

Tackling Modern Day Slavery

Westminster Hall Debate 9 October 2018



Briefing: The Modern Slavery (Victim Support) Bill - supporting modern slavery victims to live free for good

Summary

This Westminster Hall debate on ‘Tackling Modern Day Slavery’ is the first opportunity MPs have had to debate in parliament the proposals for reform of victim support announced by the Government in October 2017. The proposals are a positive step but they are insufficient to protect victims from the risk of destitution or re-trafficking.

Parliament currently has an opportunity provide victims with the support they need. By endorsing the Modern Slavery (Victim Support) Bill, which has already passed through the House of Lords and had its First Reading in the Commons in May, the Government could quickly show leadership in this area and establish a statutory framework to protect victims and offer them a route to long term recovery.ⁱ

Support for victims is the weakest element of the Modern Slavery Act: unlike legislation in Scotland and Northern Ireland it does not establish a statutory framework for victim care services nor does it provide a clear pathway for victims to move from exploitation to recovery. In England and Wales, the Government provides victims with a limited period of care on a non-statutory basis while the authorities decide if the person is a victim, but then the support ends.* Although some victims are entitled to further help, the vast majority are left to fend for themselves, often at risk of homelessness and re-trafficking. The current review of the Modern Slavery Act is not considering the provision of victim support (understandably because the only provisions in the Act – for statutory guidance and a regulation-making power – have not yet been implemented).ⁱⁱ

Reports by the National Audit Office and the Public Accounts Committee have shone a light on the lack of knowledge about what happens to victims after the NRM saying the Government has “*no assurance that victims are not trafficked again, potentially undermining the support given through the NRM*”.ⁱⁱⁱ

The Government has said it wants to lead the world in efforts to address modern slavery. Tackling modern slavery must start with supporting victims in the UK to live free for good.

Why the Government’s proposals are not adequate

In October 2017 the Government has announced proposals to provide victims with additional move on support after a positive conclusive grounds decision (increased to 45 days from 14) and for some victims,

* Legislation in Scotland and Northern Ireland contains a statutory duty to provide support to victims during the NRM. However, the power to offer victims leave to remain is reserved to Westminster. The Modern Slavery (Victim Support) Bill only applies in England and Wales although it there will be an opportunity for Scotland and Northern Ireland to opt-in to the legislation.

access to drop in support services for up to 6 months and pilot schemes with local authorities to improve victims' transition into local communities.

These proposals are a step in the right direction but do not offer victims the full protection they need. The reasons we believe these Government proposals are inadequate are:

45 days is not long enough

Practically speaking a longer 'move on period' in the safe house will give victims who have the right to stay in the UK more time to find housing and apply for benefits or other services. But these cannot all be arranged within 45 days. Victims who do not have a right to remain or EEA nationals who cannot prove their eligibility for benefits will need to apply for special discretionary leave to stay in the UK beyond the move on period (only victims from outside the EEA are considered automatically).^{iv} Applications are unlikely to be processed within 45 days and there is no guarantee that victims will be able to remain in a safehouse beyond that point. This means that in many cases, the additional 45 days will just postpone rather than prevent victims facing homelessness and the risk of re-trafficking as they currently do.^v

Drop in services and local authority support will only be for some victims

Few details are available about these proposals at present. But, if victims do not have the right to stay in the UK or recourse to public funds it seems unlikely they will have access to this support. For those who are eligible, unless these services include ongoing advocacy to help victims access other services, many will still fall through the gaps.^{vi}

Unsupported victims find it hard to act as witnesses

Supporting victims beyond the NRM is integral to achieving the Government's aims to increase the number of successful modern slavery prosecutions. If victims do not have a guarantee of sustained support they are unlikely to feel safe and secure enough to give evidence to police investigations. Cases have been reported of victims becoming homeless after leaving the safe house and police being unable to trace them to take their testimony.^{vii}

The former Independent Anti-Slavery Commissioner warned that "*one of the best forms of intelligence and information is from the victims, and if we are continually letting them down, how are we ever going to get the prosecutions and the confidence of victims to come forward?*"^{viii}

Why 12 months of support and permission to stay in the UK?

Unlike a person who is granted asylum, there is no automatic entitlement to on-going support or residency when a person is confirmed to be a victim of modern slavery.

To access further support and remain in the UK, victims must apply for special discretionary leave to remain, which is only available in a narrow range of circumstances and difficult for victims to secure. In 2015 just 12% of victims were given this special discretionary leave to remain.^{ix}

Victims from EEA countries often also need discretionary leave because having been exploited (and often left with no official paperwork) many are unable to exercise their treaty rights or prove their eligibility under the strict criteria for access to housing and benefits.

Organisations that support victims have said that 12 months of support and residence in the UK is the minimum length of time victims need to give them a stable foundation for recovery.^x In April 2017 the Work and Pensions Select Committee concluded that the Modern Slavery Act “*did not secure a pathway for [victims] recovery*” and recommended “*all confirmed victims of modern slavery be given at least one year’s leave to remain with recourse to benefits and services.*”^{xi}

It can take significant time for victims to feel safe enough to begin to process their traumatic experiences or to engage with police investigations. Often this can only happen once after their victim status has been confirmed and when they know their housing, money for essentials and immigration status will be secure for a significant period of time. Victims also need time to put in place the foundations of an independent future whether in the UK or in their home country.

But all victims are different. The Modern Slavery (Victim Support) Bill will provide victims with a tailored assistance and support plan and no victim is obliged to take up the support or stay in the UK.

A ‘pull factor’?

Responding to the Modern Slavery (Victim Support) Bill Ministers have expressed concern that providing all victims with 12 months leave to remain would result in a significant increase in false claims of trafficking. They have also suggested it would allow people to side-step the regular immigration system.

However, the NRM process contains safeguards to avoid such a pull factor: an individual cannot self-refer (unlike a claim for asylum), they must be referred by an official first responder. Only where the authorities are satisfied a person is a victim is a positive conclusive grounds decision granted and only then will the person become eligible for the leave. The offer of leave proposed by the Modern Slavery (Victim Support) Bill is also unlikely to create a significant ‘pull factor’ because it is not a new form of support. It is merely an extension to all victims of the 12-30 months of discretionary leave that is already granted to some victims.

The impact on immigration will be limited by two factors: (i) the leave offered by the Bill is only for a limited period - any victim wishing to stay in the UK longer would go through the usual immigration processes, and (ii) when compared with asylum and net migration figures only a relatively low number of victims would be eligible for the leave each year.^{xii}

Conclusion

Please attend the Westminster Hall debate on 9 October and call on the Government to take a lead in supporting victims by backing the Modern Slavery (Victim Support) Bill.

Please consider raising some of the following questions with the Minister:

- Is it not the case that the proposed 45 days move on support is not long enough for an application for discretionary leave to be processed putting victims at risk of falling through the gaps? Will the Government agree to support the Modern Slavery (Victim Support) Bill which provides all victims a 12 month period of support with leave to remain to avoid this problem?

- Is it not the case that if victims know that they have the right to 12 months' support, as proposed by the Modern Slavery (Victim Support) Bill, they have greater stability and confidence and are far more likely to give evidence in court, increasing the chances of convicting more traffickers?
- Is it not the case that the local authority pilot projects and drop in support will be limited to victims with leave to remain and recourse to public funds? Will the Minister give her backing to the Modern Slavery (Victim Support) Bill so that all victims can be helped to rebuild their lives following the NRM?
- The Modern Slavery (Victim Support) Bill will offer 12 months support beyond the NRM only to those with a positive conclusive grounds decision. Does the Minister not agree that the NRM process will be able to filter out false claims and that the possibility of false claims should not determine the level of support provided to genuine victims?
- Does the Minister not agree with the principle in the Modern Slavery (Victim Support) Bill that people confirmed as victims of modern slavery by the NRM should be treated first and foremost as victims and not on the basis of previous crimes unless they pose a genuine and present risk to the public?
- Is the Minister aware of the letter in the Guardian from 24 charities and businesses urging the Government to give its backing to the Modern Slavery (Victim Support) Bill?

About the campaign

The Free for Good campaign is supported by the following organisations:



On 8 September 2018, the Guardian published a letter about the Bill from campaign supporters.^{xiii}

- ⁱ The Modern Slavery (Victim Support) Bill is further through Parliament than the Organ Donation (Deemed Consent) Bill a Private Members Bill to which the Government has given its backing, but which has not yet passed through one House.
- ⁱⁱ Home Office Modern Slavery Act 2015 Review: Terms of Reference
- ⁱⁱⁱ National Audit Office Reducing Modern Slavery HC 630 Session 2017–2019 15 December 2017, paragraphs 3.6
- ^{iv} Home Office Discretionary leave considerations for victims of modern slavery Version 2.0 10 September 2018 page 12
- ^v Human Trafficking Foundation Life Beyond the Safe House for Survivors of Modern Slavery in London, July 2015; Human Trafficking Foundation et al March 2017 Supporting Adult Survivors of Slavery to Facilitate Recovery and Reintegration and Prevent Re- Exploitation March 2017; Murphy, C. A Game of Chance? Long-term support for survivors of modern slavery St Marys University, Twickenham June 2018
- ^{vi} Murphy, C. June 2018 Op.Cit.
- ^{vii} House of Commons Work and Pensions Committee Op.Cit paragraphs 46-52
- ^{viii} House of Commons Work and Pensions Committee Op.Cit paragraph 50
- ^{ix} Letter from Sarah Newton MP to Chair of the Work and Pension Select Committee dated 17 February 2017
- ^x Human Trafficking Foundation et al March 2017 Supporting Adult Survivors of Slavery to Facilitate Recovery and Reintegration and Prevent Re- Exploitation March 2017
- ^{xi} House of Commons Work and Pensions Committee, Victims of Modern Slavery (12th Report of Session 2016-17) 26 April 2017 page 3
- ^{xii} Only 1,133 people referred to the NRM in 2016 received a positive conclusive grounds decision of which over one quarter were British nationals. In contrast net migration for the year ending March 2018 was 270,000 and 14,308 people were granted asylum, protection and resettlement (of 27,044 applications) in the year ending June 2018 from <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/august2018> and <https://www.gov.uk/government/publications/immigration-statistics-year-ending-june-2018/how-many-people-do-we-grant-asylum-or-protection-to>
- ^{xiii} <https://www.theguardian.com/world/2018/sep/07/support-the-bill-to-help-victims-of-modern-slavery>