possible. Cleaning firms often try to reduce their costs and improve their profit margins by reducing pay rates, increasing work intensity, reorganising work or creating a more flexible workforce. Short-term contracts that are renewed frequently fail to encourage positive relationships developing between clients and cleaning firms and can contribute to a decline in working conditions.

Good practice

Our findings revealed many examples of good practice in employment and working conditions. Many workers spoke

positively of their jobs, were paid in full and on time, were treated well by their employer and the client, and received all the necessary training and support they needed to do their jobs. We found examples of outsourcing practices that shaped employment practices in a positive way and helped reduce staff turnover and improve the quality of service delivery for the client. Longer contracts seemed to provide the foundation for a more positive relationship between the client and the cleaning firm that encouraged investment in workforce development and greater job stability for workers.

Examples of good practice include:

- Cleaning firms providing tender proposals for contracts at both the market rate (often minimum wage) and at a living wage rate.
- Clients setting the contract value to cover the costs of paying workers a living wage and including living wage clauses in contracts.
- Clients introducing daytime cleaning to reduce their energy and security costs, so allowing cleaning firms to offer workers regular sociable hours, with opportunities for longer or full-time hours.
- Clients integrating contractor workers into their workforce through involvement in the client firm's training, staff meetings and social events.
- Clients and cleaning firms valuing cleaning staff: in some cases this meant

basic social niceties such as greeting or thanking individuals; in other cases, firms had specific events or awards to recognise good team work or performance.

- Clients and cleaning firms providing training that broadened skills and opened career opportunities: this included induction into clients' policies and procedures, and access to customer service training or to health and safety training leading to accreditation.
- Clients auditing and inspecting cleaning firms, especially using 'ethical audits' based on the Ethical Trading Initiative Base Code.⁴ These enable cleaning firms and clients to identify and address problems in their workforce or workplaces.

Recommendations

To support the sector first to comply with legal responsibilities, and also to meet the standards set out in the UN Guiding Principles on Business and Human Rights, we are making recommendations to the key bodies in the cleaning industry. Our recommendations focus on the most significant findings, and address the need to:

- Improve working conditions for cleaning operatives
- Raise awareness of employment rights
- Establish more responsible procurement practices.

⁴ See www.ethicaltrade.org/eti-base-code

Pay and holidays

1. Cleaning firms are legally required to ensure they pay employees at least the National Minimum Wage, including expenses, where applicable. It is good practice to clearly explain pay calculations, so payslips should be transparent and readily understood. In order to meet contractual liabilities to workers, payroll systems should be efficient, on time and accurate and payroll mistakes leading to the non-payment or under-payment of wages should be corrected promptly.
2. The living wage is an initiative increasingly supported by businesses and politicians. As a matter of good practice, we encourage clients to commission cleaning services at living wage rates and to monitor to ensure that cleaning operatives receive the payment.
3. In order to demonstrate legal compliance, cleaning firms should provide all their employees with clear information on entitlements to holiday pay, maternity pay and sick pay. Cleaning firms should explain clearly to all employees the processes for applying for leave, or informing an employer of sickness absence. These processes must be applied fairly to all employees, in order to avoid the risk of unlawful discrimination.

Access to information

4. Cleaning firms are legally required to provide workers with information

about employment terms and conditions, workplace safety and other training materials. In order to ensure that all workers are able to understand this information, cleaning firms should consider the need to provide it in different ways, such as in translation, pictorial form, face to face training sessions or through interpreters.

5. To support greater awareness of employment rights, the government should consider how the BIS Pay and Work Rights helpline could be promoted more effectively, especially to migrant workers who may have a poor command of English and a poor understanding of their rights as UK workers.

Access to redress

6. Cleaning firms should ensure they have confidential grievance and whistleblowing policies and procedures, and communicate these to employees so that employees know how to raise concerns. Firms should monitor grievances to help them identify and prevent poor practices that have a negative impact on workers (for example, unlawful discrimination and harassment) and take effective action to deal with them when they do occur (for example, investigating bullying incidents).
7. Clients should consider making their grievance mechanisms accessible to contracted workers such as cleaning operatives.

Inspections and audits

8. Client organisations should look at how they audit and inspect cleaning contractors. We advocate the use of ethical audits or similar tools, which assess workers' experience in the workplace against internationally accepted labour standards such as the Ethical Trading Initiative's Base Code.

Training

9. Cleaning firms should provide supervisors and managers with training to enable them to manage teams in a way which ensures fair treatment, respects the dignity of workers, and allows workers to raise concerns.

Facilities

10. Client organisations should consider giving cleaning staff access to change and rest facilities, including lockers, changing rooms and amenities, such as staff canteens, provided for other employees and contracted workers.

Recruitment

11. In order to avoid the risk of unlawful discrimination against potential applicants with particular protected characteristics, cleaning firms should use transparent systems for recruiting staff and monitoring the outcomes of their recruitment practices.

Health and safety

12. The Health and Safety Executive should raise awareness of the existing guidance and support available to employers in relation to:
 - Use of chemicals
 - Pregnancy and maternity work assessments
 - Work-related stress.
13. Cleaning firms are legally required to take steps to safeguard the health and safety of pregnant workers, including: ensuring risk assessments address the risks to staff who are pregnant or new and/or breastfeeding mothers; and providing safe and healthy conditions for them to continue work, where possible.

Dignity and respect

14. Client organisations should consider what action they can take to ensure that cleaners are treated with the same dignity and respect as their own workforce or customers. This could include improving their employees' awareness that their equality, dignity in the workplace, and bullying and harassment policies cover cleaners, in the same way as any other employee.

Procurement

15. We encourage clients to consider entering into longer cleaning contracts to allow a more positive relationship to

develop with the cleaning firm which can create the conditions for improved pay, better quality of service, increased job security and investment in training.

16. Public bodies are legally required to:

- Comply with the public sector equality duty by having due regard to the need to eliminate unlawful discrimination and harassment, advance equality of opportunity and promote good relations when procuring cleaning services.
- Ensure that in the procurement of cleaning services they have regard to the rights conferred by the Human Rights Act.

Access to redress

17. The Government should review the impact of:

- Recent and forthcoming changes to civil legal aid
- Reductions in capacity in the not-for-profit advice sector, and
- The introduction of Employment Tribunal fees on access to legal advice and redress by low-paid workers in the cleaning sector, particularly on the enforcement of employment law rights in the Employment Tribunal.

Checking right to work documentation

18. Employers are legally required to have fair and transparent processes for

carrying out statutory immigration checks, which do not unlawfully discriminate against prospective workers. We recommend that cleaning firms follow the advice in the *Home Office Code of Practice for employers: Avoiding unlawful discrimination while preventing illegal working*.

Next steps

The Commission will set up a taskforce comprising the key stakeholders in the cleaning sector. The taskforce will consider the findings of this report, identify practical examples of good practice and propose ways of embedding these across the cleaning sector.

Background to the project

Our methodology

To gain a balanced picture for our assessment of the cleaning sector we sought evidence from workers, cleaning firms, clients, trade unions and other interested parties across England, Scotland and Wales. Our evidence base consists of two research reports, written submissions from individuals and organisations responding to our call for evidence, in-depth interviews and focus groups. All information was given in confidence and anonymised for this report. Our findings are illustrative but not statistically representative of conditions in the cleaning sector.

Terminology

For consistency we have used the following terminology:

- **Worker** – covers anyone working in the cleaning sector, with the main focus on cleaning operatives or ‘cleaners’.
- **Cleaning firm** – this covers cleaning firms that only provide cleaning services, and facilities management firms that provide cleaning in addition to a range of other services such as security, catering or waste management.
- **Client** – any organisation that outsources its cleaning services in the public and private sectors.



Contacts

This publication and related equality and human rights resources are available from the Commission's website: www.equalityhumanrights.com.

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website: www.equalityadvisoryservice.com

Telephone: 0808 800 0082

Textphone: 0808 800 0084

Opening hours:

09:00 to 20:00 Monday to Friday

10:00 to 14:00 Saturday

Post: FREEPOST Equality Advisory Support Service FPN4431

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback.

Alternative formats

This report is available in PDF and Microsoft Word formats from www.equalityhumanrights.com. For information on accessing a Commission publication in an alternative format, please contact correspondence@equalityhumanrights.com

Also available in Welsh

© 2014 Equality and Human Rights Commission

ISBN 978 1 84206 554 9

Published 08/2014

Artwork by Epigram

www.epigram.co.uk



**Equality and
Human Rights
Commission**