

GENERAL SYNOD

BACKGROUND PAPER: CHALLENGING SLAVERY AND HUMAN TRAFFICKING

The background on HMG recent work on slavery:

1. The key piece of government legislation on slavery has been the Modern Slavery Act 2015. When this act was introduced it was considered to be a world leading piece of legislation designed to confront 21st century slavery.
2. Among the changes created by the Act, it consolidated a number of prior offences into a single act and sharply increased punishments, up to and including life sentences, for the perpetrators of modern slavery crimes. It created an Independent Anti-Slavery Commissioner who is tasked with producing research and holding the government to account. It introduced a defence for victims of slavery and trafficking (including measures to protect potential victims of child trafficking in criminal proceedings) and placed a duty on government to provide guidance on victim identification and support services. Finally it required businesses above a certain size to disclose each year what action they have taken to ensure there is no modern slavery in their business or supply chains.
3. Importantly in the context of this motion Section 48 of the Modern Slavery Act introduces a requirement on the Home Secretary to establish Independent Child Trafficking Advocates (ICTAs) in England and Wales to represent child victims of modern slavery and ensure their best interests are taken into account for all decisions made about them.
4. Following a review these were renamed as Independent Child Trafficking Guardians (ICTGs) in July 2019. A Regional Practice Co-ordinators' (RPCs') role was introduced to focus on children who do not have a figure of parental responsibility. The role of the RPCs is to encourage multi-agency support for children who have been identified as trafficked or potentially trafficked, by advocating for the child and ensuring that their 'best interests' are being considered in the decisions made by public authorities.

Impact of the Modern Slavery Act 2015

5. In 2020 (the most recent complete year's data) 10,613 potential victims of modern slavery were referred to the National Referral Mechanism (The National Referral Mechanism (NRM) is a framework for identifying victims of human trafficking and ensuring they receive appropriate protection); a similar number to 2019. The plateau in referral numbers is primarily thought to result from the COVID-19 pandemic and associated restrictions. Until 2020 referrals had increased significantly each year, up from 2340 in 2014.
6. Of these just under half (47%) were children. The most common type of exploitation for adults was labour exploitation and for minors was criminal exploitation. Adults have the right to decide whether or not to be referred to the NRM, whereas under 18s are automatically referred in suspected modern slavery cases.
7. When referred to the NRM, the Single Competent Authority (SCA) within the Home Office makes a 'reasonable grounds' decision on whether an individual could be a

victim of modern slavery. Adults given a positive reasonable grounds decision have access to support (including accommodation, subsistence, legal aid and counselling) pending a 'conclusive grounds' decision on their case. Local authorities are required to provide support for children with a reasonable grounds decision. Adults receiving a positive conclusive grounds decision are currently entitled to at least a further 45 days of support to allow them to 'move on' from NRM support, whilst those with a negative decision receive 9 days of support.

8. In 2020 The Single Competent Authority made 10,608 reasonable grounds and 3,454 conclusive grounds decisions in 2020. Of these, 92% (9,765) of reasonable grounds and 89% (3,084) of conclusive grounds decisions were positive. Of the 2020 referrals, 8,665 are awaiting a conclusive grounds decision. There is a significant backlog of cases awaiting assessment. This is in part because it is common for it to take six months or more for a conclusive grounds decision to be made.
9. Despite the progress made since the Act there remain issues with the NRM and available support for victims. Estimates for the number of victims of modern slavery in the UK vary widely (due to the difficulties of recording and identifying). According to the Centre for Social Justice (CSJ) and Justice and Care, there are at least 100,000 victims, which dwarfs the 10,000 working figure estimated by a government study in 2017.
10. Among the ongoing issues identified by the Independent Anti-Slavery Commissioner is a lack of good mental health support, legal advice, the backlog in decision making, access to remedy for victims, and support for victims outside of the limited support provided within the NRM.

Support and protection for trafficked minors

11. Under the current structure a number of different forms of support and protection exist for trafficked minors. It is important here to differentiate between British nationals and those trafficked from abroad.
12. Referrals of British children have increased particularly as a result of County Lines related crime. 40% of all child referrals for criminal exploitation being flagged as county lines. In 2020, 1,544 referrals were flagged as county lines referrals, accounting for 15% of referrals received and an increase of 31% from 2019. The majority (81%; 1,247) of these referrals were for male children.
13. These children should benefit from the work of Independent Child Trafficking Guardians and Regional Practice Co-Ordinators. The 2020 review of Independent Child Trafficking Guardians did identify that regions have varying levels of awareness of exploitation, as well as varying services in place to support victims. Nevertheless, the legislative framework already exists, and the issue is now one of practice and guidance rather than new legislation. An ongoing pilot on devolving NRM decisions on children to local authorities is due to complete in June 2022, but early signs have been promising in terms of swifter decisions and proactive support for child victims.
14. Child victims should also benefit from the Section 45 Defence, which provides a defence for victims of trafficking in criminal proceedings and from multi agency support to provide accommodation, subsistence and other practical support.

15. British children who are victims are often best supported through means delivered outside of the NRM, with local authorities working in partnership with/including through faith groups and schools and using safeguarding processes.
16. One challenge identified by groups including the Children's Society is a lack of consistency in definition of Child Criminal Exploitation (CCE) and the support availability in different regions. This lack of consistency can be exploited by criminal gangs, but also leads to differences in provision and a lack of co-ordination.
17. For children trafficked from abroad there is already established in law a possibility of being granted discretionary leave to remain (though in practice only small number are granted each year). For those who wish to return to their country of birth support is also available to assist with voluntary returns.
18. There are ongoing questions about what more support can be provided to trafficked minors from abroad who often find it difficult or undesirable to be identified to the NRM (often for fear of deportation). As irregular migrants these children often struggle to receive state based financial support and are at great risk of being re-trafficked (if they return to their country of origin) or of re-exploitation, if they remain in the UK.

Potential impact of forthcoming legislation

19. Lords Spiritual have supported amendments to the Police Crime Sentencing and Courts Bill that would create a statutory definition of Child Criminal Exploitation. At the time of writing it is not clear whether those will prove successful.
20. The Nationality and Borders Bill is, at the time of writing, progressing through the House of Lords. Part 5 of the bill brings in a number of changes to modern slavery legislation. Under the new legislation, victims who miss the deadline for providing information about what happened to them would be seen as less credible. The parliamentary Joint Committee for Human Rights believes that this would be unfair and risks the UK failing to meet its obligations to combat slavery and human trafficking. This provision is particularly concerning when concerning children given the acute trauma they may have suffered.
21. The proposed legislation also raised the bar for evidence required to secure a Conclusive Grounds decision to be recognised as a victim of modern slavery and proposes to deny any support to those who have committed serious crimes. This is potentially problematic in so far as for those trafficked as part of criminal exploitation their criminal activity is part of their own trafficking and abuse, and denying them support makes it harder for them to escape traffickers and disincentives them to provide evidence against their abusers.
22. Lords Spiritual have raised these concerns in the Lords and will be engaging with the Bill as it progresses.

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Secretary General
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